

1. Introduction

- 1.1 Old prisoners and Prisoners with Terminal Illness face difficulties in navigating the prison environment, require frequent health check-ups, need special diets, and frequent meetings with their family and friends. Such prisoners would require specialised care and individual attention, which may not be possible for the prison authorities to provide, thus leading to aggravations in their medical condition and also often leading to issues of mental illness.
- **1.2** As per the Indian Medical Council Research report of 2018, terminal illness is defined as an irreversible or incurable disease condition from which death is expected in the foreseeable future. The UNODC Handbook on Prisoners with Special Needs refers to terminal illness as a situation in which there is no reasonable medical possibility that a patient's condition will not continue to degenerate and result in death.
- 1.3 As per the Prison Statistics India 2022, collated by the National Crime Records Bureau of India, 20.8% of all convicts i.e. 27,690 and 10.4% of all undertrial prisoners i.e. 44,955 prisoners are aged 50 years and above. The Model Prisons & Correctional Services Act, 2023 recognizes the vulnerability of old and infirm prisoners, in as much as it seeks that prisoners who are old and infirm should be lodged separately. Further, the Model Prison Manual 2016 also states in Chapter VIII, Section 8.48 that the Prison Superintendent shall communicate a list of prisoners who are old and infirm to the Duty Counsel, State Legal Services Authority at the High Court, and Legal Services at Supreme Court, in addition to contacting with District Legal Services Authority on continuous basis, for providing of legal aid and assistance to them.
- **1.4** The *UNODC Handbook on Prisoners with Special Needs* includes both Old Prisoners and Prisoners with Terminal Illness as prisoners with special needs, and recommends:

a. Older Prisoners

- Assistance to older prisoners in accessing legal counsel, legal and paralegal aid services from the outset of their detention and to provide additional support to older prisoners with mental or physical disabilities, as required, to ensure that

- they are not discriminated against in their access to justice and treatment in the criminal justice system.
- Release on compassionate grounds older prisoners who are in need of constant specialist nursing care, and who do not pose a risk to society, transferring them to an appropriate institution in the community.
- Encourage and facilitate contacts between older prisoners and legal aid services at the appropriate stage, in order to assist such prisoners in gaining early conditional and compassionate release.

b. Prisoners with Terminal Illness

- Ensure that individuals with a terminal illness have access to legal counsel, including free egal aid services if indigent, during the entire criminal justice process, including in filing bail applications and to provide assistance as necessary to ensure that this happens.
- Undertake regular assessments of the condition of prisoners with a terminal illness and initiate procedures for early or compassionate release, as soon as it is determined that the medical care and other support services provided by the prison are inadequate to address the needs of the patient.
- To actively support the compassionate and early release of prisoners with a terminal illness to liaise with the legal representative of the prisoner, and if necessary facilitate legal aid, to ensure that the prisoner's legal rights are protected and enforced during the decision process, which may involve lengthy and cumbersome procedures in some systems.
- 1.5 Recently, the plight of a 93-year old women prisoner confined in a prison in Karnataka was highlighted in a news report article, wherein the District Legal Services Authority was directed to move the Supreme Court for seeking her release. Similarly, recently the Calcutta High Court granted bail to a terminally ill undertrial, who was represented by a lawyer of the High Court Legal Services Committee and similar considerations for other terminally ill prisoners in the State were also sought to be taken up.
- **1.6** In view of the above, and in furtherance of NALSA's mandate to provide effective legal aid services to prisoners, with the approval of the Hon'ble Chairman, NALSA,

a campaign titled 'Special Campaign for Old Prisoners and Terminally III Prisoners' will be undertaken from 10 December 2024 to 10 March 2025 by NALSA along with the SCLSC, SLSAs, HCLSCs, and DLSAs.

2. Objective of the Campaign

The primary objectives of the campaign is to expedite the release of old prisoners and terminally ill prisoners through provision of effective legal aid services. The campaign aims to:

- 2.1. Identify and release old prisoners and terminally ill prisoners,
- **2.2.** Ensure humane treatment for old prisoners and terminally ill prisoners who cannot be released,
- **2.3.** Facilitate reintegration of old prisoners and terminally ill prisoners in society after their release, where necessary.

3. Campaign at a Glance

10 December, 2024 **<**

• Launch of NALSA's Special Campaign

11 December, 2024

- NALSA to conduct orientation of all member secretaries SLSAs, HCLSCs, and SCLSC.
- NALSA to constitute 'National Unit'

12 December, 2024

- Constitution of the 'State Unit'
- Constitution of 'District Unit'
- Intimation of appointment to the Unit members along with campaign document.

12-16 December, 2024 • SLSAs to conduct orientation of the Secretaries, DLSAs, Data Operators, DLSAs and Prison Superintendents, Probation/After-Care Officer, and members of the Unit.

16 December, 2024

- District Unit to conduct visits to every prison in the district and collate information (as per prescribed *Format A*) on
- 21 December, 2024
- a) prisoners above 70 years of ageb) Prisoners with terminal illness

6 January, 2025

- Meeting of District Unit to review data and suggest Action Points for seeking release in each case documented.
- District Unit to submit collated information on prisoners to the State Unit [As per prescribed *Format B*] after the meeting, latest by 10 January 2025.

10 January, 2025

- Meeting of the State Unit to review report submitted from District Unit and finalise Action Points for each case.
- Final Action Points to be circulated to the National & District Unit [As per prescribed *Format B*] latest by 15 January 2025.

15 January to 28 February, 2025

- Meeting of National Unit to review cases where applications are to be filed by SCLSC.
- Appropriate applications to be filed at the concerned District Court, High Court or Supreme Court for release of prisoners.
- District, State and National Unit to track releases and collate data.

5 March, 2025

• SLSA to submit information pertaining to Campaign to NALSA [As per prescribed *Format C*].

4. Stages & Procedures

- **4.1 Formation of Units:** Units shall be constituted at the National, State and District level between **11 and 12 December 2024** as follows:
- a. National Unit: The Member Secretary, NALSA shall constitute the 'National Unit' comprising the following:

Representatives of NALSA:

- i. Director, NALSA
- ii. Research Consultant, NALSA
- iii. Law Researcher, NALSA

Representatives of SCLSC:

- i. Member Secretary, SCLSC
- ii. 4 lawyers from the panel of SCLSC
- b. State Unit: The Member Secretary, SLSA shall constitute the 'State Unit' comprising the following:

Representatives of SLSA

- i. Additional/Deputy Secretary, SLSA
- ii. Two lawyers from panel of SLSA (if there is a separate panel)

Representatives of HCLSC

- i. Member Secretary, HCLSC
- ii. Four lawyers from panel of HCLSC
- c. District Unit: The Chairman, DLSA shall constitute the 'District Unit' for each district as follows:
 - i. Secretary, DLSA\

- ii. Deputy Legal Aid Defence Counsel
- iii. Jail Visiting Lawyers (for all Prison Legal Aid Clinics)
- iv. Para Legal Volunteers (attached to Prison Legal Aid Clinics including Convict Para Legal Volunteers)

4.2 Orientation Sessions on the Campaign

- a. On <u>11 December 2024</u>, NALSA will conduct an Orientation Session with the Member Secretary, SCLSC and all Member Secretaries, SLSA and HCLSC.
- b. Between <u>12-16 December 2024</u>, SLSAs will conduct an Orientation Session for the Secretaries, DLSA, members of the State and District Unit, Data Operators, DLSA, Prison Superintendents, Probation/After Care Officers, Welfare Officers etc. on the Campaign for their respective State.
- c. An intimation for appointment to the respective units shall be given to each member, along with a copy of the campaign document by NALSA, SLSA and DLSA for the National, State and District Unit respectively.

4.3 Prison Visits

- a. Between 16 to 21 December 2024, members of District Units shall conduct visits to all prisons within their jurisdiction (including central, district, subsidiary, women, special, borstal, open or other prisons)
- b. During the visit, the members of the District Unit shall interact with prisoners of all genders (including undertrials, convicts, detenues or others) who are (i) Aged above 70 years of age and (ii) Prisoners who suffer from a Terminal Illness.¹

¹ A prisoner will be considered to have a Terminal illness where the Medical Officer certifies that the prisoner suffers from such an illness/illnesses, where there is no medical possibility that the prisoners' condition will not continue to degenerate and result in death. [As defined by the UNODC Handbook on Prisoners' with Special Needs]

c. The members of the District Unit will complete the 'Individual Prisoner Information Sheet' [Refer to Format A] for each prisoner, along with a certificate from the 'Medical Officer' of the concerned prison certifying the prisoners' age, medical condition, ongoing medication, ongoing treatment etc.

4.4 Collation of Information

- **a.** The District Units shall compile the data from the Individual Prisoner Information Sheets in the 'District Report' as per *Format B*.
- b. On <u>6 January 2025</u>, the Members of the District Unit shall conduct a review meeting to discuss each individual case and prepare an Individual Action Plan for securing the release of each prisoner.² The Individual Action Plans may encompass pursuing legal remedies at the District Court or the High Court or the Supreme Court, as deemed appropriate or particularly in the case of convict prisoners, filing of pre-mature release applications or seeking parole/furlough with the appropriate government authorities.
- c. The District Unit shall finalise the District Report (*Format B*) and send for review and finalization to the State Unit latest by <u>10 January 2025</u>.

4.5 Finalisation of Individual Action Plan

- a. The Members of the State Units shall review the District Reports submitted by the District Units and on 10 January 2025, conduct a meeting to finalize the Individual Action Plan and update/approve the District Reports.
- **b.** The State Unit shall then send the Finalized District Report to the District Unit, its own members and to the National Unit for further action as appropriate.

² Where no avenue for release is possible, detailed reasons are to be mentioned in the District Report.

4.6 Filing of Petitions/Applications before Appropriate Court/Authority

Between <u>15 January to 28 February 2025</u>, the National, State and District Units shall ensure that appropriate applications are filed.

a. Filing in the District Courts:

i. The District Unit will ensure that petitions/applications to be filed before the appropriate Court at the district are filed within 7 working days of the receipt of the Final District Report.

b. Filing in the High Court:

- The State Unit will ensure that the petitions/applications to be filed before the High Court or with government authorities are filed within 14 working days of the Finalization of the District Report.
- ii. The District Units shall support the State Unit in collation of all necessary documents to enable filing of the petitions/applications.

c. Filing in the Supreme Court:

- The National Unit will ensure that the petitions/applications to be filed before the Supreme Court are filed within 14 working days of the receipt of the Final District Report.
- ii. The State and District Units shall support the National Unit in collation of all necessary documents to enable filing of the petitions/applications.

d. Representation by Private Lawyers:

If the concerned prisoner is represented by a private lawyer, the concerned Unit will apprise the lawyer regarding the campaign, and facilitate the filing of the appropriate application/petition before the court/authorities.

4.7 Tracking & Reporting on Outcomes in Individual Cases

- a. The District and National Units shall track the outcomes on each application/petition filed and inform the State Unit periodically.
- b. The SLSA with the assistance of the State Unit shall collate all information and collate the State Campaign Report [As per prescribed Format C] and send to NALSA latest by <u>5 March 2025.</u>
- c. NALSA shall thereafter collate and publish the National Report on the Campaign.

4.8 Provision of Post-release Care and Assistance

- **a. Assistance in securing release:** The District Units shall provide all necessary support in providing assistance to the prisoners for securing their release upon receipt of the appropriate orders directing for release of the prisoner.
- b. Post-release Assistance & Care: Old Prisoners and Prisoners with Terminal Illness may have specific requirements when released from prisons including lack of accommodation, loss of contact with family etc. The District Units may liaise with the Probation Officers or After-Care Officers or Welfare Officers or NGOs for provision of post release assistance and care to all prisoners released as an outcome of this Campaign.

5. Formats for Documentation and Reporting

[Formats A, B & C enclosed]

NALSA Special Campaign on Old Prisoners & Terminally Ill Prisoners

Format A: Individual Prisoner Information Sheet

[To be Completed by District Unit after Interaction with Prisoner]

	of District:	
	of SLSA:	
	f Interaction:	
Name	of Prison:	
S. No	Question	Response
	Q	
1.	Name:	
2.	Father's Name:	
3.	Gender	
4.	Age	
5.	Case Particulars:	a) Case Ref No: b) Offences Charged: c) Status of Case:

6.	Date of admission in prison:	
7.	Total Period of Detention:	
8.	Address:	
9.	Contact Details of Family/Friend: [Prisoner may be asked to give details of a person who can assist in giving any requisite documents etc. relevant to the case]	
10.	Does any family member or friends come for <i>mulaquat</i> ? If yes, how often?	☐ Yes ☐ No Frequency:
·		
11.	Contact details of Family Member/Friend in whose care the prisoner will stay, if released.	[If no such person is available, write NIL]
12.	Category:	☐ Prisoner Aged 70 years or above ☐ Prisoners with Terminal Illness [In case prisoner falls in both categories, they should be
13.	List of Documents certifying eligibility: [Mention documents which are available with prisoner/or in prison records]	In case of Prisoner aged above 70 years (tick all available) Birth Certificate AADHAAR Card PAN Card Other [Please Specify] In case of Prisoner with terminal illness: Medical Reports Certificate from medical professional Other [Please specify]
14.	Representation by lawyer	☐ Private ☐ Legal Aid ☐ No Lawyer Name & Contact Details:

	·					
List of legal documents available like	Please	mention	documents	already	available	with
FIR, Chargesheet, Order on Charge,	prisone	r:		•		
Final Judgement etc.	1.					
	2.					
Brief Summary of Current Medical	3.					
Condition, including ongoing medical						
treatment, medication etc.						
· · · · · · · · · · · · · · · · · · ·						
medical condition, treatment etc.		No				
Any other remarks:	मन र	0.4				
22/2	20172					
16						
ALE						
	Brief Summary of Current Medical Condition, including ongoing medical treatment, medication etc. Whether Certificate received by the Medical Officer certifying the age, medical condition, treatment etc.	FIR, Chargesheet, Order on Charge, Final Judgement etc. 1. 2. 3. Brief Summary of Current Medical Condition, including ongoing medical treatment, medication etc. Whether Certificate received by the Medical Officer certifying the age, medical condition, treatment etc.	FIR, Chargesheet, Order on Charge, Final Judgement etc. 1. 2. 3. Brief Summary of Current Medical Condition, including ongoing medical treatment, medication etc. Whether Certificate received by the Medical Officer certifying the age, medical condition, treatment etc.	FIR, Chargesheet, Order on Charge, Final Judgement etc. 1. 2. 3. Brief Summary of Current Medical Condition, including ongoing medical treatment, medication etc. Whether Certificate received by the Medical Officer certifying the age, medical condition, treatment etc.	FIR, Chargesheet, Order on Charge, Final Judgement etc. 1. 2. 3. Brief Summary of Current Medical Condition, including ongoing medical treatment, medication etc. Whether Certificate received by the Medical Officer certifying the age, medical condition, treatment etc.	FIR, Chargesheet, Order on Charge, Final Judgement etc. 1. 2. 3. Brief Summary of Current Medical Condition, including ongoing medical treatment, medication etc. Whether Certificate received by the Medical Officer certifying the age, medical condition, treatment etc.

Format B: Report of the District Unit

[Refer to Excel Sheet enclosed]

Format C: Reporting from SLSA to NALSA

Report on the Special Campaign 2024

- Name of SLSA:
 Particulars of Old Prisoners Identified for the campaign:

No of cases in which Post-Release Support provided	
S	Total
No. of Prisoners Released	Convicts Total
No. of	Total Undertrials
p	Total
dispose	Other
No. of Applications disposed	Supreme Court
of App	High Court
No.	Other Total District High Court
16	Total
s filed	Other
of Applications filed	District High Supreme Court Court Court
No. of Ap	High Court
Z	District Court
ed 70	Total
of Prisoners aged	Convicts /Others
No. of Prisoners aged 70 years and above	Undertrials Convicts To
Name of Prison	
Name of the DLSA	
S. No	

3. Particulars of Terminally III Prisoners Identified for the campaign:

n d	
No of cases in which Post- Release Support provided	
s	Total
No. of Prisoners Released	Convicts /Others
No. of Re	Total Undertrials Convicts /Others
g	Total
dispose	Other
No. of Applications disposed	District High Supreme Court Court Court
of App	High Court
No.	District Court
	Total
s filed	Other Total
of Applications filed	
No. of A	High Court
Z	District Court
, III	Total
No. of Terminally III Prisoners	Convicts /Others
No. of T.	Undertrials Convicts Total District High Supreme Court Court
Name of Prison	
Name of the DLSA	
S. No	

4. Details of legal representation:

	No. of applications filed by private lawyers	No. of applications filed by panel lawyers/LADC
District Court		
High Court		
Supreme Court		
Other		

5. Particulars of cases where prisoner could not be released:

[Mention for each case]

Name of prisoner:

Age:

Case Particulars:

Offences charged:

If convicted, details of sentence:

Date of admission to prison:

Whether represented by legal aid lawyer or private lawyer:

Brief of Individual Action Plan:

Reasons why release could not be secured:

If petition/application pending then mention reason for pendency:

Share brief (200 words) narratives on any two cases where the prisoner was released as an outcome of the Campaign 9