V-17014/4/2013-PR
Government of India
Ministry of Home Affairs
*****

Women Safety Division, 2nd Floor,
Major Dhyan Chand National Stadium,
India Gate, New Delhi-110002

February 18, 2019

To

1. The Principal Secretary/ Secretary (Home) of all States and Union Territories.
2. The Director General/ Inspector General of Prisons of all States and UTs.

Sub: Meetings of Under-Trial Review Committees (UTRCs)- Standard Operating Procedure.

Sir,

In the Writ Petition (Civil) No. 406 of 2013 titled "Inhuman Conditions in 1382 Prisons", the Hon'ble Supreme Court vide its Order dated 31.10.2017 had directed the National Legal Services Authority (NALSA) to frame a Standard Operating Procedure (SOP) to make the functioning of the Under Trial Review Committees (UTRCs) more meaningful and efficient.

2. Guidelines in the form of "The Standard Operating Procedure for Under-Trial Review Committees" have since been framed by NALSA. These guidelines (SOP) have been taken on record by the Supreme Court of India and the Hon'ble Court vide its order dated 4.12.2018 has directed that all Under Trial Review Committees will adhere to these guidelines. A copy of the Standard Operating Procedure (SOP) prepared by NALSA is enclosed.

3. The Hon'ble Court in its order dated 31.10.2017 has also directed that henceforth in all meetings of Under-Trial Review Committees, the Superintendent of the concerned District Jail/Central Jail/Sub Jail should be included as a member of the UTRC in all States/UTs. All States/UTs are therefore requested to take note of this direction of the Court. The Hon'ble Court has also directed that the Under-Trial Review Committees, in the first six months of the year 2019, will meet once in a month to review the cases of under-trial prisoners and submit a report to the State Legal Services Authority. These reports will then be compiled and forwarded to NALSA. A copy each of the Hon'ble Supreme Court's order dated 31.10.2017 and 4.12.2018 are also forwarded to all States/UTs for information and compliance.

Encl.: As above.

Yours sincerely,

(Arun Sobti)
Under Secretary (PR & ATC)
Phone : 23075297
Email : uspr-mha@nic.in

ITEM NO.2 COURT NO.4 SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).406/2013

RE-INHUMAN CONDITIONS IN 1382 PRISONS

RE-INHUMAN CONDITIONS IN 1382 PRISONS VS Petitioner(s)

VERSUS

STATE OF ASSAM & ORS. Respondent(s)
(Applications for intervention and clarification)

Date : 31-10-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Gaurav Agrawal, Adv. (A.C.)

For Petitioner(s) By Post

For Respondent(s) Mr. K.K. Venugopal, AG
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Ms. Binu Tamta, Adv.
Mr. Ankur Talwar, Adv.
Ms. Sushma Suri, AOR
Ms. Sushma Manchanda, Adv.
Mr. B.K. Prasad, Adv.
Ms. Sushma Manchanda, Adv.
Mr. G.S. Makker, Adv.
Mr. B.V. Balram Das, Adv.
Mr. M.K. Maroria, Adv.

For States of
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Ms. Prerna Singh, Adv.

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Mr. Sayooj Mohandas M., Adv.

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Ms. Fauzia Shakil, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

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Mr. Sandeep Jha, Adv.

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Madhya Pradesh	Mr. Mishra Saurabh, AOR Mr. Ankit Kr. Lal, Adv. Ms. Vanshuja Shukla, Adv.
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Meghalaya	Mr. Ranjan Mukherjee, AOR
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A&N Islands	Mr. Bhupesh Narula, Adv. Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, Adv.
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	Mr. Rajvinder Singh, Adv. Mr. Hitesh Kumar Sharma, Adv.

Mr. T.V. Talwar, Adv.
Mr. Kuldip Singh, Adv.

Mr. Kamal Mohan Gupta, AOR

Applicant — Ms. Ritu Kumar, Adv.
Mr. Satya Mitra, Adv.

NHRC — Ms. Anitha Shenoy, Adv.
Ms. Srishti Agnihotri, Adv.

UPON hearing the counsel the Court made the following

O R D E R

We have seen the affidavits filed by the States of Maharashtra, M.P. and U.P. and we have also heard learned counsel appearing for these three States. We have also heard the learned Attorney General as well as the learned *Amicus* and Mr. Alok Agarwal, Member Secretary, NALSA.

It appears from the affidavits and submissions made that some fine tuning is required in respect of the functioning of the Under Trial Review Committee.

Two suggestions have immediately been advanced:

The first suggestion is that the Superintendent of the District Jail/Central Jail/Sub-Jail should be a member of the Under Trial Review Committee so that information from the Jail is made available to the members of the Committee.

We are of the view that this suggestion is worth accepting. We direct that henceforth in all the meetings of the Under Trial Review Committee, the Superintendent of the concerned District Jail/Central Jail/Sub-Jail should also be included as a member of the Under Trial Review Committee in all States.

The second suggestion put forth (and which we accept) is that

some sort of standard operating procedure should be prepared for the functioning of the Under Trial Review Committee for all States.

The learned *Amicus* says that he will sit down with the Member Secretary, NALSA and learned counsel for the States of Maharashtra, M.P. and U.P. who have volunteered to assist the learned *Amicus* as well as the Member Secretary, NALSA for framing a standard operating procedure so that the functioning of the Under Trial Review Committee is made more meaningful and efficient. The standard operating procedure will also include the procedures to be followed after the recommendations are made by the Under Trial Review Committee for moving appropriate applications before the concerned court for release of the Under Trial Prisoner and also follow up for the next meeting.

Additional or further suggestions may be discussed by learned counsel with the learned *Amicus*. With regard to the questionnaire framed by the learned *Amicus* and circulated on 10.10.2017, he says that he has been in touch with the concerned officials of the Ministry of Home Affairs who have in turn been in touch with the concerned officials of the State Governments and NIC.

The learned *Amicus* informs us that the Ministry of Home Affairs is taking steps to finalize the questionnaire and perhaps put up the draft questionnaire on a portal to be created by the NIC. The learned *Amicus* has been assured that the needful will be done within 2-3 weeks. The learned Attorney General says that not more than four weeks may be required for this purpose.

The learned Attorney General has informed us that a meeting has been convened by the Ministry of Home Affairs on 16.11.2017 at

the level of the Additional Secretary in the Ministry of Home Affairs. The Inspector General of Police (Prisons) of all the States have been invited to participate in the meeting. It is proposed, among other things, to discuss the software pertaining to e-prisons and the various advisories that have been issued by the Ministry of Home Affairs as well as implementation of the directions given by this Court from time to time.

We expect the State Governments and the Inspector General of Police (Prisons) to respond to the queries / issues raised by the Ministry of Home Affairs particularly keeping in mind the fact that we are dealing with issues relating to the human rights of individuals which must be given prime importance.

The Member Secretary, NALSA along with the Director, NALSA as well as the learned *Amicus* may participate in the meeting to be held on 16.11.2017.

There is no requirement for the State of Meghalaya to file an affidavit. The Registry is directed to return the same.

List the matter on 12.12.2017.

I.A. No. 103676 (Application for intervention)

The application for intervention has been filed by the National Human Rights Commission.

The application for intervention is allowed.

I.A. No. 103677/17 (Application for clarification)

The prayer in this application is to clarify that whether the

cases from the period 2012 to 2015 that are pending before the NHRC and cases disposed of by the NHRC would require to be considered by the High Courts.

We make it clear that there is no intention to take away the jurisdiction of the NHRC in respect of the cases that have already been decided and in which compensation has been awarded. However, the NHRC is requested to ensure that payment of compensation is made early.

We also make it clear that there is no intention to take away the jurisdiction of the NHRC with regard to the pending cases of custodial deaths whether natural or unnatural.

The application is disposed of.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER

ITEM NO.2 COURT NO.2 SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

IA 173194/2018 in Writ Petition(s)(Civil) No(s). 406/2013

RE-INHUMAN CONDITIONS IN 1382 PRISONS

(REPORT OF NALSA ON STANDARD OPERATING PROCEDURE FOR UNDER-TRIAL REVIEW COMMITTEE)

Date : 04-12-2018 This application was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE HEMANT GUPTA

Mr. Gaurav Agrawal, Adv. (A.C.)

Applicant — Ms. Aparna Bhat, Adv.

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Mr. R. Bala, Adv.
Ms. Sushma Manchanda, Adv.
Ms. Suhasini Sen, Adv.
Mr. G.S. Makker, Adv.
Mr. B.V. Balram Das, Adv.
Ms. Arti Sharma, Adv.
Mr. Pankaj Pandey, Adv.
Mr. Raghavendra Mohan Bajaj, Adv.

NALSA — Ms. Anitha Shenoy, Adv.
Mr. Sunil Chauhan, Director, NALSA
Ms. Srishti Agnihotri, Adv.

For States of
Andhra Pradesh — Mr. Guntur Prabhakar, Adv.
Ms. Prerna Singh, Adv.

Arunachal Pradesh — Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.
Mr. Satyendra Kumar Srivastav, Adv.

Mr. Shuvodeep Roy, Adv.
Mr. Somnath Banerjee, Adv.

Bihar — Mr. M. Shoeb Alam, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

Chhattisgarh	Mr. Atul Jha, Adv. Mr. Sandeep Jha, Adv. Mr. Dharmendra Kumar Sinha, Adv.
Goa	Mr. Anshuman Srivastava, Adv. Mr. S.S. Rebello, Adv. Ms. Apoorva Bhumesh, Adv.
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H.P.	Mr. Vikas Mahajan, AAG Mr. Vinod Sharma, Adv.
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Odisha	Mr. Anindita Pujari, Adv.

	Ms. Aarti Krupa Kumar, Adv.
Punjab	Ms. Jaspreet Gogia, Adv. Ms. Mandakini Singh, Adv.
Rajasthan	Mr. Amit Sharma, Adv. Mr. Ankit Raj, Adv. Ms. Indira Bhakar, Adv. Ms. Nidhi Jaswal, Adv. Ms. Ruchi Kohli, Adv.
Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv. for M/s Arputham Aruna & Co.
Tripura	Mr. Shuvodeep Roy, Adv. Mr. Rituraj Biswas, Adv.
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Uttarakhand	Ms. Rachana Srivastava, AOR Ms. Monika, Adv.
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	Mr. Colin Gonsalves, Sr. Adv. Ms. Ritu Kumar, Adv.

Mr. Satya Mitra, Adv.

Mr. T.N. Rama Rao, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. T. Veera Reddy, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Guidelines have been framed by NALSA called "The Standard Operating Procedure for Under-Trial Review Committees".

These Guidelines are taken on record and the Under-Trial Review Committees will adhere to these Guidelines.

It has been stated by NALSA, as a background Note, that, as on 31.12.2017, the data received from different prison authorities indicates that the holding capacity of 1250 prisons in India is 3.78 lakhs and the actual inmates are about 4.19 lakhs. In other words, there is an excess of inmates over the holding capacity. In some prisons, overcrowding is to the extent of 150% of the holding capacity. The overcrowding is particularly acute in the States of Uttar Pradesh (182%), Uttarakhand (159%), Chhattisgarh (157%) and Maharashtra (144%).

We have been given to understand that the number of under-trial prisoners of this country constitutes more than 67% of the prisons' population. Urgent steps are quite clearly and obviously necessary for the release of under-trial prisoners, if not for the early conclusion of their trial.

Under these circumstances, though NALSA has recommended for quarterly meetings to be held by the Under-Trial Review Committees, we direct that in the first six months of the year 2019, the Under-Trial Review Committees will meet once in a month to review the cases of under-trial prisoners and submit a report to the State Legal Services Authority. The reports will then be compiled and forwarded to NALSA.

The Guidelines be circulated to all the States/Union Territories, Director General of Prisons in all States/Union Territories and the State Legal Services Authorities.

Application stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
ASSISTANT REGISTRAR

NALSA's

STANDARD OPERATING PROCEDURE (SOP)

for UNDER TRIAL REVIEW COMMITTEES (UTRCs)

WP (C) 406/2013 – In Re-Inhuman Conditions in 1382 Prisons

NATIONAL LEGAL SERVICES AUTHORITY

12/11, JAM NAGAR HOUSE, NEW DELHI

Website: www.nalsa.gov.in e-mail: nalsa-dla@nic.in Cont. 011-23382778

INDEX

Background

In terms of the Section 12(g) of the Legal Services Authorities Act, 1987, a Person in Custody is entitled to free and competent legal services. In India, as per prison statistics. 2015 released by NCRB, there are around 1250 Central, State and Sub-jails, housing around 4.19 lacs prisoners including 80,000 women. According to NCRB data, 67 % of the above inmates i.e. 2.94 lacs are UTPs. This percentage of UTPs is one of the highest in the World in so far as the World UTP average in the prisons is only 31 %.

As on 31.12.2017, as per the data received from different Prison Authorities the holding capacity of 1250 prisons in India is 3.78 lacs and the actual inmates are 4.19 lacs. Accordingly, the prisons in India are overcrowded by 114 %. Situation in some of the Prisons is so precarious that they are holding more than 150% of their holding capacity. While the situation in States like Tamil Nadu (66%), Telangana (76 %), West Bengal (66 %) is comfortable given to the fact that the States constructed adequate number of prisons but the situation is serious in States like Uttar Pradesh (182%), Uttarakhand (159%), Chhattisgarh (157 %), Maharashtra (144%) where the number of Prisons is quite low.

1158 Legal Services Clinics have been established by the Legal Services Institutions in around 1250 jails.

In this background, Chief Justice R. C. Lahoti (Retired) wrote a letter dated 13.06.2013 addressed to Hon'ble Supreme Court of India highlighting over crowding in prisons, inadequacy of staff, need of training, unnatural deaths, etc. This letter was registered as Public Interest Litigation by Supreme Court of India on 05.07.2013.

Series of directives on the above subjects were passed by the Hon'ble Supreme Court of India to various Authorities/Departments. On 24.04.2015, Hon'ble Supreme Court of India directed that Prisoners Management Software (PMS) being used in Tihar Jail, Delhi may be improved and deployed in all other jails in the country.

It was followed by the appointment of Director, NALSA as Nodal Officer to assist the Hon'ble Supreme Court Bench. NALSA issued directions to the State Legal Services Authorities and District Legal Services Authorities for helpline release of prisoners who could not furnish the bail bonds. Model Prison Manual was also drafted by Ministry of Home Affairs with the help of NALSA.

On. 18.09.2015, It was highlighted that the Under Trial Review Committee (UTRC) constituted by the Ministry of Home Affairs shall consider the cases of inmates who have completed half of their sentence in terms of Section 436A Cr. P.C.

On 05.02.2016, UTRCs were directed to meet at least once in every quarter starting from 31.03.2016 and Secretary of District Legal Services Authority was made member of the Committee to assist the UTRC.

On 06.05.2016, the domain of UTRC was enhanced much beyond Section 436(A) Cr. P.C. by inclusion of total 14 categories of inmates for consideration of their early release.

On 31.10.2017, NALSA was directed to prepare a Standard Operating Procedure (SOP) for smooth functioning of Under Trial Review Committees (UTRCs) with an aim to ensure that UTPs covered under 14 categories get benefit without delay.

On 12.12.2017, SOP was prepared and as per the directions of Hon'ble Supreme Court of India the same was circulated with the various stakeholders and placed on website of NALSA for inviting suggestions. The suggestions received from different stakeholders were incorporated with the help of Ld. Amicus Curiae.

On 08.05.2018, an SOP containing additional suggestions was placed on Record of Hon'ble Supreme Court of India. Vide an order dated 02.08.2018, NALSA was directed to redraft the SOP.

This redrafted final SOP has been prepared accordingly.

NALSA's

STANDARD OPERATING PROCEDURE (SOP) FOR UTRCs

PART-I

Definitions:

a) "Jail" means Central Jail, District Jail, Sub Jail, Women Jail, Special Jail and borstals.

b) "Jail Superintendent" includes Deputy Superintendent and Officer Incharge of the jail.

c) "UTPs" means Under Trial Prisoners who are in custody at the time of preparation of the list of UTPs by the Superintendent and includes inmates who are out on interim bail.

d) "UTRC" means Under Trial Review Committee chaired by District & Sessions Judge consisting of District Magistrate, Superintendent of Police, Secretary, DLSA and Jail Superintendent, as members.

e) "E-Prison Portal/ PMS" means E-Prison Portal developed by NIC under directives of Ministry of Home Affairs and includes stand alone Software developed by States for their Jails.

f) "Secretary DLSA" means Secretary of the concerned District Legal Services Authority appointed u/s 9(3) of Legal Services Authorities Act, 1987 and any other officer officiating as Secretary.

g) "Bail Applications" Bail applications include applications moved u/s 436A, 437 Cr.P.C. and 439 Cr.P.C. apart from other provisions pertaining to technical bail under the Cr.P.C., namely bail under proviso to Sections 167 and 437 (6) Cr.P.C. and similar provisions in other special enactments.

SOP FOR UTRCS WHERE JAIL RECORDS ARE NOT DIGITIZED AND EVEN IF DIGITIZED NO SOFTWARE FILTERS HAVE BEEN APPLIED.

STEP 1: Reporting of Data of UTPs / Convicts by Prisons.

1.1 The Jail superintendent of every jail in the district will collate the data regarding the UTPs lodged in the jail in the format as per **Annexure-A** with the following information and share it with Secretary, DLSA preferably in soft Excel Sheet.

Particulars of UTPs

(1) Name of the UTP
(2) Father's name
(3) Gender / Age
(4) FIR/Crime No
(5) Police Station
(6) District
(7) Arrested under section-
(8) Particulars of the Court
(9) Date of Arrest
(10) Date of First Remand
(11) Date of admission in prison
(12) Date of filing charge sheet.
(13) Chargesheeted under Section-
(14) UTP represented by Legal Aid/Private Lawyer
(15) Name of the lawyer with contact details, if available.
(16) Whether bail has been granted to the accused, if so when.
(17) If accused is not released on bail despite grant of bail, reason for the same, if available.
(18) If the UTP suffering from any disease, mental or physical, details regarding the same.
(19) Whether UTP is a convict/Under trial in any other case.
(20) If yes, separate entry in the data sheet be made qua the additional Case.

1.2 Particulars of convicts - A separate 'List of Convicts' be prepared as per **Annexure-B** with the following information and share it with Secretary, DLSA preferably in soft Excel Sheet: -

(1) Name of the Convict
(2) Father's Name
(3) FIR No.
(4) Police Station
(5) District
(6) Name of the Trial Court
(7) Date of Conviction
(8) Duration & Nature of Sentence
(9) Total Remission Earned
(10) Date when sentence completed
(11) Reason for Non-Release
(12) Whether case considered by Sentence Review Board?
(13) Reason for not granting pre-mature release
(14) Additional information or Remark

1.3 The aforesaid detail as on 31st March, 30th June, 30th September, 31st December of every year may be sent by the Jail Superintendent to the Secretary DLSA latest by 7th day of the next following month.

STEP 2: Processing of Data by Secretary, DLSA

2.1 The office of Secretary, DLSA, with the aid of empaneled panel lawyers, Retired Judicial Officers and law students trained as PLVs, if required and available, shall draw list of UTPs/Convicts eligible for consideration by the UTRC out of Data sent to him from Step-I in the light of criteria laid down by Hon'ble Supreme Court in ***WP(C) 406/2013-Re-Inhuman Conditions in 1382 Prisons***, as per detailed hereunder (Para 2.2).

If any further details are required by the Secretary, DLSA from any court or from the Jail Superintendent or from the police authorities, the same may be ascertained by the Secretary DLSA. Thereafter, the Secretary DLSA shall prepare a list of eligible UTPs for consideration of UTRC in the Excel Sheet/Soft form as per **Annexure A & B.**

2.2 Cases of UTPs / Convicts falling under following categories shall be considered by the Secretary, DLSA for placing them before the UTRC:-

2.2.1 UTPs / Convicts falling under covered under Section 436A Cr.P.C.
[*As per order of Hon'ble Supreme Court dated 24th April, 2015*]

2.2.2 UTPs released on bail by the court, but have not been able to furnish sureties.
[*As per order of Hon'ble Supreme Court dated 24th April, 2015*]

2.2.3 UTPs accused of compoundable offences.
[*As per order of Hon'ble Supreme Court dated 24th April, 2015*]

2.2.4 UTPs eligible under Section 436 of Cr.P.C.
[*As per order of Hon'ble Supreme Court dated 05th February, 2016*]

2.2.5 UTPs who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 IPC or alleged to be an offence not more than 2 years imprisonment.
[*As per order of Hon'ble Supreme Court dated 05th February, 2016*]

2.2.6 Convicts who have undergone their sentence or are entitled to release because of remission granted to them.
[*As per order of Hon'ble Supreme Court dated 05th February, 2016*]

2.2.7 UTPs become eligible to be released on bail u/s 167(2)(a)(i) & (ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days.
[*As per order of Hon'ble Supreme Court dated 06th May, 2016*]

2.2.8 UTPs who are imprisoned for offences which carry a maximum punishment of 2 years.
[*As per order of Hon'ble Supreme Court dated 06th May, 2016*]

2.2.9 UTPs who are detained under Chapter VIII of the Cr.P.C. i.e. u/s 107, 108, 109 and 151 of Cr.P.C.
[*As per order of Hon'ble Supreme Court dated 06th May, 2016*]

2.2.10 UTPs who are sick or infirm and require specialized medical treatment.
[*As per order of Hon'ble Supreme Court dated 06th May, 2016*]

2.2.11 UTPs women offenders
[*As per order of Hon'ble Supreme Court dated 06th May, 2016*]

2.2.12 UTPs who are first time offenders between the ages 19 and 21 years and in custody for the offence punishable with less than 7 years of

imprisonment and have suffered at least 1/4th of the maximum sentence possible.
[*As per order of Hon'ble Supreme Court dated 06th May, 2016*]

2.2.13 UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code.
[*As per order of Hon'ble Supreme Court dated 06th May, 2016*]

2.2.14 UTPs eligible for release under Section 437(6) of Cr.P.C, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case.
[*As per order of Hon'ble Supreme Court dated 06th May, 2016*]

2.3 The DLSA Secretary must inform the District & Sessions Judge that the complete list has been prepared and request him to convene the UTRC meeting at the earliest. A copy of the list may also be shared with other members of the UTRC so that they can come prepared for the meeting.

STEP 3: Processing of identified cases by UTRC

3.1 The District & Sessions Judge shall convene the UTRC meeting as soon as the intimation is received from the DLSA, Secretary about the completion of the lists.

3.2 UTRC shall consider the cases shortlisted by the Secretary, DLSA and make recommendations for release/ appropriate action.

3.3 Upon processing the individual cases, the recommendations of UTRC may include:-

3.3.1 In case UTPs covered under Section 436A Cr.P.C.:
UTRC may recommend to concerned trial court to take up the matter and consider him/her for release on bail if there are no special reasons to deny bail, with or without sureties.

3.3.2 UTPs released on bail by the court, but have not been able to furnish sureties:
The UTRC may recommend the trial court to examine the reason why the accused is not furnishing surety/ bail bonds and if he/she is unable to do so due to poverty, then the trial court may consider reducing the

bail amount on the application of the lawyer under S.440, CrPC or release on personal bond.

3.3.3 UTPs accused of compoundable offences:

The UTRC may recommend to the trial court to consider if the offence can be compounded between the complainant and the accused as per law.

3.3.4 UTPs eligible under Section 436 of Cr.P.C.:

The UTRC may recommend to the trial court to consider releasing such an accused on personal bond in case he is unable to furnish bail bond within seven days of bail order.

3.3.5 UTPs who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 IPC or alleged to be an offence not more than 2 years imprisonment:

The UTRC may recommend to the trial court to consider invoking of Probation of Offenders Act in fit cases as also plea bargaining in appropriate cases.

3.3.6 Convicts who have undergone their sentence or are entitled to release because of remission granted to them:

The UTRC may examine the reason for non-release of the convict and the Officer in-charge of prison may be recommended to look into the matter so that the convict is released as soon as possible.

3.3.7 UTPs become eligible to be released on bail under Section 167(2)(a)(i) & (ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days:

The UTRC may recommend to the trial court to consider release of the accused in cases where chargesheet is not submitted within the statutory time frame.

3.3.8 UTPs who are imprisoned for offences which carry a maximum punishment of 2 years:

The UTRC may recommend to the trial court to consider releasing of the UTP on bail in such cases.

3.3.9 UTPs who are detained under Chapter VIII of the Cr.P.C. i.e. under Sections 107, 108, 109 and 151 of Cr.P.C.:

The Executive Magistrate/ District Magistrate court may be recommended to release/discharge such persons with or without conditions or to make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

3.3.10 UTPs who are sick or infirm and require specialized medical treatment:

The UTRC may examine the medical condition of the inmate and if it is found that the inmate is very sick and specialized treatment is essential for survival, then the UTRC may recommend the trial court to consider granting bail on medical ground, as provided under S.437, CrPC, even for temporary period.

3.3.11 UTPs women offenders:

Women under trial prisoners who are not accused of serious offences may be considered for release on bail under S.437, CrPC, especially they are first time offenders by the concerned trial courts. The UTRC may also recommend suitable measures under the directions of the Hon'ble Court in R. D. Upadhyay vs State of A.P. & Ors. (AIR 2006 SC 1946).

3.3.12 UTPs who are first time offenders between the ages 19 and 21 years and in custody for the offence punishable with less than 7 years of imprisonment and have suffered at least 1/4th of the maximum sentence possible:

The UTRC may request the trial court to consider granting bail to such young offenders. If the person is found guilty in the course of trial, benefit of S.3 or S.4 of the Probation of Offenders Act, 1958, may be given to the accused.

3.3.13 UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code:

UTRC may recommend the trial court to take appropriate steps in accordance with Chapter XXV of the Code and provide adequate treatment to such inmates.

3.3.14 UTPs eligible for release under Section 437(6) of Cr.P.C., wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case: UTRC may request the trial court to consider granting bail to such UTPs under Section 437(6) of Cr.P.C.

3.4 The UTRC shall enter its recommendation in column no. 21-23 of Annexure-A and column no.15-17 of Annexure-B.

3.4.1 Recommendation of UTRC
3.4.2 Date of recommendation
3.4.2 Brief reasons for UTRC recommendation

3.5 The UTRC shall share recommendations with the concerned Trial Court/Jail Superintendent and Secretary, DLSA. Jail Superintendent shall bring it to the notice of UTP/Convict. Secretary, DLSA shall instruct the panel lawyers to move appropriate application in legal aided cases. The Trial Courts may deal with the recommendations in the manner deemed appropriate for each particular case with the assistance of Legal Aid/Private Lawyer.

STEP 4: Follow up:

UTRC shall keep track of the follow up action in recommended cases as detailed in **Annexure-A (Column No.24- 26) & Annexure-B (Column No.18-20)** as under:-

4.1 Action taken on recommendation.
4.2 Final Outcome
4.3 Date of release of UTP/Convict.

STEP 5: Collation of data on quarterly basis by the Secretary, DLSA

Secretary, DLSA shall collate the above data in **Annexure-A & B** and generate quarterly report under the following heads:

1. Number of UTPs/Convicts considered by UTRCs in a given quarter/year.
2. Number of UTPs/Convicts recommended for bail/release.
3. Number of bail/other applications moved post recommendations.
4. Number of inmates released pursuant to UTRC's recommendation.

PART-II

SOP for UTRC where Jails are digitized and have Software to filter the cases which are eligible for release

5.1 If the jail concerned has appropriate data in digital format and is able to apply the filters, then the Step 1 and Step 2 of Part-I would merge into one and the filtered data shall be shared by Jail Authorities with Secretary, DLSA.

5.2 The UTRC can examine the data filtered by the software and make appropriate recommendations, as mentioned in Step 3 of Part-I.

5.3 The UTRC shall keep track of the follow up action as per Step 4 of Part-I.

NALSA's ADDITIONAL SUGGESTIONS

In order to expedite Trials and ensure Access to Justice for UTPs/Convicts NALSA suggests following new initiatives:-

Suggestion No.1 : Usage of modified ' Custody Warrant'

- NALSA has designed a new Modified Custody Warrant which is annexed as **Annexure 'C'**. The need thereof arose since as on date the Prison Data is maintained only on the basis of case details received by the Jail Authorities from the First Custody Warrant which is in turn based solely on case particulars contained in the FIR. This data is amenable to change at different stages i.e. stage of filing of Chargesheet, framing of Charge and then passing of final Judgement.

  Adoption of this new Modified 'Custody Warrant' is necessary as unless the specific offence in which UTP is kept in detention is regularly updated, the software filters will not be able to give correct results. For example, an accused initially arrested u/S 302 IPC may be finally chargesheeted u/S 304 IPC.

  This new Modified Custody Warrant carry the particulars of the Legal Aid Counsel/Private Counsel representing the UTPs at different stages.

Suggestion No.2: Training/sensitization of Remand Court/Trial Court to safeguard the rights of the UTPs to be considered for bail.

It is suggested that judicial academies of respective States may undertake training/sensitization courses of judicial officers with an aim to highlight the reason behind the UTPs : Convicts ratio in prisons which currently stands as 67% : 33% in our country. The world average of UTPs : Convicts ratio stands at only 31%:69%. The Training of judicial officers may include highlighting importance of -

- Compliance of Section 41, 41 A to D Cr.P.C. by police authorities.
- Release of arrested persons/UTPs in deserving cases by invoking Section 59 of Cr.P.C with or without bond.
- Highlighting importance of 14 situations/criteria laid down by Hon'ble Supreme Court in WP Civil No. 406/2013 "Re-inhuman conditions in 1382 prisons" and their timely compliance for decongestion of jails.

Suggestion No.3: Inclusion of Chief Public Prosecutor in UTRC.

- State is represented by Public Prosecutor in each criminal court i.e. MMs/Sessions. As and when any Bail Application is moved by the UTPs either on merits or on technical grounds, as a matter of routine, it is observed that they are opposed by Public Prosecutors/Additional Public prosecutors/Asstt. Public prosecutors representing State in the Court. Hence, inclusion of Chief Public Prosecutor of the District in the UTRC would assist in compliance of directions of Hon'ble Supreme Court.

Suggestion No.4: Expanding the mandate of UTRC

- UTRC is mandated to ensure compliance of directions issued by Hon'ble Supreme Court. However to ensure that UTPs' right to speedy trial is upheld, it is proposed that UTRC shall look into the individual cases so as to ascertain as to why a particular criminal trial is not getting concluded in a reasonable time and is getting dragged. Such a review of individual cases would go a long way in identifying the broad reasons which results in the delay of trials. This would also help reduce imbalance of 67%:33% UTPs:Convicts ratio.

- While identifying bottle necks in the Criminal Justice System of a particular district, other facets which can be looked into and addressed by the UTRC may include:

  4.1 Check on non-compliance of Section 41 Cr.P.C. to curtail avoidable/unnecessary arrests by the Police.
  4.2 Non production of UTPs before the Remand/Trial Court either in person or via video conferencing facility on account of lack of logistic facilities.
  4.3 Delay caused by frequent inter-state transfer of UTPs
  4.4 Non filing of FSL/CFSL report in time.
  4.5 Failure of police to trace, serve and produce the Public/Expert witnesses.
  4.6 Delay caused in frequent transfer of investigation related witnesses like police officials, documents.
  4.7 Non availability of dedicated PPs in each criminal court.
  4.8 Rational distribution of criminal cases in different courts within district

4.9 Paucity of staff like Ahlmad or stenographer for the criminal court

4.10 Delay caused by lack of efficiency in administrative set up like Copying Agency, Facilitation Centre, Record Room(in case of fetching of old file) etc.

4.11 IT Infrastructural need like, Desktop, printer, NIC-net, stationary etc. apart from Data entry professionals.

4.12 Popularize ADR methods as also Plea Bargaining for quick disposal.

4.13 Suggest segregation of trial in case one or more co-accused are absconding.

4.14 Availability of effective and efficient Free Legal Aid Services.

4.15 Seeking Cooperation from the Bar for expediting trial.

4.16 Any other issue which is hampering the early conclusion of criminal trials in the District.

Once the respective UTRCs start taking cognizance of these problems and suggest remedial measures to the concerned Duty Holders, the delay in disposal of criminal cases can be curtailed to a great extent and learning out comes of such suggestions can help in Policy formulation for improving efficiency of Criminal Justice System's operation in not only the District but also in the State.

TEMPLATE

List of eligible UTPs for consideration of UTRC — **Annexure-A**

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Name of the UTP	Father's name	Gender/Age	FIR/Crime no.	Police Station	District	Arrested under Section	Particulars of the Court	Date of arrest	Date of first Remand	Date of admission in Prison	Date of filing chargesheet	Chargesheeted under Section	UTP represented by Legal aid/private	Name of the lawyers with contact details, if available	Whether bails has been granted to the accused, if when	If accused is not released on bail despite grant of bail, reason for the same, if available.	If the UTP suffering from any disease, mental or physical, details regarding the same.	Whether UTP is a convict/Under trial in any other	If yes, separate entry in the data sheet be made qua the additional Case.

Note:

- Column Nos. 1 to 20 to be filled by Jail Superintendent.

Contd.....

TEMPLATE

Annexure-A

21	22	23	24	25	26
Recommendation of UTRC	Date of Recommendation	Brief reasons for UTRC recommendation	Action Taken on recommendation	Final Outcome	Date of release of UTP

Note:

- Column Nos. 21 to 26 to be filled by UTRC.

TEMPLATE

Annexure-B

List of Convicts

1	2	3	4	5	6	7	8	9	10	11	12	13	14
S.No.	Name of the Convict	Father's Name	FIR No.	Police Station	District	Name of the Trial Court	Date of Conviction	Duration & Nature of Sentence	Total Remission Earned	Date when sentence completed	Reason for Non-Release	Whether case considered by Sentence Review Board?	Reason for not granting pre-mature release

Note:

- Column Nos. 1 to 14 to be filled by Jail Superintendent.

Contd...

TEMPLATE

Annexure-B

15	16	17	18	19	20
Recommendation of UTRC	Date of Recommendation	Brief reasons for UTRC recommendation	Action Taken on recommendation	Final Outcome	Date of release of Convict

Note:

- Column Nos. 15 to 20 to be filled by UTRC.

TEMPLATE
Annexure-C

"CUSTODY WARRANT"

Jail No. : _____

Name		**FIR No**	
Father's Name		**U/s(as per FIR)**	
Age		**Arrested U/s**	
Gender		**Police Station**	
Address		**District**	
Nationality		**Date of Arrest**	

PHOTO OF INMATE

REMAND DURING INVESTIGATION ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		

- **Date of Filing of Charge Sheet :** .....
- **Offences against the Accused :** .....

REMAND AFTER FILING OF CHARGE SHEET ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		
5		

- **Date of Committal in Sessions trial cases:**.....
- **Date of Framing of Charge :** .....
- **Charge framed under offences :** .....

REMAND DURING PROSECUTION EVIDENCE ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		
5		

REMAND DURING STATEMENT OF ACCUSED ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

REMAND DURING DEFENCE EVIDENCE ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

REMAND DURING FINAL ARGUMENTS ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

- **Result of Trial** : .....
- **Judgement Pronounced on** : .....
- **If convicted, offences convicted under** : .....
- **Sentence imposed** : (Attach separate sheet)
- **Compensation awarded to victim** : (Attach separate sheet)