

Suggested Proformas

Lists of –

- a) **Serious Offenders** punishable with death or life imprisonment whose trial is continuing over two years
- b) **Petty Offenders** punishable with imprisonment up to 2 years
- c) **Undertrials completed half or more than the maximum term** of prescribed punishment [S.436A, Cr. P.C., 1973]
- d) **Juveniles**/whose age is contested
- e) **Mentally ill** [S.328–339, Cr. P.C., 1973]
- f) **Persons detained under Chapter VII** (Security For Keeping The Peace And Good Behaviour) & **S.151, Cr. P.C., 1973**

Undertrial Review Mechanism in Other States

Kerala

- **'District Level Committee'** headed by District & Sessions Judge, should meet once in three months, established in 1980 by a Government Order.
- Members – CJM, City Police Chief, District Police Chief, DSP (Crime Branch), Superintendents of Prison, Sub-jails/Women jail, Assistant Excise Commissioner, District Probation Officer.

Gujarat

- **'Core Committee'** headed by the District Magistrate, should meet in first week of every quarter, established by Home Department on 6 Jan 2000.
- Members - Sessions Judge, Commissioner/SP of Police, Civil Surgeon, District Education Officer, Executive Engineer (PWD), Social Defence Officer, President of Municipal Corporation of Municipality.

Himachal Pradesh

- **'Undertrial Review Committee'** headed by District & Sessions Judge.
- Members – Superintendent of Police and Superintendent of Prison.

Andhra Pradesh

- **'District Level Review Committees for Under Trial prisoners'** constituted by the Government of Andhra Pradesh vide G.O. Ms. 356 dated 14.7.1980 of Home Department.
- Review Meetings are held between Superintendent of Central/District Jail and District & Sessions Judge in his chamber at the end of every quarter.

About CHRI

The **Commonwealth Human Rights Initiative** (CHRI) is an international, independent non-profit organisation headquartered in India. Its objectives are to promote the practical realisation of human rights in the Commonwealth. In addition to a broad human rights advocacy programme, CHRI advocates access to information and access to justice.

Prison Reforms Programme

As part of its Access to Justice programme, the prison reforms programme focuses on increasing transparency of a traditionally closed system. The programme aims at ensuring accountability of the legal system towards reducing overcrowding and unnecessary long pre-trial detention and prison overstay. Strengthening review and prison oversight mechanisms towards fulfilling rights guaranteed by constitutional and international safeguards for prisoners is the major focus.

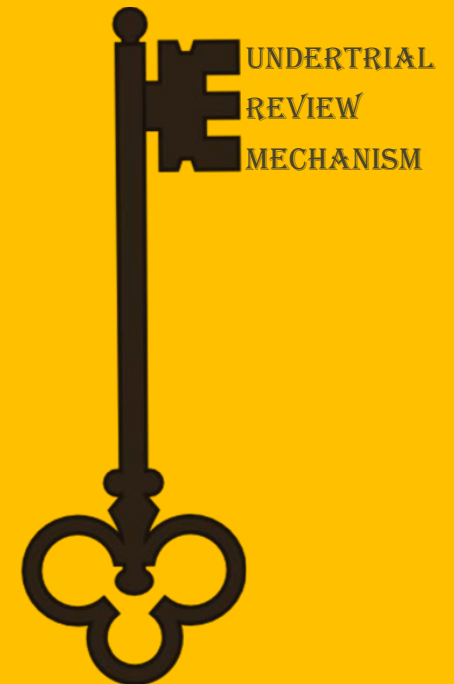
BEHIND BARS NOT BEYOND JUSTICE



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UNDERTRIAL REVIEW MECHANISM

Rajasthan's *Avadhik Samiksha Samitis*



Undertrial Review Mechanism is an **oversight mechanism**, headed by a judicial officer in a district and comprising various duty holders, to:

- ❖ **ENSURE** *periodic review of the cases of undertrial prisoners*
- ❖ **CHECK** *prolonged overstay and overcrowding in prisons*
- ❖ **GUARANTEE** *fair trial rights*

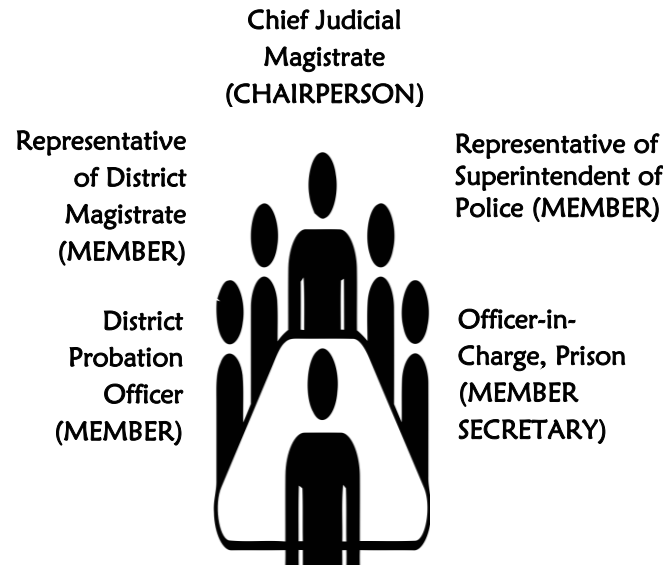
Undertrial Review Mechanism

Rajasthan's Avadhik Samiksha Samitis

The Process

- **March 1979** Hussainara Khatoon & Ors. Vs Home Secretary, State of Bihar [AIR 1979 SC 1360] – Supreme Court recognized for the first time right to speedy trial as inherent in Article 21 of the Constitution.
- **April 1979** Conference of Chief Secretaries held at New Delhi, recommended constitution of District and State level Committees.
- **November 1978 & February 1979** Law Commission of India's 77th report – 'Delay & Arrears in Trial Courts', and 78th report – 'Congestion of Undertrial Prisoners in Jails', recommended creation of review bodies.
- **October 1994** Supreme Court Legal Aid Committee Vs Union of India [1994 SCC (6) 731] – recommended State Governments to set up review Committees headed by judicial officers.
- **December 1999** National Human Rights Commission's letter to Chief Justice of High Courts to adopt and issue necessary directions to Magistrates and Session Judges within their jurisdiction for the speedy trial of cases.
- **May 2011** Ministry of Home Affairs's Advisory, vide No. 17011/2/2010-PR – Formation of Under Trial Review Committee in every District with the District & Sessions Judge as the Chairman and Superintendent of Police and Superintendent of Prison as members to review the cases of under trial prisoners every three months, of those lodged for more than 3 months.
- **January 2013** Ministry of Home Affairs's Advisory, vide No. V-13013/70/2012-IS(VI) – States/UTs may constitute a Review Committee in every district with the District Judge as Chairman, and the District Magistrate and District SP as members to meet every three months and review the cases.
- **April 2015** Re-Inhuman Conditions in 1382 Prisons (W.P. Civil No. 406/2013) – NALSA and the Ministry of Home Affairs to urgently ensure that Undertrial Review Committee is established in every District, within one month comprising of the District Judge, as Chairperson, the District Magistrate and the District Superintendent of Police as members.

In **1979**, Rajasthan created *Avadhik Samiksha Samitis* or Periodic Review Committees for every district by a **Government Order No.F/8/22/Grah-12/kara/79**.



EVERY MONTH these members are mandated to –

- ✓ Review the cases of undertrial prisoners lodged in all the prisons, including sub-jails

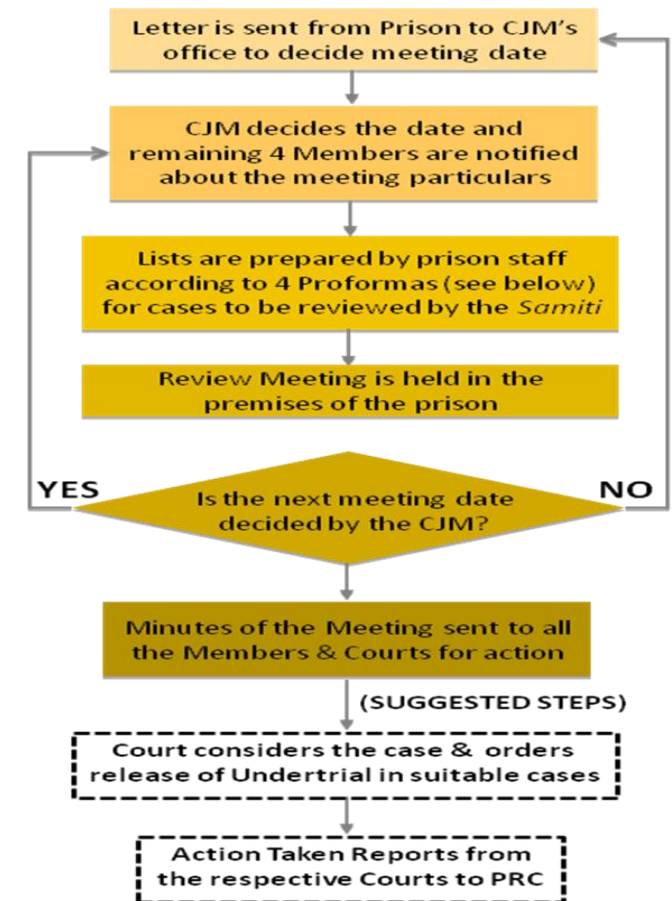
AND

- ✓ Advice/Recommend the respective courts, in order to release the undertrial prisoners who,

- have completed half or more than the maximum prescribed punishment for the offence charged with [now Section 436A, Cr.P.C.];

OR

- are accused of **serious offences** and have been under trial for a long period of time; or have committed such **petty offences** that there is no need to keep them in judicial custody.



Mandated Proformas

Lists of Undertrials standing trial in cases:

- Punishable with death, imprisonment for life or for a term of not less than 10 years, completed 90 days under custody, investigation not concluded [S.167(2)(a)(i)]
- Punishable with imprisonment of less than 10 years, completed 60 days, investigation not concluded [S.167(2)(ii) Cr.P.C.]
- When completed more than the maximum term of sentence [S.428 Cr.P.C.] – now S.436A
- Non-criminal lunatics [S.16 & 23 of Indian Lunacy Act, 1912] – *Indian Lunacy Act, 1912 is now replaced by The Mental Health Act, 1987*

