



‘Release_UTRC@75’

**A Campaign for the Release of Prisoners by
the Under Trial Review Committees to
commemorate the 75th
Independence Day in India**



NATIONAL LEGAL SERVICES AUTHORITY

**B-Block, Additional Building Complex, Supreme Court of India
NEW DELHI**

1. Introduction

- 1.1. In 2013, the Hon'ble Supreme Court of India took upon itself a comprehensive nationwide review of prisoners' issues in the writ petition aptly named 'Re-inhuman conditions in 1382 jails'. Amid concerns about the high proportion of undertrial population, delays at court, and consequent overcrowding, the court directed the National Legal Services Authority (NALSA), along with the Ministry of Home Affairs (MHA), to ensure that Under Trial Review Committees (UTRCs) were set up in every district, vide order dated 24 April 2015.
- 1.2. UTRC is a district level committee headed by the District & Sessions Judge, with District Magistrate; Superintendent of Police; Secretary, District Legal Services Authority and Officer in-charge of Prisons as members.
- 1.3. The Supreme Court order dated 24 April 2015 mandated the UTRCs to review three categories of undertrial prisoners – (i) eligible under Section 436A of Cr.P.C., (ii) undertrials released on bail but unable to furnish security and (iii) undertrials accused of compoundable offences. Subsequently, through orders dated 5 February 2016 and 6 May 2016, the court expanded the mandate of UTRCs from 3 categories to 14 categories of inmates, to be reviewed for recommendation for release by the UTRC.
- 1.4. In view of the discrepancies found in the functioning of UTRCs, the Hon'ble Supreme Court, through an order dated 31 October 2017, directed NALSA to prepare a Standard Operating Procedure (SOP) for smooth functioning of UTRCs towards ensuring that all 14 categories of prisoners get benefit without delay. Pursuant to the order, NALSA formulated the SOP and on 4 December 2018 Supreme Court directed all the States and UTs to adopt and follow NALSA's SOP for UTRCs.
- 1.5. At the outbreak of the pandemic, the Hon'ble Supreme Court vide order dated 23.03.2020 in *Suo Motu Writ Petition (Civil) Bo. 1/2020, 'In Re: Contagion of COVID 19 Virus in Prisons'* directed that "The Undertrial Review Committee contemplated by this Court In re Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700, shall meet every week and take such decision in consultation with the concerned authority as per the said judgment."
- 1.6. Prisons in India are chronically overcrowded. At the end of 2020, 76% of the prison population comprises undertrials – those who are awaiting or undergoing trial and not yet proven guilty. The Prison Statistics India 2020 show India's 1306 prisons house 4,88,511 inmates. Average overcrowding stands at 118%. From 2018 to 2021, global prison population only increased by 0.25% while India's prison population increased at a rate 18 times higher with an increase of 4.6% during the same period (Dec. 2018 to Dec. 2020).

In 2020, the undertrial prisoners' population increased by 12%, three times higher than the average annual increase in the last 5 years.

- 1.7. Total number of persons released from prisons in 2020 decreased by 21% from 18.16 lakh in 2019 to 14.4 lakh in 2020. Among the releases, the number of convicts released in 2020 was 41% lower than in 2019 and releases of undertrial prisoners reduced by 19%. The number of undertrials released under Section 436A (release on completion of half period of the maximum sentence prescribed for the offence charged of) decreased by 30%.
- 1.8. The situation requires repair. Being a crucial oversight mechanism with the comprehensive mandate and multiple stakeholders, UTRC is the oversight mechanism which can regularly check unnecessary pretrial detention. Since the mandate of the UTRCs is to periodically review the cases of every prisoner awaiting trial and apply appropriate correctives, it can ensure no undertrial is held for unjustifiably long periods in detention or is simply lost in the system.
- 1.9. Taking forward the spirit of the directions of the Hon'ble Supreme Court and NALSA being the nodal body to monitor the functioning of UTRCs in the country, it proposes this campaign.

2. Objectives of the Campaign

To commemorate the completion of 75 years of independence, through this campaign the National Legal Services Authority, along with the State Legal Services Authorities and District Legal Services Authorities, aims to:

- 2.1. Identify prisoners eligible to be considered by the UTRC under the mandated categories;
- 2.2. Organise UTRC meetings on the same day/s throughout the country in order to review all eligible cases of prisoners;
- 2.3. Recommend for release all such cases that the UTRC considers fit for consideration of release;
- 2.4. Urgently file bail or appropriate applications through panel lawyers for all prisoners recommended for release by the UTRC for seeking necessary relief;
- 2.5. Release as many prisoners recommended by UTRC, keeping liberty as paramount;
- 2.6. Updating the status of UTRC recommendations based on action taken reports and documenting good practices;
- 2.7. Seeking effective coordination among DLSA, prisons, lawyers and concerned courts; and above all,

2.8. Making the UTRCs more vigilant in checking unnecessary pre-trial detention, secure the fair trial rights of prisoners and facilitate potential release of prisoners, during and even after the campaign.

16 July 2022	Formal Launch of NALSA's Campaign Release_UTRC@75
18 July 2022	- Information material on the campaign to be shared with all all members of the Under Trial Review Committee; DLSAs, Panel Lawyers, PLVs and all judicial officers, prison headquarters, bar associations, prisons. - Orientation of Secy, DLSAs and Data Operators, DLSA and Prison Superintendents by NALSA
18 July 2022	Secretary DLSA to send prescribed format 'Data@75' for collation of data on ALL prisoners to each prison in their district/jurisdiction
20 July 2022	- Officer-in-charge of prison to send Secretary, DLSA the completed 'Data@75' for all prisoners. - Secy, DLSA to review 'Data@75' information, and seek further information, as necessary, from court records like date of filing of chargesheet etc.
22 July 2022	DLSA office to prepare individual lists of prisoners eligible under the 14 categories identified in the NALSA UTRC SOP, for consideration by UTRC. List to be shared with NALSA for review.
25 July 2022	1st Special Meeting of Under Trial Review Committees to be conducted for each district throughout the country. - Each case to be reviewed, and recommendations made as per discretion of committee. - Secy, DLSA with assistance from data operator to update 'Data@75' with recommendations of committee.
26 July 2022	- Minutes of UTC meeting to be prepared and shared with all members of the committee - List of cases where lawyers are required to file petitions prepared and individual lawyers communicated to file petitions by 28 July 2022.
29 July 2022	DLSA office to regularly update 'Data@75' list on progress of each application as per prescribed format.
1 August 2022 8 August 2022 12 August 2022	UTRC to conduct meetings to discuss progress, review additional cases, and discuss further action including filing of bails in High Court and the Supreme Court, in case of rejection by lower courts.
13 August 2022	DLSA to submit updated 'Data@75' list to NALSA for preparation of final report on recommendations, releases etc.

4. Description of Activities

18th July 2022:

- Information material on the campaign to be shared with all members of the Under Trial Review Committee, DLSAs, Panel Lawyers, PLVs and all judicial officers, prison headquarters, bar associations, prisons.
- Orientation of Secretary, DLSAs and Data Operators, DLSA by NALSA.

4.1. Orientation of Stakeholders involved:

4.1.1. Each DLSA must mandatorily share on 18th July 2022 in print/ email / social media information material received from NALSA on the campaign to all members of the Under Trial Review Committee, DLSAs, Panel Lawyers, PLVs and all judicial officers, prison headquarters, bar associations, prisons.

4.1.2. On 18 July, 2022, NALSA will conduct a pan-India virtual orientation session for all:

- a) Member Secretaries of all SLSAs
- b) District and Session Judges
- c) Secretaries of all DLSAs
- d) Data Operators of all DLSAs
- e) Prison Superintendents/ Officer in-charge of prisons
- f) Representative of Prison Headquarters

4.1.3. It is mandatory for all the abovementioned stakeholders to attend the orientation session in which the various activities under the campaign and their time-lines will be discussed.

4.1.4. In case, a DLSA does not have a Data Operator, the Secretary, DLSA, must appoint a PLV who is competent in handling data and using excel sheets for the campaign to attend the orientation.

18th July 2022

- Secretary DLSA to send prescribed format 'Data@75' for collation of data on ALL prisoners to each prison in their district/jurisdiction

20th July 2022

- Officer-in-charge of prison to send Secretary, DLSA the completed 'Data@75' for all prisoners.
- Secretary, DLSA to review 'Data@75' information, and seek further information, as necessary, from court records like date of filing of chargesheet etc.

4.2. Collection of Data in the Prescribed Format:

- 4.2.1. The list of undertrials with necessary details need to be compiled by the DLSA for each prison in their jurisdiction, including Central Prison, District Prison, Sub-Jail, Women Prison, Special Prison, Borstal, or any other prison confining undertrials in the district.
- 4.2.2. DLSA Secretary shall send the prescribed format 'Data@75' for collation of data of ALL undertrials to each prison in their district/jurisdiction on 18 July, 2022.
- 4.2.3. For this purpose, all Prison Superintendents/ officer in-charge of prisons located within the jurisdiction of the DLSA, shall fully cooperate with the DLSA Secretary and the Data Operator. The Prison Superintendent of the biggest prison (Central/ District) in the district shall be responsible for coordinating with all the other prisons in the district and collecting the list of all undertrials within the prescribed time-period.
- 4.2.4. Prison Superintendent/ officer in-charge of prisons shall share the information of undertrials lodged in their prison as on 15 July 2022 with the DLSA Secretary in the prescribed format, preferably in the soft copy/excel sheet, by 20 July, 2022.
- 4.2.5. DLSA Secretary to review 'Data@75' information so compiled, and seek further information, as necessary, from court records like date of filing of chargesheet etc. The DLSA shall prepare, in advance, a team of required number of panel lawyers/PLVs, for seeking any required information from the concerned court on urgent basis.
- 4.2.6. The District and Sessions Judge shall direct the person in-charge of the court records room of the concerned district courts to cooperate with the DLSA in procuring all the relevant information from the case files.

22nd July 2022:

- DLSA office to prepare individual lists of prisoners eligible under the 14 categories identified in the NALSA UTRC SOP, for consideration by UTRC. List to be shared with NALSA for review.

4.3. Categories of Cases to be Reviewed by UTRC During the Campaign

- 4.3.1. There are 14 categories of cases that must be reviewed by the UTRC as laid down by the Hon'ble Supreme Court and reiterated in the NALSA's SOP on the Functioning of UTRCs. While the 13 categories relate to undertrials, there is one category of convicts that is also included in the mandate.

Note: For the purpose of this campaign, the focus will be on the 13 categories of undertrials and the category of convicts, i.e. 'Convicts who have completed their sentence or are entitled to be released on remission granted to them' will be excluded from review by the UTRC.

4.3.2. Following are the 13 categories of cases under which undertrials must be identified and their cases be reviewed by the UTRCs:

- 1) UTPs / Convicts falling under covered under Section 436A Cr.P.C.
- 2) UTPs released on bail by the court, but have not been able to furnish sureties.
- 3) UTPs accused of compoundable offences.
- 4) UTPs eligible under Section 436 of Cr.P.C.
- 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.
- 6) 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.
- 7) UTPs who are imprisoned for offences which carry a maximum punishment of 2 years.
- 8) 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.
- 9) UTPs who are sick or infirm and require specialized medical treatment.
- 10) UTPs women offenders
- 11) 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.
- 12) UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code.
- 13) 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.

4.3.3. Additionally, during the campaign the UTRC must also identify the following categories of cases of undertrials for review and further action:

- 14) Those undertrials who were granted interim bail by the court during the pandemic and they have adhered to all the conditions of the bond and have either returned to the prison on the stipulated date set out by the court/HPC or have regularly attended court on due hearings. The UTRC must recommend such cases to the concerned court with the recommendation of granting bail (not interim but regular bail) to the undertrial.
- 15) Those undertrials who are accused of or charged with the offences for which the maximum imprisonment up to 7 years or less. This category was suggested by the Hon'ble Supreme Court in the petition In Re: Contagion of COVID-19 Virus in Prisons, vide order dated 23.03.2020.

16) Those undertrials who are above 65 years of age.

4.3.4. Therefore, a total of the above mentioned 16 categories of cases must be identified and reviewed by the UTRC during the campaign.

4.4. Shortlisting of Eligible Cases by DLSA Secretary and sharing it with NALSA:

4.4.1. DLSA office to prepare individual lists of prisoners eligible under the 14 categories identified in the NALSA UTRC SOP as well as the additional categories, for consideration by UTRC. List shall be shared with NALSA for review by 22 July, 2022.

4.3.4. Therefore, a total of the above mentioned 16 categories of cases must be identified and reviewed by the UTRC during the campaign.

4.4. Shortlisting of Eligible Cases by DLSA Secretary and sharing it with NALSA:

4.4.1. DLSA office to prepare individual lists of prisoners eligible under the 14 categories identified in the NALSA UTRC SOP as well as the additional categories, for consideration by UTRC. List shall be shared with NALSA for review by 22 July, 2022.

25th July 2022

- 1st Special Meeting of Under Trial Review Committees to be conducted for each district throughout the country.
- Each case to be reviewed, and recommendations made as per discretion of the committee.
- Secy, DLSA with assistance from data operator to update 'Data@75' with recommendations of committee.

26th July 2022

Minutes of UTC meeting to be prepared and shared with all members of the committee

- List of cases where lawyers are required to file petitions prepared and individual lawyers communicated to file petitions by 28 July 2022.

29th July 2022

- DLSA office to regularly update 'Data@75' list on progress of each application as per prescribed format.

1st, 8th and 12th August 2022

- UTRC to conduct meetings to discuss progress, review additional cases, and discuss further action including filing of bails in High Court and the Supreme Court, in case of rejection by lower courts.

4.5. Conduct of UTRC Meetings and Review of Cases:

- 4.5.1. 1st Special Meeting of Under Trial Review Committees shall be conducted for each district throughout the country on 25 July, 2022.
- 4.5.2. Each case to be reviewed, and recommendations made as per discretion of the committee. Please refer to the NALSA SOP on the Functioning of UTRCs for the kind of recommendations made by the UTRC in each case.
- 4.5.3. Secy, DLSA with assistance from the Data Operator shall update 'Data@75' with recommendations of the committee.
- 4.5.4. Three subsequent weekly meetings of the UTRC shall be conducted on 1 August, 8 August and 12 August to discuss progress, review additional cases, and discuss further action including filing of bails in High Court and the Supreme Court, in case of rejection by lower courts.

4.6. Sharing of Minutes of UTRC meetings:

- 4.6.1. Minutes of UTC meeting to be prepared and shared with the following stakeholders:
 - 1) All members of the committee
 - 2) Concerned Courts
 - 3) Person in-charge of the Record Room in district courts
- 4.6.2. The format in which the minutes of meetings shall be prepared is provided in Annexure C.
- 4.7. Filing of Bail/ Appropriate applications by Lawyers and Action by Concerned Court:
 - 4.7.1. Recommended cases where Undertrials are represented by panel lawyers: In such cases, the DLSA Secretary shall direct the concerned lawyer to file appropriate application in the concerned court by 28th July, 2022.
 - 4.7.2. Recommended cases where Undertrials are represented by legal aid lawyers: In such cases, the DLSA Secretary shall create a group of panel lawyers who would coordinate with the concerned private lawyers to ensure that bail/appropriate applications are filed by 28th July, 2022.

4.8. Action Taken on Recommended Cases and Updation of data:

- 4.8.1. Every District and Sessions Judge shall direct all the courts to hear the bail/appropriate applications in the UTRC recommended cases on urgent basis. The last hour of every day from 28th July to 12 August, 2022, could be dedicated for the purpose.
- 4.8.2. Every District and Sessions Judge shall direct the person-in-charge of the records room to make the case files of the recommended cases sent to the concerned courts on urgent basis so that the case can be heard and appropriate directions can be issued.

- 4.8.3. It is the duty of the panel lawyer representing the undertrial to note the action of the court on the application filed and must report to the DLSA the same day.
- 4.8.4. In case of undertrials represented by private lawyers, it will be the duty of the DLSA Secretary to seek information on action taken by the court either from the court or the concerned private lawyer. The DLSA Secretary may take the assistance of retainer/panel lawyers to be able to compile the information promptly.
- 4.8.5. Additionally, the District and Sessions Judge shall direct all the judicial officers to submit a copy of the order passed to the DLSA Secretary after considering the bail/appropriate application so filed.
- 4.8.6. As the action taken reports are received in each case, the progress/status of each application must be updated in the 'Data@75' list as per prescribed format by the DLSA office.

13th August 2022

- DLSA to submit updated 'Data@75' list to NALSA for preparation of final report on recommendations, releases etc.

4.9. Final Submission of List of Releases to NALSA by each DLSA:

- 4.9.1. It shall be the duty of every DLSA to submit the final updated 'Data@75' list to NALSA for preparation of final report on recommendations, releases etc.
- 4.9.2. NALSA will compile the final list of releases based on the reports shared by DLSAs.



ANNEXURE-A

Format for maintaining prisoner information, identifying cases for review, action taken and outcomes.

Note:

This document will be shared in an 'Excel Sheet' format during orientation & training. Each DLSA must collate and maintain this sheet for every prison within its jurisdiction.

ANNEXURE-B

Format to Record Minutes of the UTRC Meeting

FORMAT TO RECORD MINUTES OF THE MEETING BY THE UNDERTRIAL REVIEW COMMITTEE DURING THE CAMPAIGN

1.	Name of the State:
2.	Name of the District:
3.	Minutes of the UTRC Meeting dated: • 25 July 2022 • 1 August 2022 • 8 August 2022 • 12 August 2022
4.	If meeting could not be held on any of the dates mentioned above, please provide reasons:

5. Names of the Central/ District Prison and Sub-jails located in the district:

S.No .	Name & Type (Central/ District/ Sub-jail/ Women/ Special/ Borstal/ Other) of Prison <i>Add as many rows as required</i>	Total Number of Undertrials as on _____ (mention date)

6. Attendance of Members:

S.No.	Members PRESENT	S.No.	Members ABSENT	Reasons For Absence

Total Number of Cases Shortlisted, Reviewed, Recommended:

Total No. of Undertrial cases in the district	Total No. of Undertrial Cases Shortlisted for Review by DLSA Secretary	Total No. of Undertrial Cases Recommended by UTRC	Total No. of Applications filed either by legal aid or private lawyer	Total No. of Undertrials Released as on _____ (mention date)

Details regarding Review of Cases and Action Taken

S.No	Category of Review	Total Number cases Reviewed for each category	Details of Review (Mention the details of each case reviewed in the below format)	Recommendation by the UTRC & Instructions to the Concerned Lawyer	Date of Hearing	Action Taken by the Concerned Court	Detention Status of UTP (Released/ Not Released) If UTP Not Released, please mention reasons briefly
(1)	UTPs falling under covered under Section 436A Cr.P.C.		1. UTP's name/Father's name: ▪ Court: ▪ Case Reference No.: ▪ Offence/s: ▪ Date of entry into prison: ▪ Stage of the Case: ▪ Name of the Lawyer (whether private or legal aid):				

			2. UTP's name/Father's name: ▪ Court: ▪ Case Reference No.: ▪ Offence/s: ▪ Date of entry into prison: ▪ Stage of the Case: ▪ Name of the Lawyer (whether private or legal aid):				
(2)	UTPs released on bail by the court, but have not been able to furnish sureties.		1. UTP's name/Father's name: ▪ Court: ▪ Case Reference No.: ▪ Offence/s: ▪ Date of entry into prison: ▪ Stage of the Case: ▪ Name of the Lawyer (whether private or legal aid):				
(3)	UTPs accused of compoundable offences.						
(4)	UTPs eligible under Section 436 of Cr.P.C.						
(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.						

(6)	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.						
(7)	UTPs who are imprisoned for offences which carry a maximum punishment of 2 years.						
(8)	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.						
(9)	UTPs who are sick or infirm and require specialized medical treatment.						
(10)	UTPs women offenders.						
(11)	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.						

(12)	UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code.						
(13)	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.						
(14)	UTPs who were granted interim bail by the court during the pandemic and they have adhered to all the conditions of the bond and have either returned to the prison on the stipulated date set out by the court/HPC or have regularly attended court on due hearings.						
(15)	UTPs who are accused of or charged with the offences for which the maximum imprisonment up to 7 years or less.						
(16)	UTPs who are above 65 years of age.						



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