



**SUMMARY OF CHRI'S FIRST NATIONAL WATCH REPORT ON THE
FUNCTIONING OF THE UNDER TRIAL REVIEW COMMITTEES:**

COMPLIANCE TO 'RE-INHUMAN CONDITIONS IN 1382 PRISONS'

This report draws upon the responses of 26 States and Union Territories which provided information for the period from the constitution of the Under Trial Review Committee till 4 November 2015, the date when right to information requests were sent. The information in the report is directly provided by the State Legal Services Authority or by the District Legal Services Authorities after right to information request was forwarded to them.

Under Trial Review Committees (UTRCs) were to be formed in every district of the country under the directions of the Honourable Supreme Court. As the National and State Legal Services Authorities were given the responsibility, along with the Ministry of Home Affairs, to ensure setting up of UTRCs in every district of the country, right to information requests¹ were filed by the Commonwealth Human Rights Initiative (CHRI) in early November to check compliance with the Supreme Court order dated 24 April 2015.

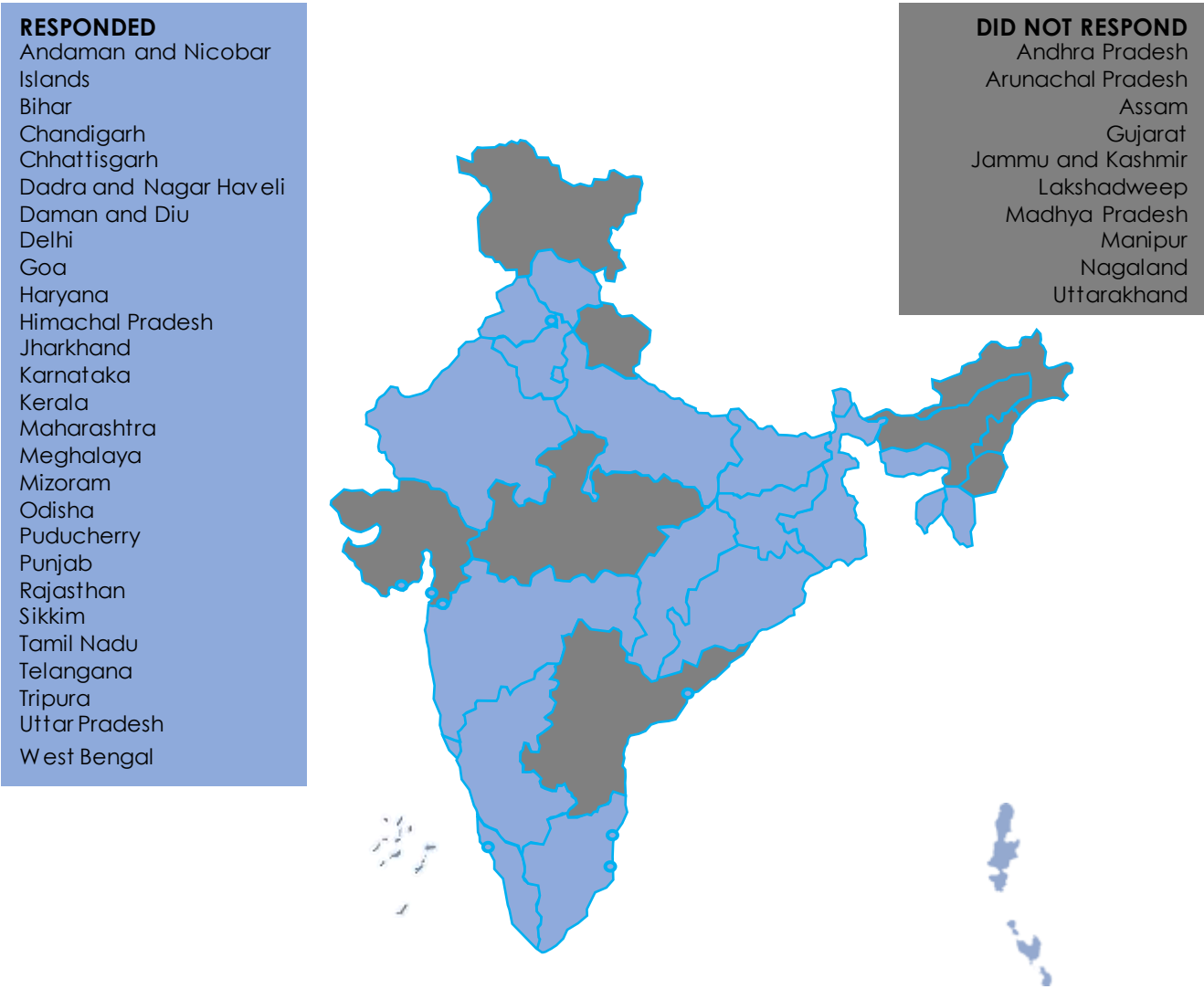
Aim of the Report: Broadly, the report aims to evaluate: Are UTRCs proving to be effective mechanisms of safeguarding the right to liberty of an individual behind bars? While the report highlights some good practices which are prevalent in many districts which could be replicated in other places, it also points at the implementation gaps that are observed during the analysis of the minutes of the meetings. This report is presented to all the stakeholders with the idea that the progressive steps taken by the Honourable Court could be realised to the fullest potential and the obstacles in achieving it could be addressed.

¹ Refer Annexure A, p. 21 for right to information queries filed by CHRI to SLSAs across the country.

How the Submission is organised: The submission primarily addresses the following questions:

- Whether Under Trial Review Committees are formed in all districts
- Whether meetings are held quarterly
- Whether all members attended all meetings
- Whether the mandate² was followed – (i) whether cases under S.436A reviewed; (ii) whether cases where bail have been granted and person is unable to furnish surety reviewed; and (iii) whether cases of compoundable offences reviewed
- How many under trials were found eligible for release
- How many applications were moved by the panel lawyers
- How many under trials were actually released

Map Showing States and Union territories which responded to the Right to Information Query



² As the right to information requests were filed in November 2015, this report does not take into account the expanded mandate of the UTRCs as directed by the Supreme Court in the order dated 5 February 2016.

The findings of this submission are crucial for better understanding of how the mechanism functions on the ground, how is it different from what's on paper and how it could be further improved to fulfil its purpose.

- ✓ At present, there are 675 districts in the country.
- ✓ The information received from 26 states and union territories, comprising of 478 districts, form part of this report.
- ✓ Out of the total 478 districts, 355 districts responded to the right to information request.
- ✓ Out of the 355 districts, 183³ did not furnish the minutes of the meetings.
- ✓ Therefore, detailed analysis of minutes of the meetings could only be done for 172 districts.
- ✓ While 9⁴ State Legal Services Authorities (SLSAs) forwarded the right to information request under S.6(3) of the Right to Information Act, 2005, to all the District Legal Services Authorities, 13⁵ SLSAs took the efforts of compiling information from various District Legal Services Authorities and provided consolidated information.
- ✓ The Bihar, Karnataka, Maharashtra and Odisha SLSAs though compiled the district-wise information but did not provide minutes of the meetings held in each district nor did they forward the right to information request to DLSAs.
- ✓ Though Kerala did forward the right to information requests to DLSAs, no replies were received.

For convenience, findings are divided in a number of sub-headings and each section is followed by recommendations.

I. Whether Under Trial Review Committees are formed in all districts

- UTRCs have been formed in all 355 districts observed.
- The Supreme Court directed, in the order dated 24 April 2015, that the UTRC is established in every District, within one month and the meeting of each such Committee should be held on or about 30th June, 2015. The National Legal Services Authority (NALSA) sent numerous letters to ensure compliance by states and union territories. It

³ All districts of Bihar, Karnataka, Kerala, Maharashtra & Odisha; Bilaspur & Dantewada (**Chhatisgarh**); Daman (**Daman & Diu**); Mandi (**Himachal Pradesh**); Gurgaon, Jagadri & Faridabad (**Haryana**); Chaibasa, Chatra, Giridh, Garhwa, Jamshedpur, Lohardagga, Ranchi, Saraikella, Simdega & Hazaribagh (**Jharkhand**); South Garo Hills & South West Garo Hills (**Meghalaya**); Karaikal (**Puducherry**); Thiruvavur, Vellore, Ramanathapuram, Thoothkkudi, Krishnagiri, Chennai, Sivagangai, Salem, Nagercoil, Dharmapuri, Tiruvallur & Erode (**Tamil Nadu**); Jhunjhunu (**Rajasthan**); Banda (**Uttar Pradesh**); Malda & Cooch Behar (**West Bengal**)

⁴ Chhatisgarh, Delhi, Haryana, Kerala, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.

⁵ Andaman & Nicobar Islands, Chandigarh, Dadar & Nagar Haveli, Daman & Diu, Goa, Himachal Pradesh, Jharkhand, Mizoram, Meghalaya, Puducherry, Sikkim, Telangana and Tripura

was found that, despite NALSA's five reminders, districts did not constitute and hold their first meeting on or before 30 June 2015.

II. Whether meetings are held quarterly

In total 522 meetings⁶ took place. Though all the SLSAs claim that meetings are being held quarterly some discrepancies were found.

- **Dates of meetings not provided:** Where only number of meetings were provided without the actual dates, it is assumed that those meetings would have taken place before 4 November 2015, the date of the right to information request and no meeting was held beyond the said time period.
- **Mandate of quarterly meetings misunderstood:** It is interesting to find that the mandate of holding quarterly meetings is understood differently by the district committees. Only 47 districts⁷ followed the strict three-month pattern and held meetings within the gap of three months (with 10 days of grace period). On the other hand, there are districts which comprehended 'quarterly meetings' in a way that one meeting must be held in each of the four quarters not considering the time gap between the two meetings which ranged from four to six months. For instance, in Tiruvannamalai District of Tamil Nadu, a meeting was held on 14 July 2015, considering it the meeting for the quarter July–September, the next meeting was held in the next quarter (October–December) on 02 December 2015 clearly exceeding three months. A similar situation was found in 24 districts⁸ where at least one meeting was held with the gap of more than four months.

So, even if the committee recommended the lawyer to follow up a compoundable case or represent an inmate who has been granted bail but does not have surety, without any review for four- five months, the undertrial would be at the mercy of the lawyer who

⁶ In the right to information request, "district-wise number of all the Undertrial Review Committee meetings held from April 2015 till now" was asked. Therefore, where dates of meetings were provided, only those meetings were considered which were held before 4 November 2015 (the date of the right to information request) and where only the total number of meetings were provided it is presumed that the SLSA/DLSAs have provided for the number of meetings held till the date of the right to information request.

⁷ Bettiah, Gaya, Jamui, Hajipur, Kathihar, Madhepura, Madhubani, Nalanda, Nawada, Rohtas, Saran & Seikhpura (**Bihar as mentioned in the SLSA reply**); Bastar, Dhamtari, Durg, Jangir-Chanp, Kabirdham, Surguja, Surajpur & Uttar Bastar Kanker (**Chhattisgarh**); North District (**Delhi**); North Goa & South Goa (**Goa**); Kangra, Kullu, Sirmaur & Una (**Himachal Pradesh**); Hisar (**Haryana**); Dhanbad, Jamtara, Palamau (**Jharkhand**); East Khasi Hills (**Meghalaya**); Sri Mukhtar Sahib, Rupnagar & Bhatinda (**Punjab**); Puducherry (**Puducherry**); South District (**Sikkim**); Tirunelveli, Coimbatore, Nammakal, Sriviliputhur & Udhagamandalam (**Tamil Nadu**); Unakoti (**Tripura**); Ambedkar nagar, Basti & Sonbhadra (**Uttar Pradesh**) and Birbhum Suri (**West Bengal**)

⁸ Silvasa (**Dadar & Nagar Haveli**); South West (**Delhi**); Chamba (**Himachal Pradesh**); Ambala, Kurukshetra, Panipat & Fatehabad (**Haryana**); Bokaro, Dumka, Godda, Latehar & Pakur (**Jharkhand**); Ri Bhoi (**Meghalaya**); Barnala, Taran Taran, Pathankot, Patiala & SBS Nagar (**Punjab**); Pratapgarh (**Rajasthan**); East District (**Sikkim**); Tiruchirapalli & Perambalur (**Tamil Nadu**) and Mahbubnagar & Karim nagar (**Telangana**)

might not be available for reasons of ill-health or any other personal or professional reasons.

- **Overly long gaps in meetings:** Then there are instances where there was a gap of more than six months between two meetings. In Silvassa (Dadar & Nagar Haveli) first meeting took place on 24 June 2015 and the second meeting was held after eight months on 29 February 2016. Similarly in Patiala (Punjab), after the meeting in May end 2015 the next meeting took place in November end 2015. The worst case was in Godda (Jharkhand) where there was a gap of nearly nine months between two meetings from 06 July 2015 to 29 March 2016.

The minutes of the meetings suggests that even constant follow ups on the directions of the committee have secured only a few releases. With no meetings and therefore no follow ups being conducted for such long periods, we cannot expect these committees to ensure any releases.

- **Good practice of monthly and more frequent review meetings:** A good practice that was noticed in 29 districts⁹ where monthly meetings took place. In Jamtara and Jamshedpur (Jharkhand), DLSAs issued orders to conduct UTRC meetings monthly. This helps in continuously tracking the progress of the recommended cases and ensures prompt action leading to release of under trials. The minutes of one meeting of South West District of Delhi suggest that the meeting continued for two days. It seems to suggest that proper time must have been given in reviewing each and every case.
- Then, there were 6 districts where meetings were held more than once a month. These frequent meetings were held in the initial phase of constitution of the committee and they subsequently met with lesser frequency. These are Shimla (Himachal Pradesh); Khunti (Jharkhand); East Khasi Hills & West Garo Hills (Meghalaya); SBS Nagar (Punjab); Baran (Rajasthan).
- In rest of the districts no fixed periodicity was followed.
- **No meetings because no 436A eligible cases:** A unique situation came to light in Sirsa district (Haryana) which stated that no meeting has taken place till date as there was no prisoner found entitled to the benefit of S. 436A as per the reports of the Courts and Superintendent of District Jail. Similar situation appeared in Chatra (Jharkhand) based on

⁹ Aurangabad, Begusarai, Bhagalpur, Bhabhua, Bhojpur, Buxar, Darbhanga, Gopalganj, Jehanbad, Khagria, Motihari, Munger, Muzaffarpur, Patna, Purnea, Samastipur, Sitamarhi, Siwan, Seohar, Araria, Kishanganj, Supaul, Lakhisarai & Banka (**Bihar**); South & South East (**Delhi**); West Garo Hills (Meghalaya), North District (**Sikkim**); Udaipur (**Rajasthan**) and North Tripura (Tripura)

the report of the prison in-charge. This justification, however clearly indicates that the full mandate of the committee has been ignored.

- **Reasons not provided for not holding meetings:** Replies received from Andaman & Nicobar Islands, Mansa district (Punjab) and 6 districts of Mizoram (Aizwal, Lunglei, Mamit, Serchhip, Lawngtlai & Saiha) mention that meetings were not held but they did not provide any reason for the same. Ramgarh (Jharkhand) mentioned in their response that the Jail of Ramgarh has shifted in the month of January 2016 and that no meeting of UTRC has been held till date.

- i. It is recommended that in order to keep a constant vigil on the action taken on the recommended cases, meetings of the UTRC be held monthly. This is particularly more important in cases of under trials eligible under S.436 of the Code of Criminal Procedure (the Code). In the alternative, the quarterly UTRC meetings should be supplemented by monthly 'tracking meetings' of the DLSA with the panel lawyers to track the status of the directions/recommendations given.
- ii. Every UTRC meeting should have two elements- a) to look at the status of the directions of the previous meetings and b) the review of the new cases.
- iii. To ensure regularity the day/date of the meeting be pre-set by the members of the committee. For example, UTRC meeting be scheduled to be held on the first Saturday of every month/quarter. The Chairperson must send a letter in this regard to all the members to fix a permanent day/date for the meeting or it must be mutually decided by all the members when the next meeting is to be held.

III. Whether all members attended all meetings

- **Chairperson present in all meetings:** The attendance of members has been impressive across the country. The Chairperson, District & Session Judge is the indispensable part of the committee and was present in every meeting held. In addition to the Chairperson, there were other judicial officers who occasionally attended the committee meetings¹⁰.
- **Frequent attendance by police representative:** Besides the Chairperson who had to be inevitably present, the most frequent attendance was by the Superintendent of Police. Superintendent of Police was represented by his subordinates in many committee

¹⁰ Assistant District & Sessions Judge, Senior Civil Judge, Judicial Magistrates, Metropolitan Sessions Judge

meetings¹¹. Additionally, in many occasions it was seen that Superintendent of Police was accompanied by seniors or subordinates.¹² It must be noted that in Ambala (Haryana), both Commissioners of Police (City and Rural) were made part of the committee.

- **DM present in most meetings:** The District Magistrate was found to be missing at least from eight meetings¹³. The District Magistrate was also represented as much as the Superintendent of Police in many district committees.¹⁴
- **Presence of other officers seen:** It must be noted that apart from the mandated members, many districts invited other executive officers to attend the committee meetings and contribute towards the same. The most prominent invitees were Superintendent or officer in-charge of Central/District/Women/Sub Jails, Probation Officers, Public Prosecutors, District Attorneys, Government Pleaders, President of the Advocates Bar Association and Advocate members of DLSA.
- **On presence of subordinates:** It was specifically directed by the UTRC in West Garo Hills district (Meghalaya) not to depute subordinates for the meeting.

¹¹ North, North West & Central districts (**Delhi**); Ambala (**Haryana**); Sri Muktasar Sahib & Bhatinda (**Punjab**); Chittorgarh, Hanumangarh, Karauli, Nagaur/Merta & Sawai Madhopur (**Rajasthan**); Basti (**Uttar Pradesh**); Gomti Udaipur (**Tripura**) and Khammam (**Telangana**)

¹² In West Jaintia Hills (Meghalaya) – Additional Superintendent of Police (ASP) and Deputy Superintendent of Police (DSP); in Jalandhar, Kapurthala, Tarn Taran & Hoshiarpur (Punjab) – Senior Superintendent of Police (SSP); in Amritsar (Punjab) – ASP Rural and SP/HQ cum Traffic; in Tiruchirapalli (Tamil Nadu) – Deputy Commissioner of Police also attended the meeting along with Superintendent of Police.

¹³ In Gomati Udaipur (Tripura) DM did not attend a meeting despite reminders and communication through phone. Other examples of absence - North West (Delhi); South West Khasi Hills (Meghalaya) and Faizabad and Ambedkar Nagar (Uttar Pradesh), Mahbubnagar and Khammam in Telangana.

¹⁴ Additional District Magistrate attended on behalf of DM in North district (Delhi), South Goa (Goa); East Khasi Hills & West Jaintia Hills (Meghalaya); Hoshiarpur (Punjab), Koderma (Jharkhand); Chittorgarh, Nagaur/Merta, Pali, Sawai Madhopur & Sirohi (Rajasthan); Basti (Uttar Pradesh) and Gomati Udaipur (Tripura). SDM represented the DM in North & North West districts (Delhi) and Karauli (Rajasthan). Other designations were District Revenue Officer, Additional Collector, City Magistrate, Assistant Deputy Commissioner, Divisional Magistrate, Assistant Commissioner (General), Acting Officer, Zila Parishad and Chief Development Officer.

- i. It is recommended that the prison in-charge be formally added as the member of the committee. The rationale is that it is in his/her physical custody that prisoners are kept and also because prison in-charge has access to the detailed record of each prisoner as well as familiarity with his personal demeanor and circumstances. Further, his presence in the Committee will ensure updated status of releases in his prison.
- ii. In many instances, a representative of the Prosecution department was invited to the meetings. If added as a member, they can assist in assessing the status of charge sheets.
- iii. In States where probation/welfare officers have been appointed, they should be made part of the Committee as they can draw attention to the situation of petty offenders and also bring their own specialised knowledge of the Probation of Offenders Act to the committee.

IV. Whether mandate was followed

- **Irregularities in complying with mandate:** The analysis of the minutes of the meetings show patterns of irregularity vis-à-vis the mandate prescribed by the Hon'ble Court in its 24 April 2015 order which clearly directed for the review of three categories of cases of undertrials – (i) detained under S.436A; (ii) have been granted bail but could not furnish sureties; and (iii) detained under compoundable offences. Though now the mandate of these committees has been expanded by the order dated 5 February 2016, this submission does not take it into account as the right to information requests were filed in early November 2015.
- **Minutes not provided for all meetings:** Out of the 522 meetings, minutes were provided for 261 meetings. Out of these, 14 meetings¹⁵ were introductory where conduct of business for the UTRC was discussed and actual review of cases did not take place.
- **Only 40% meetings fulfilled the mandate:** Out of the 247 meetings where review of cases took place, only in 98 meetings all the three categories of cases were reviewed. This essentially means that only 40% meetings fulfilled the mandate as directed by the Hon'ble Court.

(i) whether cases under S.436A reviewed

¹⁵ Silvassa (**Dadar & Nagar Haveli**); Janjgir-Chanp, Kabirdham & Korea (**Chhattisgarh**); Narnaul (**Haryana**); North Garo Hills, West Khasi Hills and West Jaintia Hills (**Meghalaya**); Amritsar, Jalandhar & Rupnagar (**Punjab**); Khammam (**Telangana**) and 2 meetings in Dakshin Dinaj (**West Bengal**)

- **Emphasis given to S.436A:** Out of the 247 review meetings, the majority of 231 meetings reviewed cases of undertrials under S.436A.
- **S.436A & multiple offences**¹⁶ – In about 23 districts¹⁷, UTRCs specifically looked into the cases of under trials charged with multiple offences and checked if an under trial is eligible under S.436A for the lesser offence. In all cases, though many under trials were found eligible and in many cases panel lawyers were instructed to offer legal services, none of them were released. The reasons being that either the other offence was serious in nature or the under trial had other cases against him. In Kabirdham and Uttar Bastar Kanker districts of Chattisgarh, the UTRC did not consider releasing the under trials because they were involved in ‘naxal’ cases.

(ii) whether cases of ‘bail no surety’ reviewed

- **44% meetings fall short of mandate:** Out of the 247 review meetings, in 139 meetings cases of under trials who have been granted bail but were unable to furnish surety were considered for review. This means that about 44 % of meetings fall short of fulfilling the mandate of reviewing these cases.

(iii) whether cases of compoundable offences reviewed

- **50% of meetings did not take up compoundable offences** – Out of the 247 review meetings, in 121 meetings cases of compoundable offences were considered for review. So almost in 50% of meetings compoundable offences were not taken up by the UTRCs for review.

(iv) Additional kinds of cases

Some of the UTRCs have been proactive in considering some more cases under review which are listed below:

¹⁶ In the 24th April 2015 order, the Hon’ble Court has observed that, “it will be appropriate if in a case of multiple offences, a review is conducted after half the sentence of the lesser offence is completed by the under trial prisoner.” The same was clarified in the order, dated 17 September 2015 that, “there is no mandate that a person who has completed half the period of his sentence, in the case of multiple offences, should be released. This is entirely for the Under Trial Review Committee and the competent authority to decide and there is absolutely no direction given by this Court for release of such under trials. Their case will have to be considered by the Under Trial Review Committee and the competent authority in accordance with law.”

¹⁷ Kabirdham & Uttar Bastar Kanker (**Chhattisgarh**); North District (**Delhi**); Bokaro, Gumla, Pakur, Palamau, Sahibganj, Khunti (**Jharkhand**); Baran, Bharatpur, Bhilwara, Churu, Hanumangarh, Jaipur, Jhunjhunu, Jodhpur Metropolitan, Nagaur/Merta, Sikar, Sri Ganganagar & Udaipur (**Rajasthan**); North Tripura, Unakoti-Kailashahar (**Tripura**)

S.No.	Additional Kinds of Cases	Name of District/s
1	S.436 of the Code of Criminal Procedure, 1976	Tarn Taran (Punjab), Udhagamandalam (Tamil Nadu), Bikaner, Karauli (Rajasthan); Birbhum Suri, Cooch Behar, Malda, (West Bengal)
2	The Probation of Offenders Act, 1958	Hisar (Haryana) in its first meeting
3	Whether chargesheets filed within 60/90 days	Tiruvannamalai (Tamil Nadu); Ranga Reddy (Telangana)
4	Completed ¼ of prescribed imprisonment	Uttar Bastar Kanker (Chhattisgarh), South West (Delhi), North Goa (Goa); Sirmaur and Una (Himachal Pradesh), Dhanbad (Jharkhand), Jaipur (Rajasthan)
5	Preventive Detention	Mahasamund (Chattisgarh), South Goa (Goa), East Garo (Meghalaya)
6	Speedy disposal of NDPS cases	Narnaul (Haryana)
7	Petty Offences	Sikar (Rajasthan), Fatehgarh Sahib (Punjab)
8	Mentally Ill	Bastar (Chhattisgarh)
9	Prisoners charged with offences up to 7 years imprisonment	Hisar (Haryana)
10	Prisoners above 70 years of age and terminally ill	Ambedkar Nagar (UP)
11	Identifying unrepresented prisoners	Hathras & Mathura (UP), East Khasi Hills (Meghalaya), Ambedkar Nagar (Uttar Pradesh)
12	Inability to produce inmates due to shortage of police escorts	Dausa (Rajasthan); Ranga Reddy (Telangana)
13	Review as per the period of detention of under trials – up to 6 months, 6 months to 1 year and more than 1 year	Ranga Reddy (Telangana)
14	Pending applications for parole/furlough	Narnaul, Fatehabad (Haryana)
15	Victims of acid attack	South East, Narnaul (Haryana), Baran (Rajasthan)

(v) Good Practices set by UTRCs –

Other than the directions given to panel lawyers or retainer lawyers regarding follow up of the cases recommended by UTRCs, many directions were issued by the UTRCs in streamlining the working. Some of the good practices noticed are listed below –

- **UTRC members, judicial officers, administrative officers and advocates to regularly visit jails** – Korea (Chhattisgarh); South District (Delhi); Rewari (Haryana); East Khasi

Hills & Ri Bhoi (Meghalaya); Ballia (Uttar Pradesh); Ranga Reddy (Telangana); Gomati-Udaipur (Tripura)

- **Legal Services to conduct periodic legal awareness programmes and educating under trials on right to bail, compoundable offences and plea bargaining** – South West district, South district (Delhi); Rewari (Haryana); Jaipur (Rajasthan)
- **Directed for the treatment of a mentally ill under trial unfit to stand trial** – Bastar (Chhattisgarh)
- **Maintaining a list of details of witnesses, effective service of summons to witnesses & ensuring their presence** – Narnaul (Haryana); Dausa (Rajasthan), Siddhartha Nagar (UP), Bharatpur, Dausa, Sirohi (Rajasthan), Ambedkar Nagar (Uttar Pradesh); Ranga Reddy (Telangana)
- **To find out actual age of under trials in the age group of 18-21 years** – Khammam (Telangana)
- **Report on attendance of panel lawyers with respect to cases of UTPs and regarding non-representation of the panel lawyers** – South Goa district (Goa)
- **SLSA used three different proformas for seeking report from the DLSAs and UTRC asked courts to track releases** – (Meghalaya)
- **To counter sign the inner case diary on every date of extension of remand of the accused till filing of the charge sheet** – South West (Delhi);
- **IT Department, Jail Department to create the database of compoundable cases** – Hisar (Haryana)
- **Tracking of total pendency and increase in crime rate** – Ranga Reddy (Telangana)
- **Review as per the period of detention of under trials** – up to 6 months, 6 months to 1 year and more than 1 year – Ranga Reddy (Telangana)
- **To oversee on the general welfare of the UTPs in the Jail** – Narnaul (Haryana); Ri Bhoi (Meghalaya); Sirohi (Rajasthan); Khammam (Telangana)
- **Superintendent of Police to provide information about previous conviction and crime report of under trials** – Jodhpur Metropolitan (Rajasthan)
- **Under trials to be detained, to the extent possible, in jails located near court** – Khammam (Telangana)
- **Investigation Officers to file final reports to expedite disposal** – Ranga Reddy (Telangana)

- i. **Mandate Management:** Ensure UTRCs conduct their reviews by full mandate set by the court instead of partial. The discretion to go beyond mandate should be wisely applied as disparate concerns like victim compensation, etc. have been taken up during review time.
- ii. **Suggested Additional Mandate** – Based on the other provisions of the Code of Criminal Procedure, 1973, and additional categories of cases taken up by the various UTRCs it is recommended that the mandate must include the following cases of under trials who –
 - A. 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;
 - B. detained under petty offences i.e. offences which carry a punishment up to 2 years;
 - C. detained under Chapter VIII of the Code, under Sections 107, 108, 109 and 151 IPC;
 - D. sick or infirm and required specialized medical treatment (S. 437 of the Code);
 - E. Women offenders (S.437 of the Code);
 - F. first time male offenders between the ages 19 and 21 who are in under trial custody for offences punishable with less than say 7 years of imprisonment and have suffered at least 1/4th of the sentence;
 - G. are of unsound mind and must be dealt under Chapter XXV of the Code;
 - H. are eligible for release under Section 437(6) of the Code, 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 sixty days from the first date fixed for taking evidence in the case;
 - I. do not have a lawyer and are eligible for legal aid - this is mainly because Secretary, DLSA is the member of the URC and also our legal aid study has shown that the coordination between the DLSA and the prison is much needed to provide legal aid at the earliest to the accused;
 - J. have not been physically produced for the last two consecutive hearings due to lack of police escorts; and
 - K. are charged with offences punishable with death sentence, and thus are beyond the purview of section 436A. Review be directed to ensure that their trials are also complete within a reasonable period. The Committee be directed to look into the reasons for delay in trial beyond 18 months and recommend for prompt disposal of their cases.

V. Eligibilities, Applications Moved, Releases

(i) How many under trials were found eligible for release

- Only 15 out of 26 states who responded to the RTI, could provide information on eligible cases¹⁸.

¹⁸ Chandigarh, Chhattisgarh, Delhi, Haryana, Jharkhand, Himachal Pradesh, Meghalaya, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, West Bengal

- Andaman and Nicobar Islands, Bihar, Dadra and Nagar Haveli, Daman and Diu, Goa, Kerala, Karnataka, Maharashtra, Orissa, Puducherry were the 10 states that failed to provide the information.
- A total number of 1739 cases were found **eligible** for release by UTRCs in 15 states.
- Case eligibilities were clearly identified by the UTRCs in Chandigarh¹⁹, Chhattisgarh²⁰, Delhi²¹, Haryana²², Himachal Pradesh²³, Jharkhand²⁴, Meghalaya²⁵, Rajasthan²⁶, Tamil Nadu²⁷, Punjab²⁸, Telengana²⁹, Tripura³⁰, Uttar Pradesh³¹, West Bengal³².
- The maximum eligible cases were those where bail was granted but no sureties could be furnished (889) followed by applications for compoundable cases (640) with applications for releases under section 436A coming to (162).
- The maximum number of eligible cases identified were in six states – Meghalaya(307), Rajasthan(249), Tamil Nadu(242), Uttar Pradesh(243), Delhi(162), and Punjab(139) states.
- The minimum number of eligible cases identified were observed in three states – Himachal Pradesh(3), Telengana(25), Tripura(30).
- Cases eligible under section 436A were identified by UTRCs in the states of Chhattisgarh(12)³³, Delhi(24)³⁴, Haryana(1)³⁵, Jharkhand(29)³⁶, Rajasthan(43)³⁷, Uttar Pradesh(69), Punjab(20), Himachal Pradesh(3), Meghalaya(9) and Haryana(1).

¹⁹ Chandigarh

²⁰ Bastar, Jahangir Chaanp districts

²¹ North West District Rohini Courts, Central Patiala House, South East District

²² Hisar, Sonapat, Rewari, Ambala

²³ Hamirpur, Kangra, Kullu, Solan, Una

²⁴ Bokaro, Dhanbad, Godda, Gumla, Sahibganj

²⁵ West Khasi Hills, East Khasi Hills, Ri Bhoi, West Jaintia Hills, South West Khasi Hills, East Khasi Hills, West Garo Hills

²⁶ Bharatpur, Chittorgarh, Churu, Dungarpur, Hanumangarh, Jaipur, Jalore, Jaipur Metropolitan, Nagaur(Merta), Pratapgarh, Rajsamand, Sawai Madhopur, Sri Ganganagar, Sirohi, Sikar, Tonk, Bikaner, Bhilwara

²⁷ Tirunelveli, Thoothukudi, Thiruchirapalli, Karur, Thiruvallur

²⁸ Pathankot, Rupnagar

²⁹ Warangal, Rangareddy

³⁰ Unakoti, North Tripura, Gomati-Udaipur

³¹ Bareilly, Basti, Ghaziabad, Hathras, Lucknow, Mirzapur, Siddharthnagar

³² Purulia

³³ Bastar, Raigarh, Kanker

³⁴ North District Rohini Courts, South East District, Central Patiala House

³⁵ Rewari

³⁶ Bokaro, Dhanbad, Godda, Gumla

³⁷ Bharatpur, Churu, Dungarpur, Jaipur, Jalore, Jaipur Metropolitan, Nagaur, Rajsamand, Sawai Madhopur, Sirohi,, Sikar, Bikaner, Bhilwara

- As many as in 15 states the UTRCs took into consideration cases where bail was already granted but the person continued in judicial custody as eligible for release under personal bond or release through relaxation of sureties. These were Chandigarh(10)³⁸, Chhattisgarh(24)³⁹, Delhi(40)⁴⁰, Haryana(9)⁴¹, Jharkhand(13)⁴², Meghalaya(285)⁴³, Sikkim(67)⁴⁴, Rajasthan(34)⁴⁵, Tamil Nadu(242)⁴⁶, Telengana(15)⁴⁷, Tripura(30), Uttar Pradesh(65), West Bengal(19)⁴⁸, Punjab(53)⁴⁹.
- Cases eligible under compoundable nature were identified by UTRCs in the states of Chandigarh(76)⁵⁰, Chhattisgarh(37)⁵¹, Delhi((8)⁵², Haryana(50)⁵³, Meghalaya(13)⁵⁴, Rajasthan(172)⁵⁵, Telengana(10)⁵⁶, Uttar Pradesh(109)⁵⁷, West Bengal(9)⁵⁸, Punjab(66)⁵⁹.
- New and promising eligibilities were added by the UTRCs in the states of Meghalaya, Mizoram, Goa, Haryana, Jharkhand, Tripura, Telengana, Uttar Pradesh. These are elaborated under the section Additional Mandate.

(i) How many applications were moved by the panel lawyers

- Applications by legal aid advocates were urged by the UTRCs in far more number of cases than they were actually moved or the minutes give evidence of. This indicates to several critical things such as poor maintenance of minutes, lack of adequate reporting and monitoring with regard to directions for visits and advise to UTPs and moving

³⁸ Chandigarh

³⁹ Balod, Bastar; Jahangir Chhanp, Kabirdham, Mahasamund

⁴⁰ North West District Rohini Courts

⁴¹ Ambala

⁴² Dhanbad, Godda, Gumla

⁴³ East Khasi Hills, WestKhasiHills, Ri Boi, West Jaintia Hills, South West Khasi Hills

⁴⁴ East District, North District, South District, West District

⁴⁵ Bharatpur, Chittorgarh, Jaipur, Jalore, JaipurMetropolitan, Nagaur, Rajsamand, Bhilwara

⁴⁶ Tirunelveli, Thoothukudi, Thiruchirapalli, Karur, Thiruvallur

⁴⁷ Warangal, Mahabubnagar

⁴⁸ North 24 Parganas

⁴⁹ Pathankot, Rupnagar

⁵⁰ Chandigarh

⁵¹ Kabirdham, Surajpur, Mahasamund

⁵² Central Patiala House, South East District

⁵³ Ambala

⁵⁴ East Khasi Hills, West Jaintia Hills

⁵⁵ Bharatpur, Chittorgarh, Hanumangarh, Nagaur, , Pratapgarh, Rajsamand, Sri Ganganagar, Sirohi, Bikaner

⁵⁶ Warangal

⁵⁷ Ghaziabad, Siddharthnagar

⁵⁸ Purulia

⁵⁹ Pathankot, Rupnagar

applications for them or informing families and relatives of the conditions and sureties applied.

- The SLSAs of Kerala, Karnataka, Maharashtra, Orissa who directly replied to the RTI failed to furnish consolidated information on how many applications had been recommended by the UTRCs and how many applications had been eventually moved by the DLSA lawyers or the numbers of releases.
- The DLSAs of Andaman and Nicobar Islands, Bihar, Chandigarh, Daman and Diu and Goa who responded provided no information on applications moved.
- The total number of applications moved as per minutes received were 1016.
- Maximum applications were moved in the state of Mizoram (671). The minimum were moved in Haryana (1), Himachal (1) and Chhattisgarh (4).
- The minutes of the meetings received show that applications were moved by advocates in only some districts of Chhattisgarh⁶⁰, Delhi⁶¹, Himachal Pradesh⁶², Jharkhand⁶³, Mizoram⁶⁴, Punjab⁶⁵, Rajasthan⁶⁶, Uttar Pradesh⁶⁷, Tamil Nadu⁶⁸. However, instructions by UTRCs to legal aid advocates to move bail applications were given in many more cases and in many meetings, districts and states.
- An additional observation by the UTRCs, particularly in Rajasthan, was that one of the obstacles to release was other offences for which the person might be in custody and not always poverty.
- **Other Action Taken:** It is to be noted that the UTRCs did not only recommend the moving of applications by advocates.
 - They activated both judicial officers and legal aid panel lawyers to look into both unnecessary detentions as well as pendency.
 - They directed the advocates to have meetings with UTPs in jail to advise them on their cases or get their informed consent or seek reasons for not furnishing sureties.
 - They also asked lawyers to inform families and relatives of surety amounts.

⁶⁰ Jahangir-Chaanp, Balod

⁶¹ North west district & central district

⁶² Hamirpur

⁶³ Dhanbad

⁶⁴ Aizawl, Lunglei, Champai, Kolasib, Serchhip & Saiha

⁶⁵ Pathankot, Rupnagar

⁶⁶ Chittorgarh, Churu, Dungarpur, Jaipur, Rajsamand, Sawai Madhopur, Sirohi, Tonk

⁶⁷ Bareilly, Saharanpur, Siddharthnagar

⁶⁸ Tirunalveli, Coimbatore, Karur

- Significantly, they sought information from both courts and prisons and gave directions to judicial magistrates or presiding officers of specific courts to relax sureties, to speed up progress of cases, particularly Section 436A, or compoundable, and directed them to use the services of legal aid lawyers for effective release and case disposal.
- In many cases, the UTRCs also recommended that compoundable cases or cases where UTPs were ready to plead guilty be looked into by the lok adalats.

(ii) How many under trials were actually released

- The responses received show that total number of releases obtained in this time period were 516.
- Release related information was not received from the states of Andaman and Nicobar Islands, Bihar, Chandigarh, Daman and Diu, Goa, Haryana, Jharkhand, Kerela, Karnataka, Maharashtra, Meghalaya, Puducherry, Orissa, Sikkim and Tripura where the SLSAs directly responded to the RTI.
- Releases took place in 11 states as per the minutes received from the DLSAs - Chandigarh, Delhi, Meghalaya, Mizoram, Rajasthan, Tamil Nadu, Telengana, Uttar Pradesh, West Bengal, Punjab, and Himachal Pradesh.
- Amongst these 11 states, maximum releases were obtained in the state of Mizoram (267) and minimum in Himachal Pradesh (1) and Delhi (6) and none in Haryana and Chhattisgarh.
- The release figures for the 11 states are Mizoram(267), Uttar Pradesh(71), Telengana(51)⁶⁹, Tamil Nadu(26)⁷⁰, Punjab(25)⁷¹, Rajasthan(17)⁷², West Bengal(1)⁷³, Meghalaya(12)⁷⁴, Delhi(6)⁷⁵, Himachal Pradesh (1)⁷⁶.
- It is interesting that though no meetings were held or eligibilities identified, the maximum number of applications for release were moved by the UTRCs in Mizoram (671)⁷⁷, effecting the maximum number of releases (267)⁷⁸.

⁶⁹ Khammam, Mahboobnagar, Adilabad

⁷⁰ Tirunelveli, Thoothukudi, Tiruchirapalli, Chennai, Karur

⁷¹ Pathankot, Rupnagar

⁷² Bharatpur, Jaipur, Jaipur Metropolitan, Sawai Madhopur

⁷³ Cooch Bihar, Dakshin Dinajpur

⁷⁴ West Khasi Hills, West Jaintia Hills, West Garo Hills

⁷⁵ North West District, Central District and South East District

⁷⁶ Hamirpur

Table on Eligibilities, Applications Moved & Releases

S.No.	State	Eligible cases			Total Eligible Cases	Application Moved/ Other Action Taken	Releases ⁷⁹
		S.436A CrPC	Bail no Surety	Compou-ndable Cases			
1	Andaman & Nicobar Islands	Nil	Nil	Nil	Nil	Nil	Nil
2	Bihar	Nil	Nil	Nil	Nil	Nil	Nil
3	Chandigarh	Nil	10	76	86	Nil	33
4	Chhatisgarh	12	24	37	73	4	0
5	Delhi	24	40	98	162	105	6
6	Daman and Diu	Nil	Nil	Nil	Nil	Nil	Nil
7	Dadra & Nagar Haveli	Nil	Nil	Nil	Nil	Nil	Nil
8	Goa	Nil	Nil	Nil	Nil	Nil	Nil
9	Haryana	1	9	50	60	NI	0
10	Jharkhand	29	13	0	42	12	0
11	Karnataka	Nil	Nil	Nil	Nil	Nil	Nil
12	Kerala	Nil	Nil	Nil	Nil	Nil	Nil
13	Maharashtra	Nil	Nil	Nil	Nil	Nil	Nil
14	Meghalaya	9	268	13	290	Nil	12
15	Mizoram	Nil	Nil	Nil	Nil	671	267
16	Orissa	Nil	Nil	Nil	Nil	Nil	Nil
17	Puducherry	Nil	Nil	Nil	Nil	Nil	Nil
18	Rajasthan	43	34	172	249	71	17
19	Sikkim	Nil	67 ⁸⁰	NI	67	NI	NI
20	Tamil Nadu	Nil	242	NI	242	72	26
21	Telangana	Nil	15	10 ⁸¹	25	Nil	51
22	Tripura	Nil	30	Nil	30	Nil	Nil
23	Uttar Pradesh	69	65	109	243	63	71
24	West Bengal	Nil	19	9	28	1	7
25	Punjab	20	53	66	139	16	25
26	Himachal	3	Nil	Nil	3	1	1
Total		210	889	640	1739	1016	516

⁷⁷ Aizawl, Lunglei, Champai, Serchhip, Saiha

⁷⁸ Aizawl, Lunglei

⁷⁹ Releases to be read as inclusive of releases not only under section 436A CrPC; in cases where bail is granted but person is in custody due to lack of suretie; and compoundable offences, but other eligibilities that the UTRCs gave attention to. These eligibilities are covered in the section Additional Mandate.

⁸⁰ Release on personal bond

⁸¹ 3 compoundable, 17 non-compoundable out of total of 20 cases eligible for release in one of the meetings in Warangal

- i. **Guidelines for judicial officers & lawyers** – A plan of action must be created for lawyers with specific timelines for mandatory visit to prisons, communication with the under trials and applying strategies for different kinds of cases to try for release. Similarly, guidelines must be provided for judicial officers in dealing with cases in their respective courts. For instance, judicial magistrates must be given directions to keep conditions and sureties reasonable as per S.440 of the Code of Criminal Procedure, 1973.
- ii. **SLSA to have timely reporting back from DLSAs with minutes** for a consolidated picture and next steps for intervention and guidance. *(Refer ANNEXURE B on page 22 for DLSA to SLSA Suggested Quarterly Reporting Format)*
- iii. The SLSAs to develop reporting guidelines and formats for legal aid lawyers whose services are taken by the UYRCs so that there is timely delivery of relief and accountability.
- iv. There should be no delay in getting panel lawyers to begin their responsibilities nor any attempt made to divert their responsibilities to jail officials as evidenced in Gumla (Jharkhand) where the UTRC first asked the jailor to furnish bail bond, failing which panel lawyers would then be assigned the task.

OTHER RECOMMENDATIONS –

2) **Identification of Eligible Under trials** – UTRCs have either received information on under trials from courts or prisons or both and accordingly made recommendations. Two lists must be prepared –

A. **LIST OF UNDER TRIALS WITH A SINGLE CASE**, to be prepared by all criminal courts and the courts of Executive Magistrates in the following suggested proforma –

- i. Name of Under trial/Father's Name
- ii. Age
- iii. Case Reference Number
- iv. Police Station
- v. Name of Court
- vi. Offence
- vii. Type of Offence – Compoundable or not
- viii. Maximum Prescribed Imprisonment
- ix. Date of First Remand *(To be provided by courts)*
- x. Date of filing of Chargesheet *(To be provided by courts)*
- xi. Date of Judicial Custody
- xii. Period of Judicial Custody (YY/MM/DD)
- xiii. Lawyer – Whether Private or Legal aid *(To be provided by courts)*
- xiv. Whether bail granted & unable to furnish surety *(To be provided by courts)*
- xv. Next Date of Hearing
- xvi. Current Status of the Cas

B. **LIST OF UNDER TRIALS WITH MULTIPLE CASES**, to be prepared prisoner-wise by the prison in the following suggested proforma –

- i. **Name of Under trial/Father's Name**
- ii. **Age**
- iii. **Case Reference Number**
- iv. **Police Station**
- v. **Name of Court**
- vi. **Offence**
- vii. **Type of Offence – Compoundable or not**
- viii. **Maximum Prescribed Imprisonment**
- ix. **Date of Judicial Custody**
- x. **Period of Judicial Custody (YY/MM/DD)**
- xi. **Next Date of Hearing**
- xii. Current Status of the Case

3) Identifying eligible under trials must be more frequent than the meetings of the UTRC. It was followed by many UTRCs – lists to be submitted bimonthly in South district (Delhi); monthly periodical statement in Latehar (Jharkhand); before the 5th of every month – Mirzapur (Uttar Pradesh). There was a suggestion for a software to have proper database of prisoners to generate lists of eligible cases – Hisar (Haryana).

- 4) Progress Reports of the recommended cases were called for in Chandigarh; South Goa (Goa); Bhilwara (Rajasthan); Ghaziabad (Uttar Pradesh). Raigarh (Chhattisgarh) formed a sub-committee comprising of Collector, SDOP & CJM for the monitoring. The good practice of entrusting Court Managers with the responsibility of calling for reports from respective courts with regard to the order of the District & Sessions Judge must be sustained widely and across all UTRCs so that action taken is timely identified.
- 5) Regarding review of cases by UTRCs –
 - a. There was a suggestion by the Collector in the South Goa district (Goa) to release accused in cases of S.151 on personal bond.
 - b. UTRCs must be assisted by knowing the different responsibilities of different sets of legal aid advocates and entrusting responsibilities as per their competencies. It has been done in Mahasamund (Chhattisgarh).
- 6) Directions must be given regarding filing of chargesheets to be streamlined and expedited as was done in South West (Delhi); Kolasib (Mizoram).
- 7) Taking a good practice from Dausa (Rajasthan), directions must be given by UTRCs to Superintendent of Police to provide adequate number of police escorts to be able to produce each UTP for every hearing.
- 8) In Ambedkar Nagar (Uttar Pradesh), under trials were informed about the result of review conducted by the UTRC. This must be specifically directed to be done by all UTRCs.
- 9) To facilitate compounding the offence, a good practice was observed in South East (Delhi) where the offence is compoundable and there is no substantial investigation left to be carried out, the police officials would not wait for the maximum period of detention permitted under S. 167 for filing the chargesheet.
- 10) Every small delay matters and this must be considered by the UTRCs. To overcome one of the delays, in Hathras (Uttar Pradesh) and Khammam (Telangana), Superintendent of Police was directed to present evidence on the fixed dates before the Court and expedite the verification of sureties report.
- 11) Good directions of UTRCs with regard to lawyers to inform families and relatives of surety conditions need to be standardized across UTRCs.

ANNEXURE A

Right to Information Queries filed to all SLSAs by CHRI

1. **Whether Undertrial Review Committees are established** in every district of your state –
 - a) in compliance with the abovementioned order of the Supreme Court
 - b) by any other government/judicial order prior to the abovementioned order of the Supreme Court

2. Please provide the following information regarding undertrial review committees –
 - a) **Certified copy** of the government/judicial order which established Undertrial Review Committee in every district of the state.
 - b) **Date** of constitution of the committee
 - c) **Composition** of the committee and designations of members
 - d) **Periodicity** of committee meetings (eg. monthly/quarterly/other)
 - e) **Mandate** of the committee mentioning kinds of cases that are to be reviewed (eg. S.436, 436A, compoundable, etc.)

3. **District-wise number** of all the Undertrial Review Committee meetings held from April 2015 till now.

4. **District-wise minutes** of all the Undertrial Review Committee meetings held from April 2015 till now.

5. **Certified copies** of all the orders/directions/guidelines issued by NALSA to the SLSA:
 - a) For urgently taking up cases of prisoners who are unable to furnish bail and still in custody for that reason (Refer para 6 of the judgement)
 - b) For panel lawyers to make urgent interventions for release/disposal of cases in compoundable offences (Refer para 7 of the judgement)
 - c) Any other orders/directions/guidelines in regard to the abovementioned order of the Supreme Court.

6. **Certified copies** of all the orders/directions/guidelines issued by the SLSA instructing panel lawyers to urgently meet prisoners who are unable to furnish bail and still in custody for that reason (Refer para 6 of the judgement)
 - a) **District-wise number of applications**, from April 2015 till now, moved before the appropriate court release of prisoners who are unable to furnish bail and still in custody for that reason.
 - b) **District-wise number of undertrials released**, from April 2015 till now, by abovementioned interventions of panel lawyers.

ANNEXURE B

DLSA to SLSA Suggested Quarterly Reporting Format

Year _____
Quarter _____
Date of last meeting held _____
Date of present meeting _____

1) Reasons, if meetings are not held quarterly, i.e. there is a gap of more than three months between the last meeting and the present meeting

2) Category-wise and prisoner-wise information of the recommended cases in the last meeting on action taken by panel lawyers or court or others and present status of the case:

DETAILS of the Case	Action Taken by Panel lawyer/Court/Others	Reasons, if under trial not released
I. Under S.436A		
Accused' Name: Court: Case Reference No.: Offence/s: Stage of the Case: Date of entry into prison:		
II. Where bail granted but surety not furnished		
Accused' Name: Court: Case Reference No.: Offence/s: Stage of the Case: Date of entry into prison:		
III. Under Compoundable Offences		
Accused' Name: Court: Case Reference No.: Offence/s: Stage of the Case: Date of entry into prison:		

IV. Under S.436		
Accused' Name: Court: Case Reference No.: Offence/s: Stage of the Case: Date of entry into prison:		
V. Under Probation of Offenders Act, 1958		
Accused' Name: Court: Case Reference No.: Offence/s: Stage of the Case: Date of entry into prison:		
VI. Convicts who are entitled to release because of remission granted to them		
Accused' Name: Court: Case Reference No.: Offence/s: Stage of the Case: Date of entry into prison:		

3) **Total number of undertrial cases recommended and directions issued in the present meeting under each category:**

S.No.	Case Details of UTP cases RECOMMENDED under each category	Directions issued in each case
	I. Under S. 436A, CrPC	I. Under S. 436A, CrPC
	II. Where bail granted but surety not furnished	II. Where bail granted but surety not furnished
	III. Under compoundable offences	III. Under compoundable offences
	IV. Under S.436	IV. Under S.436
	V. Under Probation of Offenders Act, 1958	V. Under Probation of Offenders Act, 1958
	VI. Convicts who are entitled to release because of remission granted to them	VI. Convicts who are entitled to release because of remission granted to them