

CHRI 2018

ROAD TO RELEASE

FOURTH WATCH REPORT ON RAJASTHAN'S
PERIODIC REVIEW COMMITTEES



CHRI
Commonwealth Human Rights Initiative

Working for the *practical* realisation of human rights
in the countries of the Commonwealth

Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation working in the area of human rights. In 1987, several Commonwealth professional associations founded CHRI, since there was little focus on human rights within the association of 53 nations although the Commonwealth provided member countries the basis of shared common laws.

Through its reports and periodic investigations, CHRI continually draws attention to the progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, the United Nations Human Rights Council members, the media and civil society. It works on and collaborates around public education programmes, policy dialogues, comparative research, advocacy and networking on the issues of Access to Information and Access to Justice.

CHRI's seeks to promote adherence to the Universal Declaration of Human Rights, the Commonwealth Harare Principles and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in the Commonwealth.

CHRI is headquartered in New Delhi, India, with offices in London, UK and Accra, Ghana.

International Advisory Commission: Yashpal Ghai, Chairperson. Members: Alison Duxbury, Wajahat Habibullah, Vivek Maru, Edward Mortimer, Sam Okudzeto and Sanjoy Hazarika.

Executive Committee (India): Wajahat Habibullah, Chairperson. Members: B. K. Chandrashekar, Jayanto Choudhury, Maja Daruwala, Nitin Desai, Kamal Kumar, Poonam Muttreja, Jacob Punnoose, Vineeta Rai, Nidhi Razdan, A P Shah, and Sanjoy Hazarika.

Executive Committee (Ghana): Sam Okudzeto, Chairperson. Members: Akoto Ampaw, Yashpal Ghai, Wajahat Habibullah, Kofi Quashigah, Juliette Tuakli and Sanjoy Hazarika.

Executive Committee (UK): Joanna Ewart-James, Chairperson. Members: Richard Bourne, Pralab Barua, Tony Foreman, Neville Linton, Suzanne Lambert and Sanjoy Hazarika.

Sanjoy Hazarika, International Director

ISBN 978-93-81241-62-2

©Commonwealth Human Rights Initiative, 2019. Material from this report may be used, duly acknowledging the source.



CHRI Headquarters, New Delhi
55A, Third Floor
Siddharth Chambers
Kalu Sarai, New Delhi 110 017
India
Tel: +91 11 4318 0200
Fax: +91 11 2686 4688
E-mail: info@humanrightsinitiative.org

CHRI London
Room No. 219
School of Advanced Study
South Block, Senate House
Malet Street, London WC1E
7HU, United Kingdom
Tel: +44(0) 207 664 4860
Fax: +44(0) 207 862 8820
E-mail: chri.admin@sas.ac.uk

CHRI Africa, Accra
House No.9, Samora Machel Street
Asylum Down, Opposite Beverly
Hills Hotel Near Trust Towers,
Accra,
Ghana
Tel/Fax: +233 302 971170
Email: chriafrika@humanrightsinitiative.org

ROAD TO RELEASE

FOURTH WATCH REPORT ON RAJASTHAN'S PERIODIC REVIEW COMMITTEES

Written by Sugandha Shankar

Edited by Madhurima Dhanuka

ACKNOWLEDGEMENTS

This report is fourth in the series of watch reports tracking the functioning of Rajasthan's Periodic Review Committees or the Avadhik Samiksha Samitis. As always, this report is the outcome of the cooperative efforts of many. CHRI extends sincere thanks to the prison in-charge of all the central and district prisons of Rajasthan who provided information based on the right to information requests. We would like to extend special thanks to the entire team of Prison Reforms Programme, specially Ms. Madhurima Dhanuka, Programme Head, for editing the report and for her unflinching support throughout the creation of the report; Ms. Sugandha Shankar, Senior Programme Officer, who played the key role in the research, writing and design of the report; Ms. Kakoli Jadala, Senior Coordinator (Admin.), who helped in meticulously filing the right to information requests and following up. We acknowledge the contribution made by Ms. Anjali Bhaskar, the intern of the Prison Reforms Programme, who assisted with data compilation and preparation of charts. Special thanks to Ms. Richa, Media and Communications Officer for editorial support. Above all, we are grateful to Mr. Sanjoy Hazarika, International Director, CHRI, for guiding the team and making sure that commitments are met.

CHRI is deeply appreciative of the help and support of all throughout the writing of this report.

Design & Layout by: Mr. Gurnam Singh

Printed By: Printworld, New Delhi

WHAT'S INSIDE

INTRODUCTION	2	
SECTION A:		
FUNCTIONING OF PERIODIC REVIEW COMMITTEES	4	
Periodicity of Meetings	5	
Attendance of Members and Correspondance between them	6	
Reviews and Recommendations made by the Committee	7	
Performance Based Ranking	12	
SECTION B:		
PRC vs UTRC	13	
Recommendations	14	
ANNEXURES		18
A. The 1979 Government Order that formed the Periodic Review Committees in Rajasthan	19	
B. Right to Information Request Filed	20	
C. Proformas	21	
D. Standard Operating Procedure (SOP) for UTRCs by National Legal Services Authority (NALSA)	22	

INTRODUCTION

In Rajasthan, *Avadhik Samiksha Samitis* or Periodic Review Committees (PRCs) were established in 1979 by a government order for each district.¹ Their broad mandate is to ensure that not a single person is detained illegally or unnecessarily beyond the time prescribed by following due process. Thus, making it an extremely significant oversight body safeguarding the right to liberty. The composition and mandate of PRCs is explained below.

COMPOSITION		
 Representative of District Magistrate MEMBER	 Chief Judicial Magistrate CHAIRPERSON	 Representative of Superintendent of Police MEMBER
 Superintendent of Prison MEMBER	 District Probation Officer MEMBER	
MANDATE		
<p>All members are mandated to meet every month and review the cases of all undertrials detained in every prison of the district and apply correctives if anyone is found to be detained under the following:</p>		
A. 	Completed 90 days under custody and investigation not concluded, when accused of an offence punishable with death, imprisonment for life or for a term of not less than 10 years [S.167(2)(a)(i)]	
B. 	Completed 60 days and investigation not concluded when accused of an offence punishable with imprisonment of less than 10 years [S.167(2)(ii) Cr.P.C.]	
C. 	Under detention for a period more than the maximum term of sentence ²	
D. 	Non-criminal lunatics [S.16 & 23 of The Indian Lunacy Act, 1912] – Indian Lunacy Act, 1912 is now replaced by The Mental Healthcare Act, 2017	
E. 	Completed half or more than the maximum term of prescribed punishment [S.436A, Cr.P.C., 1973]	
F. 	Serious Offenders punishable with death or life imprisonment whose trial is ongoing for over two years ³	
G. 	Petty Offenders punishable with imprisonment up to 2 years (eligible to be released on personal bond under Section 436, Cr.P.C.)	

1 By Order No. F/8/22/Grah-12/kara/79 – Refer to Annexure A.

2 A convicted prisoner whose trial has lasted longer than any possible maximum sentence should be reviewed and released immediately. This is because Section 428 of the Cr.P.C. states that the time spent in custody must be set off against the period of the sentence. Illustratively, if a person is sentenced to three years imprisonment at the end of a trial that has lasted two years six months his case should be under review so as to ensure that the benefit of the off set is not lost. After the amendments in CrPC in 2005 which introduced S.436A also provides for the release of undertrials who have completed more than the maximum prescribed punishment for the offence.

3 Originally, the GO mentioned 'Serious Offenders punishable with death or life imprisonment whose trial is ongoing for a long period of time'. After the state-level consultation held on 1 September 2013, under the aegis of the then Chief Justice of Rajasthan High Court, it was decided to define the long period as two years.

Since 2009-10, CHRI has tracked the performance of the PRCs mainly to check compliance and to understand if PRCs are effective oversight bodies that can check unnecessary detentions in prisons. Pursuant to CHRI's interventions in 2011, which drew the attention of the executive and judiciary and facilitated constant monitoring, the functioning of PRCs has improved immensely. In 2013, a state-level consultation of all the Chief Judicial Magistrates was organised under the aegis of the Rajasthan High Court where then Chief Justice Amitav Roy, thwarted by the findings of the first watch report, urged the judicial officers to comply to the mandate. In 2013-14, the prison department had issued a number of directives to officer in-charge of all prisons in order to regularly remind the Chief Judicial Magistrates to convene these meetings. As a result, PRCs became more regular than before and the periodicity of meetings increased from 26.3 per cent in 2009-10 to 53% in 2014-15. Most importantly, the Committees made considerably more recommendations than earlier to release people who were in custody despite being eligible for bail as a right; charged with petty offences; and those living in jail for an inordinately long period. Moreover, since mid-2015 the prison department had begun to proactively disclose information on meetings and number of cases taken up for review.

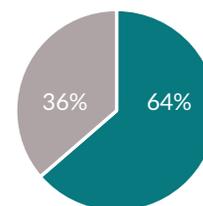
About the report

This is CHRI's fourth watch report on the functioning of Rajasthan's *Avadhik Samiksha Samitis* or Periodic Review Committees (PRCs). This report is divided into two sections. Section A provides an analysis of the information received from 21 prisons in Rajasthan, whereas Section B brings to light the overlapping functions of PRCs with the Undertrial Review Committees (UTRCs) that were setup in each district pursuant to the directions of the Supreme Court, in '*Re Inhuman Conditions in 1382 Prisons*' in April 2015.⁴ This report emphasises the need, for the Rajasthan Home Department and the State Legal Services Authority, to integrate the two review committees, taking the best practice from both, in order to comply with both the mandates of the Supreme Court and the 1979 government order (GO).

Right to information requests were filed in July 2015 in 33 Central/District prisons in Rajasthan for the period May 2015 to December 2016, seeking information on –

- a. Month wise minutes of meetings;
- b. Attendance of members in the meetings; and
- c. Month wise list of undertrials who were released from prison as a result of the actions taken by the PRC.⁵

Only 21 prisons responded and provided information.



- Central/District jails that responded
- Central/District jails that did not respond

4 WP 406/2013.

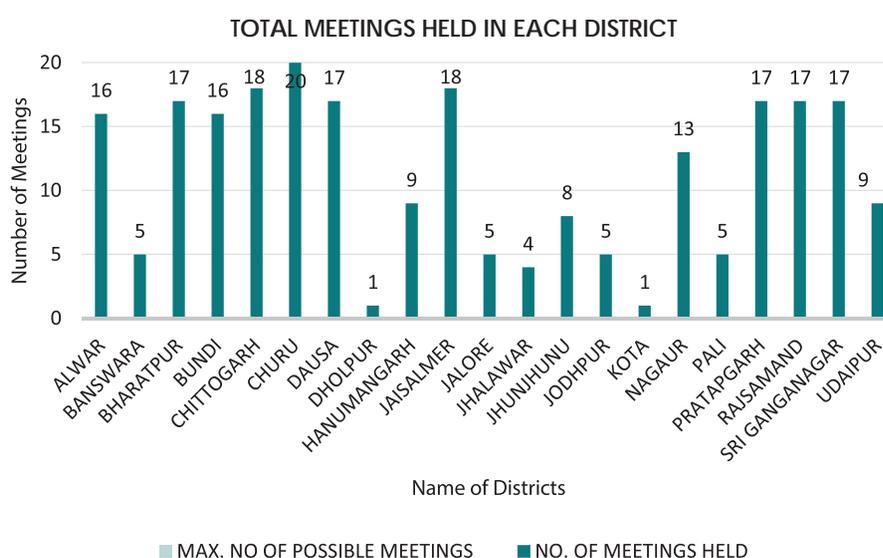
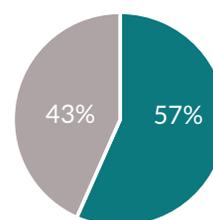
5 Refer Annexure B for the application filed under the Right to Information Act, 2005.

SECTION A:

FUNCTIONING OF PERIODIC REVIEW COMMITTEES

I. PERIODICITY OF MEETINGS

- Only in District prison Churu, all the 20 meetings have been conducted.
- Including Churu, 11 prisons have conducted 75% or more meetings. These are Churu(20), Chittorgarh(18), Jaisalmer(18), Bharatpur(17), Dausa(17), Pratapgarh(17), Rajsamand(17), Sri Ganganagar(17), Bundi(16), Alwar(16) and Nagaur(13).
- Seven prisons – Banswara(5), Jalore(5), Jodhpur(5), Pali(5), Jhalawar(4), Kota(1) and Dholpur(1), have conducted only 25% or less meetings.



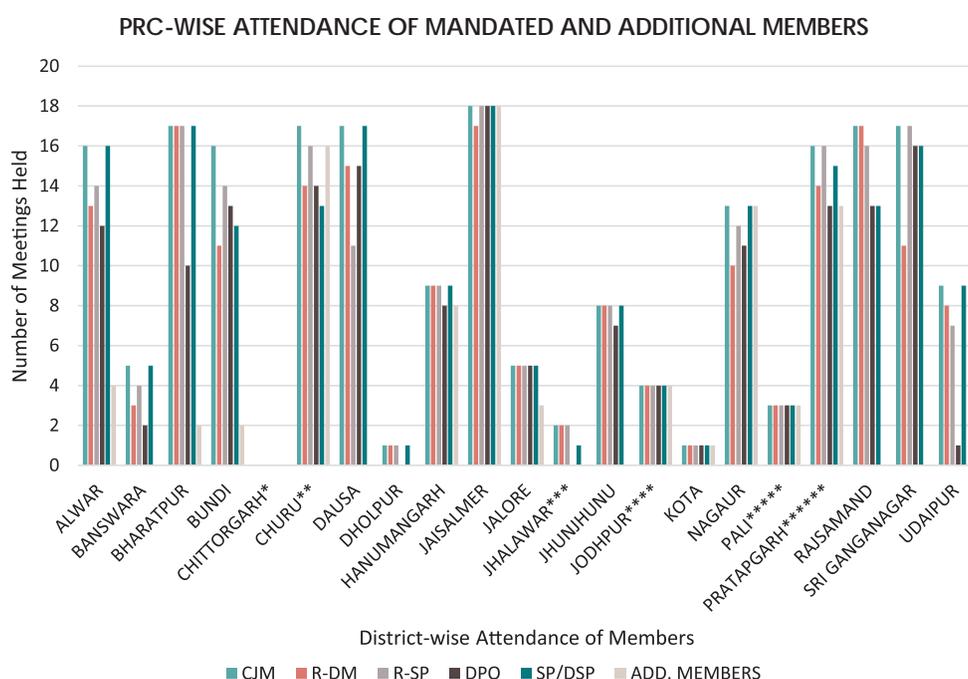
- A significant rise in the regularity of meetings can be noticed up till April 2015. From 26.3% in 2009-10, it rose up to 50.8% in 2013-14, 53% in 2014-15 (up till April, 2015). But from the period May 2015 to December 2016, there has been a considerable drop to 36% in the number of meetings held. Out of 660 possible meetings that could have been held from May 2015 to December 2016, only 238 meetings were held, based on the information received from 21 prisons. Though the reasons of such decrease in numbers are not clear through the responses received, it is significant to note here that it was in April 2015 itself that the Supreme Court directed for the formation of Undertrial Review Committees (UTRCs).

NAME OF CENTRAL/ DISTRICT PRISONS	NO. OF MEETINGS HELD FROM JUNE 2009-JUNE 2010 (Mandated No. of Meetings: 13)	NO. OF MEETINGS HELD FROM SEPTEMBER 2013-APRIL 2014 (Mandated No. of Meetings: 8)	NO. OF MEETINGS HELD FROM MAY 2014 - APRIL 2015 (Mandated No. of Meetings: 12)	No. of Meetings Held From MAY 2015-DECEMBER 2016 (Mandated No. of Meetings: 20)
AJMER	2	No Data	10	No Data
ALWAR	3	6	8	16
BANSWARA	4	1	1	5
BARAN	3	No Data	2	No Data
BARMER	3	7	No Data	No Data
BHARATPUR	1	6	4	17
BHILWARA	1	No Data	No Data	No Data
BIKANER	2	6	9	No Data
BUNDI	1	2	12	16
CHITTOGARH	5	6	No Data	18
CHURU	6	5	5	20

DAUSA	1	4	No Data	17
DHOLPUR	3	4	8	1
DUNGARPUR	1	1	No Data	No Data
GANGAPUR CITY	No Data	No Data	1	No Data
HANUMANGARH	2	7	10	9
JAIPUR	4	3	5	No Data
JAISALMER	4	5	12	18
JALORE	No Data	3	7	5
JHALAWAR	1	1	9	4
JHUNJHUNU	No Data	6	5	8
JODHPUR	7	3	3	5
KARALI	9	7	No Data	No Data
KOTA	2	No Data	3	1
NAGPUR	3	7	8	13
PALI	1	4	4	5
PRATAPGARH	7	6	7	17
RAJSAMAND	10	2	10	17
SIKAR	4	6	No Data	No Data
SIROHI	2	3	No Data	No Data
SRI GANGANAGAR	11	5	8	17
TONK	10	1	8	No Data
UDAIPUR	No Data	4	5	9
MEETINGS HELD/ TOTAL MANDATED MEETINGS	113/429 (26.3%)	118/ 240 (50.8%)	159/ 300 (53%)	238/ 660 (36%)

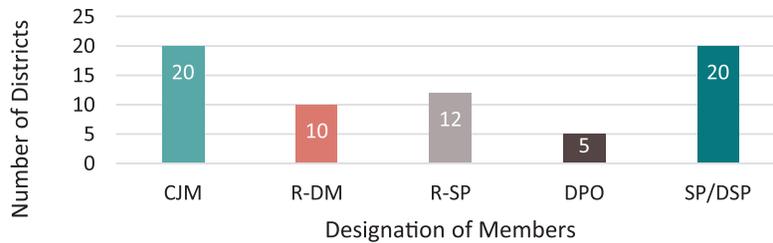
II. ATTENDANCE OF MEMBERS AND CORRESPONDANCE BETWEEN THEM

- Monthly reminders were sent from prison to Chief Judicial Magistrate's office to schedule the meeting in 12 PRCs – Alwar, Bundi, Chittorgarh, Churu, Dausa, Jaisalmer, Jalore, Jhunjhunu, Kota, Pali, Pratapgarh and Rajsamand.
- Only 4 PRCs – Jalore, Jodhpur, Kota and Pali have full attendance of all the mandated members in all the meetings held for which attendance details was provided.
- 6 districts did not provide complete information on attendance details for all the meetings held – Churu did not provide attendance details for 3 meetings; Jhalawar and Pali for two; Jodhpur and Pratapgarh for 1 meeting; and Chittorgarh didn't provide attendance details for any meeting.



- * - out of 18 meetings held, attendance not provided for any meeting
- ** - out of 20 meetings held, attendance provided only for 17 meetings
- *** - out of 4 meetings held, attendance provided only for 2 meetings
- **** - out of 5 meetings held, attendance provided only for 4 meetings
- ***** - out of 5 meetings held, attendance provided only for 3 meetings
- ***** - out of 17 meetings held attendance provided only for 16 meetings

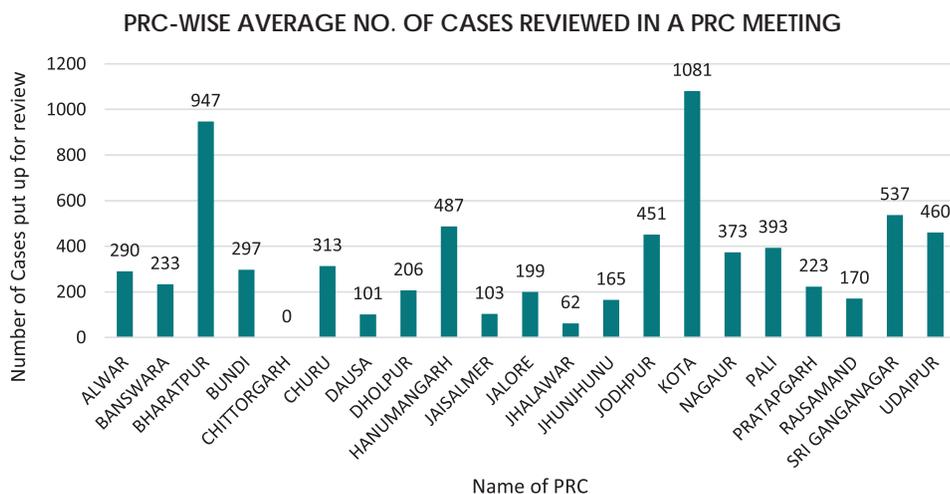
- Chief Judicial Magistrate and officer in-charge of prison were present in all meetings of all 20 districts which provided information and were most active members followed by, representative of Superintendent of Police (regular in 12 districts) and representative of District Magistrate (regular in 10 districts). DPO was the least active member and was present in all meetings only in 5 districts.



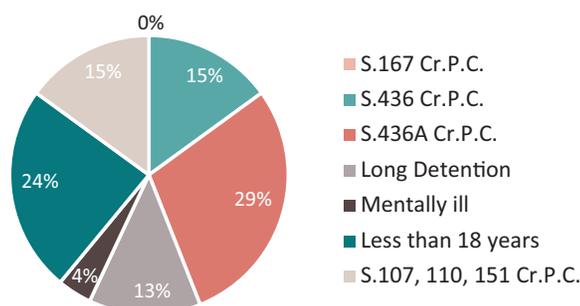
- Presence of additional members in the meetings was observed in 12 PRCs – Alwar, Bharatpur, Bundi, Churu, Jaisalmer, Jalore, Jhalawar, Jodhpur, Kota, Nagaur, Pali and Pratapgarh. But, active participation of additional members was only in 7 PRCs – Churu, Jaisalmer, Jalore, Jodhpur, Nagaur, Pali and Pratapgarh. These members included Public Prosecutor, Assistant Public Prosecutor, Additional Director Prosecution, Finance Officer and Social Welfare Officers.

III. REVIEWS AND RECOMMENDATIONS MADE BY THE COMMITTEE

- Minutes for all the meetings were provided by 13 districts viz. Alwar, Banswara, Bharatpur, Bundi, Churu, Dholpur, Hanumangarh, Jaisalmer, Jalore, Jhunjhunu, Kota, Rajsamand and Udaipur. Chittorgarh and Sri Ganganagar did not provide minutes for the meetings held.
- As a practice, in almost every district, the entire list of undertrials is put up before the PRC for review. The number ranges from less than 100 to more than 1000, depending on the prison strength, as shown below in the chart. However, most minutes mention that meeting commence at 3 p.m., presumably after lunch at the end of a court day. Assuming generously that a meeting lasts for four hours from 3 p.m. to 7 p.m. the time to consider each individual’s status would average from just over 2.4 minutes to less than 30 seconds to decide whether a person can be released from confinement or his case be taken up as a matter of urgency. This casts a shadow upon the quality of review conducted.

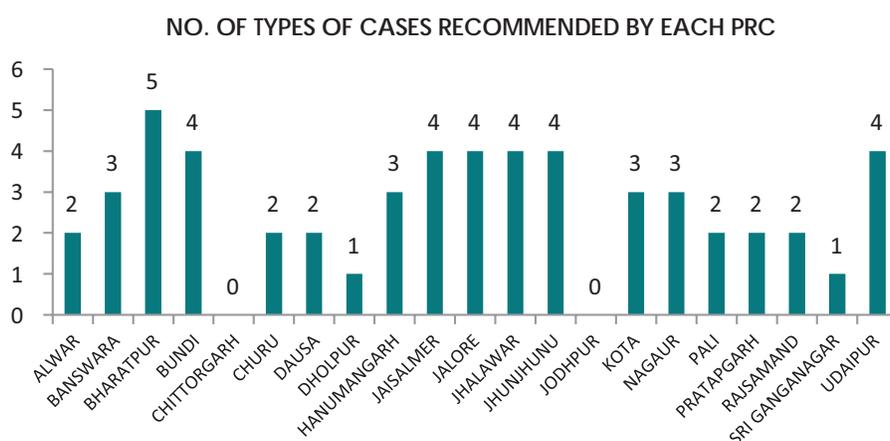


- The mandate of PRCs are laid down in the 1979 government order and extends to the four proformas found in the RTI responses earlier.⁶ They direct the PRCs to mandatorily review five categories of cases of undertrials eligible under S.167 of the Code of Criminal Procedure, 1973 (CrPC); S.428, which is now S.436A of the CrPC⁷; petty cases or S.436 of the CrPC; long detention in serious offences and; the Indian Lunacy Act, 1912, which is now the Mental Healthcare Act, 2017. Only 4 out of the 5 mandatory categories were reviewed in the meetings held from May 2015 to December 2016. Surprisingly, none of the 21 PRCs looked into cases which could have been eligible for statutory bail under S.167 of the CrPC.



- PRCs also reviewed and recommended certain categories of cases additional to the mandate. These are cases of undertrials detained under S. 107, S. 108, S. 109, S. 110 and S.151 of the CrPC; and persons below 18 years of age.

The chart below shows the number of various categories of cases, reviewed by each PRC.



- Maximum categories of cases were reviewed by Bharatpur(5), followed by Bundi, Jaisalmer, Jalore, Jhalawar and Jhunjhunu (4 each). While Chittorgarh and Jodhpur did not provide details on cases reviewed, in Sri Ganganagar and Dholpur only one category was reviewed, and in Alwar, Churu, Dausa, Pali, Pratapgarh and Rajsamand two categories were reviewed.
- In Bharatpur, minutes of one meeting provide that CJM asked all the courts and magistrates to find out the condition of undertrials and prepare a list. It was observed that there was delay in framing of charges and production of witnesses, so directions were given to the Public Prosecutor accordingly. In another meeting, courts were asked by PRC to find out the conditions of undertrials and prepare a list with details of – Date of arrest, whether produced in court or not, present status of the person, whether eligible under S.436A CrPC or not, and whether refused the benefits of S. 436A CrPC and if so, why.

⁶ Refer Annexure C for the set of proformas used by prison authorities to prepare the lists of undertrials. These were received from prisons as part of the RTI responses of the first watch report in 2010.

⁷ Though the mandate created as long ago as 1979 does take account of the need to review and recommend release of undertrials who have completed half or more than the maximum prescribed punishment for the offence charged, the proforma mentions S.428 of the CrPC.

- In Churu, minutes mentioned about the number of women prisoners out of the total inmates, whether any of them are accompanied by any child and facilities available for them. The members also interacted with inmates to inquire about their grievances and unusually no complaint was made.
- The table below provides for a district-wise comparative analysis of the various categories of cases undertaken for review by the PRC in all the four phases of monitoring undertaken by CHRI. Out of the 17 districts that provided data for the current phase of monitoring, only three PRCs, i.e. Bundi, Jaisalmer and Jhunjhunu, expanded their mandate to include some additional categories which they were not reviewing earlier. The rest of the 14 PRCs failed to continue to review all categories of cases that they had undertaken earlier. The most remarkable difference was seen in Dholpur, Rajsamand, Pali and Sri Ganganagar where three or more categories of cases were dropped from review.

CENTRAL/ DISTRICT JAILS	FROM JUNE 2009 - JUNE 2010	SEPTEMBER 2013 - APRIL 2014	FROM MAY 2014 - APRIL 2015	FROM MAY 2015 - DECEMBER 2016
AJMER	No Data	No Data	• S.436A	No Data
ALWAR	No Data	• S.436A (49 Cases) • S.167 (3 Cases) • S.436 (17 Cases) • S. 107 To 110 & 151 (7 Cases)	• S.436 (24 Cases) • S.436A (72 Cases)	• S.436A (19 cases) • Mentally Ill (no cases)
BANSWARA	No Data	• S.436A • Below 18 Years • S. 107 To 110 & 151 • Need Legal Aid	• S.436A • Below 18 Years • S. 107 To 110 & 151 • Need Legal Aid	• S. 436A (no Cases) • Below 18 years (no cases) • S.107-110 & other CrPC Provisions (no cases)
BARAN	• S.436a • Below 18 Years	No Data	• S.436A • Below 18 Years • S. 107 To 110 & Other	No data
BARMER	• S. 107 To 110 & 151 (2 Cases) • Long Detention (1 Case)	• S.436A • S.167 • Detention More Than 2 Years • Petty Cases • Mentally Ill • S.428 • S. 107 To 110 & 151 • Below 18 Years	No Data	No Data
BHARATPUR	• S.436A	• S.436A (8 Cases) • S.436 (5 Cases) • Long Detention (16 Cases) • S. 107 To 110 & 151 (10 Cases) • Unable To Furnish Surety (1) • Below 18 Years	• S.436A (5 Cases) • Long Detention (58 Cases) • S. 107 To 110 & 151 & Detained For 6 Months • Below 18 Years	• S.436A (70 cases) • S.436 (no cases) • S. 107-10, 151 (23 cases) • Long detention (8 cases) • Below 18 years (no cases)
BHILWARA	No Data	No Data	No Data	No Data
BIKANER	• S.436A • Below 18 Years • S. 107 To 110 & 151	• Petty Cases • Long Detention (9 Cases) • S. 107 To 110 & 151 (15 Cases)	• S436A (2 Cases) • Petty Offence & Long Detention (2 Cases) • Petty Offence & S.151, 107, 116(3) [17 Cases] • Below 18 Years • Non-Production (55 Cases)	No Data
BUNDI	• S.436A • Petty Offence & S.151, 107, 116 (5 Cases) • Below 18 Years	No Details	• S.436A (1 Case) • S. 107 To 110 & 151 (35 Cases) • Below 18 Years	• S.436A (no cases) • S.436 (no cases) • S. 107-110,151 (2 cases) • Below 18 years (no cases)
CHITTORGARH	• Petty Cases • S. 107 To 110 & 151 (15 Cases)	• S.436A (8 Cases) • S.436 • Petty Offence & S. 107 To 110 & 151 (16 Cases)	No Data	No Details

CENTRAL/ DISTRICT JAILS	FROM JUNE 2009 - JUNE 2010	SEPTEMBER 2013 - APRIL 2014	FROM MAY 2014 - APRIL 2015	FROM MAY 2015 - DECEMBER 2016
CHURU	<ul style="list-style-type: none"> S.167 Petty Cases Mentally Ill Unable To Furnish Surety 	<ul style="list-style-type: none"> S.436A Petty Case Mentally Ill (2 Cases) Long Detention (48 Cases) S. 107 To 110 & 151 (1 Case) Completed 1/3 Imprisonment (14 Cases) 	<ul style="list-style-type: none"> S.436A Petty Offence With 6 Months Imprisonment & Long Detention (16 Cases) S.107, 116, 151 (4 Cases) 	<ul style="list-style-type: none"> S.436 (4 cases) Long Detention (31 cases)
DAUSA	No Details	No Details	No Details	<ul style="list-style-type: none"> S.436A (No cases) S.107-109 & Other CrPC Provisions (No cases)
DHOLPUR	No Data	<ul style="list-style-type: none"> S.436A (2 Cases) Long Detention (58 Cases) 	<ul style="list-style-type: none"> S.167 Long Detention (80 Cases) S.437(6) 	<ul style="list-style-type: none"> S.436A (3 Cases)
DUNGARPUR	No Data	<ul style="list-style-type: none"> S.436A Long Detention (12 Cases) Awaiting Committal (6 Cases) 	No Data	No Data
GANGAPUR CITY	No Data	No Meetings Held	<ul style="list-style-type: none"> S.436A 	No Data
HANUMAN-GARH	<ul style="list-style-type: none"> S.436A Petty Cases Below 18 Years Plea Bargaining (1 Case) 	<ul style="list-style-type: none"> S.436A Petty Cases Below 18 Years S. 107 To 110 & 151 (22 Cases) 	<ul style="list-style-type: none"> S.436A (1 Case) Considered Ss.107, 116, 151 Cases As Bailable under S.436 (28 Cases) Petty Offence & Long Detention Illegal Detention Below 16/18 Years 	<ul style="list-style-type: none"> S.436A (No cases) S.436 (63 Cases) Below 18 years (No cases)
JAIPUR	<ul style="list-style-type: none"> S.436A Petty Cases Long Detention (122 Cases) Mentally Ill (1 Case) Below 18 Years S. 107 To 110 & 151 (23 Cases) 	<ul style="list-style-type: none"> S.436A Below 18 Years 	<ul style="list-style-type: none"> S.436A (40 Cases) Petty Cases (45 Cases) Long Detention (More than 15 Cases) Mentally Ill (10 Cases) Below 18 Years 	No Data
JAISALMER	<ul style="list-style-type: none"> S.436A S. 107 To 110 & 151 (4 Cases) 	<ul style="list-style-type: none"> S.436A (1 Case) Petty Cases Below 18 Years 	<ul style="list-style-type: none"> S.436A (6 Cases) Petty Cases 	<ul style="list-style-type: none"> S.436A (12 Cases) S.436 (No cases) Long detention case (no cases) Below 18 years (No cases)
JALORE	No Data	<ul style="list-style-type: none"> S.436A (1 Case) Petty Cases Long Detention S. 107 To 110 & 151 Below 18 Years Foreign National 	<ul style="list-style-type: none"> S.436A (11 Cases) Petty Cases Serious Offence & Long Detention S. 107 To 110 & 151 Below 18 Years 	<ul style="list-style-type: none"> S.107-110, 151 & other CrPC Provisions (8 cases) S.436A (1 case) S.436 (No cases) Below 18 years (No cases)
JHALAWAR	No Data	<ul style="list-style-type: none"> Detention More than 6 Months Below 18 Years Foreign National 	<ul style="list-style-type: none"> S.436A (2 Cases) Long Detention of more than 2 Years S. 107 To 110 & 151 (69 Cases) Below 18 Years Foreign National 	<ul style="list-style-type: none"> S.436A (No cases) Long detention (No cases) S.107-110, 151 (5 cases) Below 18 years (No cases)
JHUNJHUNU	No Data	<ul style="list-style-type: none"> Detention More than 18 Months (19 Cases) S. 107 To 110 & 151 (3 Cases) 	<ul style="list-style-type: none"> S.436A Serious Offence & Long Detention Below 18 Years Illegal Detention 	<ul style="list-style-type: none"> S.436A (1 case) S.436 (no cases) Long detention(no cases) Below 18 years (1 case)
JODHPUR	<ul style="list-style-type: none"> S.436A Long Detention Mentally Ill Below 18 Years S. 107 To 110 & 151 	<ul style="list-style-type: none"> S.436A (8 Cases) S.436 (10 Cases) S.167 (1 Case) Mentally Ill S. 107 To 110 & 151 (2 Cases) Below 18 Years 	<ul style="list-style-type: none"> S.436A (8 Cases) S.436 (3 Cases) S.167 Considered S.107, 116, 151 Cases As Bailable Under S.436 (25 Cases) Mentally Ill Below 18 Years 	No Data

CENTRAL/ DISTRICT JAILS	FROM JUNE 2009 - JUNE 2010	SEPTEMBER 2013 - APRIL 2014	FROM MAY 2014 - APRIL 2015	FROM MAY 2015 - DECEMBER 2016
KARAULI	<ul style="list-style-type: none"> S.436A S.167 	<ul style="list-style-type: none"> S.436A S.167 S. 107 To 110 & 151 (7 Cases) Below 18 Years Compliance with Probation 	No Data	No Data
KOTA	<ul style="list-style-type: none"> Below 18 Years Legal Aid (11 Cases) 	No Details	<ul style="list-style-type: none"> S.436A S.167 S. 107 To 110 & 151 Below 18 Years 	<ul style="list-style-type: none"> S.436A (3 cases) Long detention(4 cases) Below 18 years(no cases)
NAGOUR	<ul style="list-style-type: none"> S.436A Mentally Ill S. 107 To 110 & 151 (7 Cases) 	<ul style="list-style-type: none"> S.436A Mentally Ill S. 107 To 110 & 151 (7 Cases) 	<ul style="list-style-type: none"> S.436A (13 Cases) Mentally Ill 	<ul style="list-style-type: none"> S.436A (4 cases) S. 107, 151 (3 cases) Long Detention (8 cases)
PALI	No Data	<ul style="list-style-type: none"> S.436 (1 Case) Long Detention (1 Case) Mentally Ill S. 107 To 110 & 151 (4 Cases) Below 18 Years 	<ul style="list-style-type: none"> Petty Offence & S. 107 To 110 & 151 (1 Case) Below 18 Years 	<ul style="list-style-type: none"> S.107-109, 151 (No cases) Below 18 years (No cases)
PRATAPGARH	<ul style="list-style-type: none"> S.436A Petty Cases S. 107 To 110 & 151 (7 Cases) 	<ul style="list-style-type: none"> S.436A S. 107 To 110 & 151 (7 Cases) Below 18 Years 	<ul style="list-style-type: none"> S.436A Below 18 Years (1 Case) Legal Aid (4 Cases) 	<ul style="list-style-type: none"> S.436A (2 cases) Below 18 years (No case)
RAJSAMAND	<ul style="list-style-type: none"> S.167 	<ul style="list-style-type: none"> S.436A S.167 (1 Case) Long Detention (37 Cases) S. 107 To 110 & 151 (9 Cases) Below 18 Years 	<ul style="list-style-type: none"> S.436A S.167 Petty offences with up to 2 years imprisonment Detention More than 2 Years (313 Cases) Mentally ill. S. 107 To 110 & 151 (2 Cases) Below 18 Years Illegal Detention 	<ul style="list-style-type: none"> S.436A (No cases) Below 18 years (No cases)
SIKAR	<ul style="list-style-type: none"> S.167 S.437(6) Long Detention (42 Cases) 	<ul style="list-style-type: none"> S.167 Long Detention (19 Cases) S. 107 To 110 & 151 (3 Cases) Below 18 Years Foreign National 	No Data	No Data
SIROHI	<ul style="list-style-type: none"> Long Detention (14 Cases) S. 107 To 110 & 151 (1 Case) Below 18 Years Non-Production (9 Cases) 	<ul style="list-style-type: none"> S.436 	No Data	No Data
SRI GANGA-NAGAR	<ul style="list-style-type: none"> Long Detention (56 Cases) S. 107 To 110 & 151 (37 Cases) S.437(6) 	No Data	<ul style="list-style-type: none"> S.436A S.436 (3 Cases) Petty Offence & S. 107 To 110 & 151 (60 Cases) – Considered bailable Mentally Ill Need Legal Aid Non-Production (23 Cases) Below 18 Years 	<ul style="list-style-type: none"> S.436A (7 cases)
TONK	<ul style="list-style-type: none"> Petty Cases Long Detention (179 Cases) S. 107 To 110 & 151 Below 18 Years 	No Data	<ul style="list-style-type: none"> Petty Offence & S. 107 To 110 & 151 & Long Detention (5 Cases) Below 18 Years 	No Data
UDAIPUR	No Data	<ul style="list-style-type: none"> S.436A (9 Cases) 	<ul style="list-style-type: none"> S.436A (1 Case) S.436 (12 Cases) Petty Cases (2 Cases) Long Detention Below 18 Years 	<ul style="list-style-type: none"> S.436 (62 cases) S.436A (1 case) Mentally ill (18 cases) Below 18 years (No cases)

PERFORMANCE BASED RANKING

- The performance of each district is depicted with a scoring system against performance indicators purely based on the mandate of the PRCs. Each district earns a point for: (i) every monthly meeting held; (ii) every member who attended all meetings held; (iii) every meeting where the list of undertrials was prepared; (iv) each category of case recommended by mandate; (v) every meeting for which minutes were prepared and sent.
- Maximum Points for each Performance Indicator could be 70: (i) No. of Meetings: 20; (ii) List of Undertrials prepared: 20 (iii) Attendance: 5; (iv) Mandated Type of Cases Recommended: 5; (v) Minutes of Meeting: 20

PERFORMANCE	NAME OF DISTRICT*	SCORE of 2015-16	SCORE of 2014-15	SCORE OF 2013-14
MOST ACTIVE (Above 57)	Jaisalmer	61	39	16
	Churu	58	22	17
VERY ACTIVE (43-56)	Rajsamand	54	39	11
	Dausa	53	8	12
	Pratapgarh	53	25	18
	Bundi	50	39	2
ACTIVE (29-42)	Bharatpur	41	16	15
	Nagaur	40	29	19
	Alwar	37	24	16
	Sri Ganganagar	37	32	5
	Hanumangarh	33	37	20
	Udaipur	32	19	12
	Jhunjhunu	29	15	15
MODERATELY ACTIVE (15-28)	Jalore	22	27	12
	Jodhpur	19	16	13
	Banswara	18	12	8
	Chittorgarh	18	31	17
	Pali	18	18	16
INACTIVE (0-14)	Jhalawar	12	31	7
	Kota	10	14	-
	Dholpur	9	27	14
	Ajmer	-	36	-
	Baran	-	11	-
	Barmer	-	-	23
	Bhilwara	-	-	-
	Bikaner	-	31	17
	Dungarpur	-	-	10
	Gangapur City	-	9	-
	Jaipur	-	22	12
	Karauli	-	-	18
	Sikar	-	-	17
	Sirohi	-	-	9
	Tonk	-	9	6

SECTION B:

PRC vs UTRC



This section provides an overview of the mandate and functioning of both the committees, Period Review Committees and Undertrial Review Committees and puts forth recommendations to assist the implementing authorities – State Home Department (for PRC) and the State Legal Services Authority (for UTRC) to design their integration in the most effective way. Based on a comparative analysis, CHRI recommends the integration of these two oversight mechanisms while retaining the good practices that have been institutionalised on the ground by the PRC. The purpose of review committees is to strengthen oversight of prisons in order to check unnecessary detention, but not to burden the system with two similar mechanisms leading to duplicity of work.

CHRI's first national report 'Circle of Justice'⁸ on the functioning of UTRCs was released in November 2016. The report assessed the formation and functioning of UTRCs in the first six months of their constitution. The data was collected for the period May 2015 to October 2015. The table below shows month-wise data on overlaps between UTRC and PRC meetings from May to October 2015. Only 16 districts provided information on both the oversight mechanisms.

S. No.	Name of District	May 2015	June 2015	July 2015	Name of District	May 2015	June 2015
1	BANSWARA		UTRC	UTRC	PRC & UTRC	PRC	
2	BHARATPUR	PRC	PRC & UTRC	PRC	PRC & UTRC	PRC	PRC
3	CHITTORGARH	PRC & UTRC	UTRC	PRC	PRC	PRC & UTRC	PRC
4	CHURU	PRC	PRC & UTRC	PRC	PRC & UTRC	PRC	PRC
5	DAUSA	PRC	UTRC	PRC	PRC & UTRC		PRC
6	DHOLPUR		UTRC		UTRC		PRC
7	HANUMANGARH		UTRC		UTRC		
8	JAISALMER	PRC	PRC & UTRC	PRC	PRC & UTRC	PRC	PRC
9	JALORE		PRC & UTRC		UTRC	PRC	
10	JODHPUR	UTRC	UTRC		UTRC		PRC
11	NAGAU		UTRC		UTRC		PRC
12	PALI	PRC	UTRC		PRC & UTRC		
13	PRATAPGARH	PRC	UTRC	PRC	PRC & UTRC		PRC
14	RAJSAMAND		PRC & UTRC	PRC	PRC & UTRC		PRC
15	SRI GANGANAGAR	PRC	PRC & UTRC	PRC	PRC & UTRC	PRC	PRC
16	UDAIPUR		PRC	UTRC	PRC & UTRC		PRC

In total 88 review meetings, whether UTRC or PRC, took place in 16 districts in the six month period. This is much higher than the national average of 32 UTRC meetings. It must be noted here that though the periodicity of UTRC meetings have been complied with, PRC meetings were not held monthly in all 16 districts. To further support the point of integrating the two review committees, it must be noted that there was overlap of 18 review meetings or 20% of the total meetings held. This essentially means 20% of duplication of work and resources. This could increase if these two mechanisms continue to work parallel.

RECOMMENDATIONS FOR THE INTEGRATION OF THE TWO OVERSIGHT MECHANISMS:

I.	PRC	UTRC
Name of the Review Committee	Avadhik Samiksha Samiti or Periodic Review Committees	Undertrial Review Committees

⁸ It can be accessed <http://www.humanrightsinitiative.org/download/Report%20-%20Circle%20of%20Justice2016.pdf>.

I. RECOMMENDATION: The name, Undertrial Review Committee, as suggested by the Supreme Court must be opted as it is now recognised commonly across all states and union territories.

	PRC	UTRC
II. Composition	1) CHAIR – Chief Judicial Magistrate 2) MEMBER – Representative of District Magistrate 3) MEMBER – Representative of Superintendent of Police 4) MEMBER – District Probation Officer 5) MEMBER SECRETARY – Prison in-charge	1) CHAIR – District & Sessions Judge 2) MEMBER – District Magistrate 3) MEMBER – Superintendent of Police 4) MEMBER – Secretary, District Legal Services Authority 5) MEMBER – Prison in-charge

II. RECOMMENDATION: The members of both the review committees must come together in reviewing the cases of undertrials as each member plays a specific role. The recommended composition is:

- 1) CHAIR – District & Sessions Judge
- 2) MEMBER – District Magistrate
- 3) MEMBER – Superintendent of Police
- 4) MEMBER – Secretary, District Legal Services Authority
- 5) MEMBER – Prison in-charge
- 6) MEMBER – District Probation Officer
- 7) MEMBER – Assistant Director, Prosecution

The last member has been recommended as their presence is sought by many PRCs in ascertaining the status of framing of charges.

	PRC	UTRC
III. Periodicity of Meetings	Once in a month	Once in a Quarter

III. RECOMMENDATION: It is recommended to have Monthly meetings. This ensures that detentions under bailable offences (S.436) or under S.107-110 and S.151 are constantly monitored and appropriate correctives are applied immediately. The quarterly meeting would delay action taken in such cases and would lead to unnecessary detention which would negate the purpose of the review committee.

	PRC	UTRC
IV. Jurisdiction	Reviews cases of all undertrials detained in every prison of the district including sub-jails.	Reviews cases of all undertrials detained in every prison of the district including sub-jails.

IV. RECOMMENDATION: Reviews cases of all undertrials detained in every prison of the district including sub-jails.

	PRC	UTRC
V. Place of Convening	As a practise, meetings are held inside prison premises.	As a practise, meetings are held at the Circuit House of the District & Sessions Judge.

V. RECOMMENDATION: The committee meeting be directed to take place within the Central/ District prison premises as –

- (i) all the records and documents pertaining to undertrials' detention are easily accessible.
- (ii) the committee in some cases, would like to give a hearing to the undertrial before recommending the case or taking any action.

	PRC	UTRC
VI. Mandate	<ul style="list-style-type: none"> i. Undertrials completed 60/90 days under custody, investigation not concluded [S.167(2)(a) Cr.P.C.] ii. When completed half or more than the maximum term of sentence [S.428 Cr.P.C.] – now S.436A iii. Non-criminal lunatics [S.16 & 23 of Indian Lunacy Act, 1912] – Indian Lunacy Act, 1912 is now replaced by The Mental Health Act, 1987 iv. Serious Offenders punishable with death or life imprisonment whose trial is continuing over two years v. Petty Offenders punishable with imprisonment up to 2 years (eligible to be released on personal bond under Section 436, Cr.P.C.) <p>Additionally, many PRCs also review following types of cases though the practice is not uniform:</p> <ul style="list-style-type: none"> vi. persons below 18 years of age vii. persons eligible under S. 107, 151 of the CrPC viii. persons eligible under S. 437(6) of the CrPC 	<ul style="list-style-type: none"> i. Undertrials eligible under Section 436A of the CrPC ii. Undertrials released on bail by the Court but have not been able to furnish sureties iii. Undertrials accused of compoundable offences iv. Undertrials eligible under Section 436 of the CrPC v. Implementation of Probation of Offenders Act, 1958 vi. Convicts who have undergone their sentence or are entitled to release because of remission granted to them vii. Undertrials eligible to be released on bail under Section 167(2)(a)(i)&(ii) of the CrPC– <ul style="list-style-type: none"> a. where investigation is not completed in 90 days; b. where investigation is not completed in 60 days; c. where investigation is not completed in 180 days [S.167 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)] viii. Undertrials imprisoned for offences which carry a maximum punishment of 2 years ix. Persons detained under Chapter VIII of the CrPC, i.e. under Sections 107, 108, 109 and 151 of the CrPC x. Undertrials who are sick or infirm and require specialized medical treatment xi. Undertrial women offenders xii. Undertrials, first time male offenders between the ages 19 and 21 who are in undertrial custody for offences punishable with less than 7 years of imprisonment and have completed at least 1/4th of the maximum sentence possible xiii. Undertrials of unsound mind xiv. Undertrials eligible for release under S.437(6) of the CrPC, 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

VI. RECOMMENDATION: The mandate of the UTRC must be opted as it encompasses all the categories that are reviewed by the PRC. Further, this is the minimum that the review committee has to comply under the directions of the Hon'ble Supreme Court.

VII. OTHER RECOMMENDATION:

- a. The National Legal Services Authority (NALSA) has formulated the standard operating procedure for the functioning of UTRCs, enclosed herein as Annexure D. It has been approved by the Supreme Court by order dated 4th December 2018 in the writ petition Re-inhuman Conditions in 1382 Prisons. It is quite comprehensive and must be adopted in regard to the time-bound preparation of lists, convening of meetings, drafting of minutes, follow-up on the recommendations.

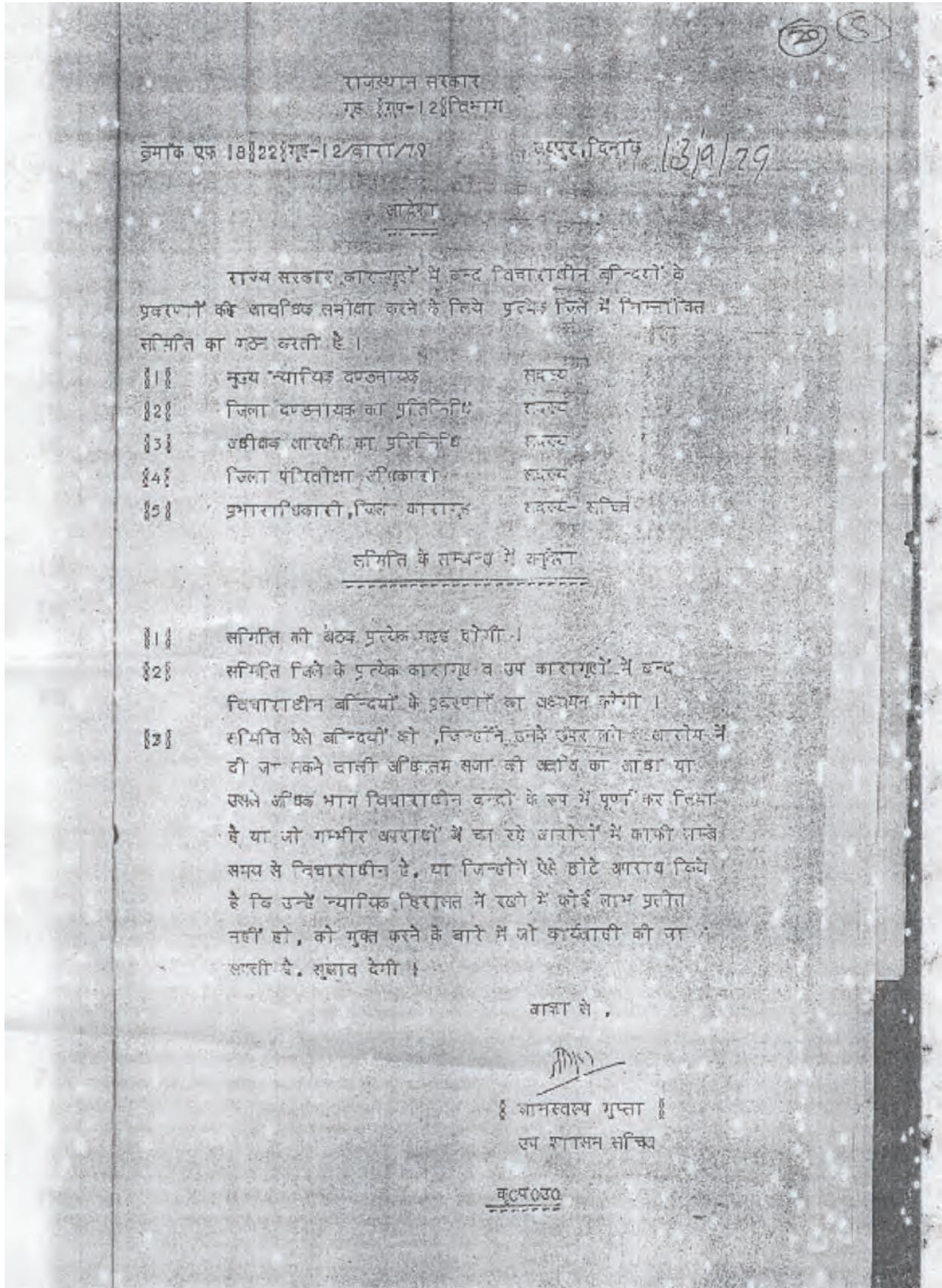
- b. In addition to the mandate of the review committees, certain good practices have been noticed in the functioning of some UTRCs and PRCs as given below. These categories must also be included in the mandate of review committees as the practice is already established in many districts. This could be highlighted as Rajasthan's good practice in regard to functioning of UTRCs.
- i. Review of cases of inmates who could not be produced due to shortage of police escorts (Dausa, Sirohi, Sri Ganganagar, Bikaner).
 - ii. Review of cases of inmates who require legal aid (Banswara, Kota, Pratapgarh)
 - iii. Review of cases of foreign nationals (Jalore, Jhalawar, Sikar)
 - iv. Review of details of witnesses, effective service of summons to witnesses & ensuring their presence is maintained (Bharatpur, Dausa, Sirohi).
 - v. Superintendent of Police provides information about previous convictions and crime reports of undertrials (Jodhpur Metropolitan).
 - vi. Progress Reports of the recommended cases were called for (Bhilwara).

As a pragmatic and progressive step for the state of Rajasthan, the Executive Chairman of the State Legal Services Authority (SLSA) must convene a meeting with the Home Department, the State Prison Department, some district-level judicial officers having experience of conducting UTRC and PRC, some District Magistrates who have been part of both UTRC and PRC, representatives of the Social Justice and Empowerment department and other stakeholders in order to deliberate merging of these two review committees due to reasons discussed above.

ANNEXURES



A. THE 1979 GOVERNMENT ORDER THAT FORMED THE PERIODIC REVIEW COMMITTEES IN RAJASTHAN



B. RIGHT TO INFORMATION REQUEST FILED

From

Date: 14/07/2015

Sugandha Shankar
55 A, Third Floor, Siddhartha Chambers-1, Kalu Sarai
New Delhi - 110016

To,
The Superintendent (Public Information Officer)
Central Jail Ajmer
Ajmer - 305001
Rajasthan

Sub: Application for information under section 6(1) of the Right to Information Act, 2005.

Dear Sir/Madam,

I would like to obtain the following information under the RTI Act:

- 1) **Certified copy of all the following documents regarding the *Avadhik Samiksha Samiti* meetings for the period May 2015 to December 2016:**
 - i. **Monthly reminders in the form of letters, if any, sent from your prison to the office of CJM/CMM to convene the *Avadhik Samiksha Samiti* meetings**
 - ii. **Month-wise lists of undertrials, including the list of sub-jails and any other documents prepared before the *Avadhik Samiksha Samiti* meetings**
 - iii. **Month-wise minutes of the meetings or reports prepared after every meeting of the *Avadhik Samiksha Samiti* including the date and time of the meeting held, attendance of the members of the meeting, total number of cases reviewed and recommendations made**
 - iv. **Month-wise list of undertrials who were released from your prison as a result of the action taken by the *Samiti***

I am a citizen of India. I have attached an IPO (bearing number 32F018856) for Rs. 10/- towards payment of the prescribed application fee. I would like to receive this information at my postal address mentioned above. Please inform me of the additional fee payable for obtaining the information requested above.

Thank you,
Yours Sincerely

(Sugandha Shankar)

C. PROFORMAS

Proforma - A

Name of Jail/Sub-jail

Date of Review Total No. of U.T. Prisoners

List of prisoners standing trial in cases punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years, who have completed 90 days under custody but in whose case investigations have not concluded

Related Section 167 (2) (a) (i) Cr.P.C

1	2	3	4	5	6	7	8
Name and Father's Name	Date of Arrest	Case No. & Section under which confined	Name of the Court where trial is pending	Total period of custody	Date on which court requested for passing orders of release on bail	Date of order of release on bail	Remarks

Proforma - B

Name of Jail/Sub-jail

Date of Review Total No. of U.T. Prisoners

List of prisoners standing trial in cases punishable with a term of less than 10 years, who have completed 60 days under custody but in whose case investigations have not concluded

Related Section 167 (2) (a) (ii) Cr.P.C.

1	2	3	4	5	6	7	8
Name and Father's Name	Date of Arrest	Case No. & Section under which confined	Name of the Court where trial is pending	Total period of custody	Date on which court requested for passing orders of release on bail	Date of order of release on bail	Remarks

Proforma - C

Name of Jail/Sub-jail

Date of Review Total No. of U.T. Prisoners

List of undertrial prisoners who are under detention for a period more than the maximum term of sentence awardable to them in case in which they are standing trial

Related Section 428 Cr.P.C.

1	2	3	4	5	6	7	8
Name and Father's Name	Date of Arrest	Case No. & Name of the Court	Sections under which standing trial	Term of maximum sentence awardable	Total period under detention during investigation and trial	Date on which Court informed	Remarks

Proforma - D

Name of Jail/Sub-jail

Date of Review Total No. of NCLs

List of non-criminal lunatics confined in prison for observation for more than 30 days

Related Section 16 & 23 of the Indian Lunacy Act, 1912

1	2	3	4	5	6
Name and Father's Name	Section & Act under which confined	Name of the Court or Magistrate authorising detention	Date of entry into prison	Total period passed in detention	Remarks

**D. STANDARD OPERATING PROCEDURE (SOP) FOR UTRCs
BY NATIONAL LEGAL SERVICES AUTHORITY (NALSA)**



**NALSA's
STANDARD OPERATING PROCEDURE (SOP)
for UNDER TRIAL REVIEW COMMITTEES (UTRCs)**

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

NATIONAL LEGAL SERVICES AUTHORITY

12/11, JAM NAGAR HOUSE, NEW DELHI

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



INDEX

Sl. No	Contents	Page no.
1.	Background	1-2
2.	Part I SOP for UTRCs where Jail Records are not digitized and even if digitized no Software Filters have been applied	3-10
3.	Part II SOP for UTRCs where Jails are digitized and have Software to filter the cases which are eligible for release	11
4.	NALSA's Additional Suggestions	12-14
5.	Annexure 'A' Template of Datasheet of eligible UTPs for consideration of UTRC	15-16
6.	Annexure 'B' Template of Datasheet of Convicts for consideration of UTRC.	17-18
7.	Annexure 'C' Template of New Modified Custody Warrant	19-20

Background

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

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

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

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

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

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

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

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

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

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

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

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

This redrafted final SOP has been prepared accordingly.





NALSA's

STANDARD OPERATING PROCEDURE (SOP) FOR UTRCs

PART-I

Definitions:

- a) "Jail" means Central Jail, District Jail, Sub Jail, Women Jail, Special Jail and borstals.
- b) "Jail Superintendent" includes Deputy Superintendent and Officer Incharge of the jail.
- c) "UTPs" means Under Trial Prisoners who are in custody at the time of preparation of the list of UTPs by the Superintendent and includes inmates who are out on interim bail.
- d) "UTRC" means Under Trial Review Committee chaired by District & Sessions Judge consisting of District Magistrate, Superintendent of Police, Secretary, DLSA and Jail Superintendent, as members.
- e) "E-Prison Portal/ PMS" means E-Prison Portal developed by NIC under directives of Ministry of Home Affairs and includes stand alone Software developed by States for their Jails.
- f) "Secretary DLSA" means Secretary of the concerned District Legal Services Authority appointed u/s 9(3) of Legal Services Authorities Act, 1987 and any other officer officiating as Secretary.
- g) "Bail Applications" Bail applications include applications moved u/s 436A, 437 Cr.P.C. and 439 Cr.P.C. apart from other provisions pertaining to technical bail under the Cr.P.C., namely bail under proviso to Sections 167 and 437 (6) Cr.P.C. and similar provisions in other special enactments.

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

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

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

Particulars of UTPs

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

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

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

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

STEP 2: Processing of Data by Secretary, DLSA

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

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

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

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

2.2.2 UTPs released on bail by the court, but have not been able to furnish sureties.

[As per order of Hon'ble Supreme Court dated 24th April, 2015]

2.2.3 UTPs accused of compoundable offences.

[As per order of Hon'ble Supreme Court dated 24th April, 2015]

2.2.4 UTPs eligible under Section 436 of Cr.P.C.

[As per order of Hon'ble Supreme Court dated 05th February, 2016]

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

[As per order of Hon'ble Supreme Court dated 05th February, 2016]

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

[As per order of Hon'ble Supreme Court dated 05th February, 2016]

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

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.8 UTPs who are imprisoned for offences which carry a maximum punishment of 2 years.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.9 UTPs who are detained under Chapter VIII of the Cr.P.C. i.e. u/s 107, 108, 109 and 151 of Cr.P.C.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.10 UTPs who are sick or infirm and require specialized medical treatment.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.11 UTPs women offenders

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

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

imprisonment and have suffered at least 1/4th of the maximum sentence possible.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.13 UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.14 UTPs eligible for release under Section 437(6) of Cr.P.C, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

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

STEP 3: Processing of identified cases by UTRC

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

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

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

3.3.1 In case UTPs covered under Section 436A Cr.P.C.:

UTRC may recommend to concerned trial court to take up the matter and consider him/her for release on bail if there are no special reasons to deny bail, with or without sureties.

3.3.2 UTPs released on bail by the court, but have not been able to furnish sureties:

The UTRC may recommend the trial court to examine the reason why the accused is not furnishing surety/ bail bonds and if he/she is unable to do so due to poverty, then the trial court may consider reducing the

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

3.3.3 UTPs accused of compoundable offences:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.3.11 UTPs women offenders:

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

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

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

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

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

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

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

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

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

STEP 4: Follow up:

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

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

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

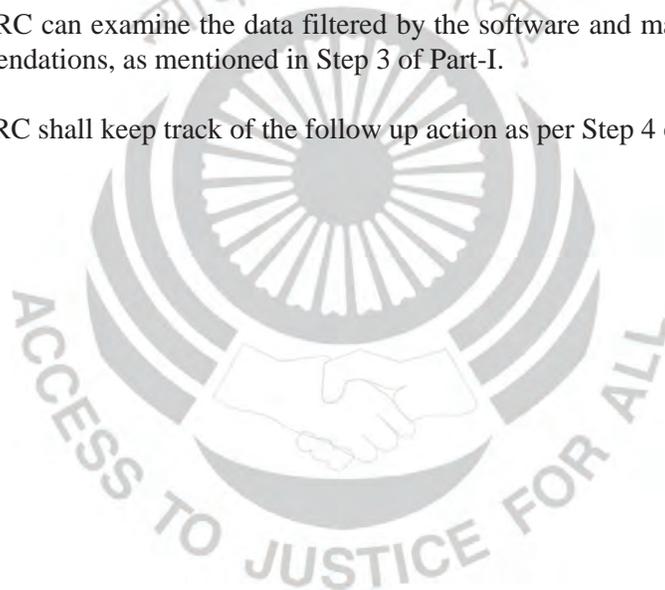
Secretary, DLSA shall collate the above data in **Annexure-A & B** and generate quarterly report under the following heads:

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

PART-II

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

- 5.1 If the jail concerned has appropriate data in digital format and is able to apply the filters, then the Step 1 and Step 2 of Part-I would merge into one and the filtered data shall be shared by Jail Authorities with Secretary, DLSA.
- 5.2 The UTRC can examine the data filtered by the software and make appropriate recommendations, as mentioned in Step 3 of Part-I.
- 5.3 The UTRC shall keep track of the follow up action as per Step 4 of Part-I.



NALSA's ADDITIONAL SUGGESTIONS

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

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

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

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

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

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

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

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

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

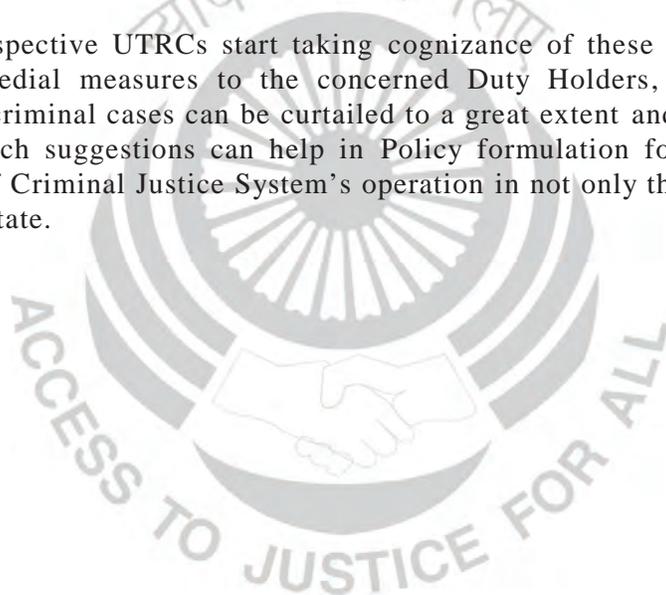
- State is represented by Public Prosecutor in each criminal court i.e. MMs/Sessions. As and when any Bail Application is moved by the UTPs either on merits or on technical grounds, as a matter of routine, it is observed that they are opposed by Public Prosecutors/Additional Public prosecutors/Asstt.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

Suggestion No.4: Expanding the mandate of UTRC

- UTRC is mandated to ensure compliance of directions issued by Hon'ble Supreme Court. However to ensure that UTPs' right to speedy trial is upheld, it is proposed that UTRC shall look into the individual cases so as to ascertain as to why a particular criminal trial is not getting concluded in a reasonable time and is getting dragged. Such a review of individual cases would go a long way in identifying the broad reasons which results in the delay of trials. This would also help reduce imbalance of 67%:33% UTPs:Convicts ratio.
- While identifying bottle necks in the Criminal Justice System of a particular district, other facets which can be looked into and addressed by the UTRC may include:
 - 4.1 Check on non-compliance of Section 41 Cr.P.C. to curtail avoidable/unnecessary arrests by the Police.
 - 4.2 Non production of UTPs before the Remand/Trial Court either in person or via video conferencing facility on account of lack of logistic facilities.
 - 4.3 Delay caused by frequent inter-state transfer of UTPs
 - 4.4 Non filing of FSL/CFSL report in time.
 - 4.5 Failure of police to trace, serve and produce the Public/Expert witnesses.
 - 4.6 Delay caused in frequent transfer of investigation related witnesses like police officials, documents.
 - 4.7 Non availability of dedicated PPs in each criminal court.
 - 4.8 Rational distribution of criminal cases in different courts within district

- 4.9 Paucity of staff like Ahlmad or stenographer for the criminal court
- 4.10 Delay caused by lack of efficiency in administrative set up like Copying Agency, Facilitation Centre, Record Room(in case of fetching of old file) etc.
- 4.11 IT Infrastructural need like, Desktop, printer, NIC-net, stationary etc. apart from Data entry professionals.
- 4.12 Popularize ADR methods as also Plea Bargaining for quick disposal.
- 4.13 Suggest segregation of trial in case one or more co-accused are absconding.
- 4.14 Availability of effective and efficient Free Legal Aid Services.
- 4.15 Seeking Cooperation from the Bar for expediting trial.
- 4.16 Any other issue which is hampering the early conclusion of criminal trials in the District.

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



TEMPLATE

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

Note:

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

Contd.....

TEMPLATE

Annexure-A

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

- Note:**
- Column Nos. 21 to 26 to be filled by UTRC.

TEMPLATE

Annexure-B

List of Convicts

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

Note:

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

Contd....

TEMPLATE

Annexure-B

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

Note:

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

TEMPLATE
Annexure-C

“CUSTODY WARRANT”

Jail No. : _____

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

PHOTO OF INMATE

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

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

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

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

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

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

REMAND DURING PROSECUTION EVIDENCE

ADVOCATE.....(Pvt/Legal Aid)

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

REMAND DURING STATEMENT OF ACCUSED

ADVOCATE.....(Pvt/Legal Aid)

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

REMAND DURING DEFENCE EVIDENCE

ADVOCATE.....(Pvt/Legal Aid)

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

REMAND DURING FINAL ARGUMENTS

ADVOCATE.....(Pvt/Legal Aid)

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

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

CHRI'S WORK ON PRISON REFORMS

The Prison Reforms Programme of CHRI is over a decade old and over the years has worked in different parts of the country including Andhra Pradesh, Chhattisgarh, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, and West Bengal. The Prison Reform Programme is focused on increasing transparency of a traditionally closed system and holding the stakeholders accountable. The programme aims to strengthen oversight mechanisms, improve prison conditions, reform prison management, enhance accountability and foster an attitude of cooperation between the various agencies of the criminal justice system in place of the prevailing indifference and discrimination. It seeks to achieve its goals through research, legal analysis and advice, advocacy, capacity building, network building and conference facilitation.

The core areas of the prison reforms programme comprises – improving prison oversight, strengthening undertrial review committees, ensuring effective legal aid services for persons in custody and facilitating speedy repatriation of foreign national prisoners upon completion of their sentences.

Prison Oversight: The Prison Visiting System, mandated under the Prisons Act 1894, statutorily requires the constitution of a Board of Visitors (BOVs) to oversee prison conditions and treatment of prisoners through a set of Official Visitors and Non Official Visitors (NOVs) drawn from civil society and from significant professions and services. The BOVs are mandated to carry out certain inspectorial and grievance redressal functions in the closed environment of prisons and report back to the government. In its recent national report titled 'Looking into the Haze: A Study on Prison Monitoring in India' CHRI has studied this mechanism and found that not even 1% of jails are monitored according to law.

The Undertrial Review Committee (UTRC): UTRCs are a district level oversight body headed by a judicial officer and mandated to review and recommend release in cases of petty offence, prolonged detentions, and in cases where statutory bail is ordained. While CHRI continues to assist the Supreme Court in the on-going writ petition titled Re-Inhuman Conditions in 1382 Prisons, its recent report titled 'Circle of Justice: First National Report on Undertrial Review Committees' has examined the shortfalls in the formation and functioning of the undertrial review committees across the country and found that only 40% of the committee meetings complied with the mandate set out by the Supreme Court.

Ensuring access to legal aid: As part of its demonstration project, CHRI has extensively worked in Rajasthan and West Bengal to improve access to legal aid services to persons in custody and has prepared a number of watch reports to assess the legal aid system in these states. Additionally, CHRI has also been part of the expert committee meetings by UNODC and UNDP on the Handbook on Early Access to Legal Aid in the Criminal Justice System; working group on the Johannesburg Declaration on the implementation of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems and given its suggestions on the UN Model Law on Legal Aid.

Foreign national prisoners: CHRI engages in urgent action response to ensure speedy repatriation of prisoners who have completed their sentences. In this regard, CHRI engages in advocacy with concerned actors, facilitates consular access, and aids the repatriation process. CHRI also works to facilitate access to relevant authorities for asylum seekers, in particular Rohingya Muslims. Over the past few years CHRI has facilitated the repatriation of nationals from Nigeria, Uganda, Palestine, Afghanistan, Bangladesh, Cameroon, Saudi Arabia and Sri Lanka.

Apart from these, CHRI engages in strategic litigations in both the High Court and the Supreme Court highlighting issues of public interest before the court. Over the years it has successfully obtained orders and directives on prison condition and oversight, undertrial review committees,

legal aid, physical production of accused persons and repatriation of Bangladeshi nationals among other issues.

Among other engagements, CHRI has been invited to be a part of/ make submissions before the Justice Verma Committee (2012), NHRC Committee on the Model Prison Act (2015), Parliamentary Standing Committee on Personnel, Public Grievances, Law & Justice (2016), Institute of Correctional Administration, Chandigarh on the Draft Punjab Prison Act (2016), Committee on Preparation of Manual on Juveniles (2016), BPR&D Committee on Preparation of Training Manual for Prison Officers (2017) and so on.

KEY PUBLICATIONS

National

- Strangers to Justice: A Report on Foreigners in Indian Prisons (2019)
- Hope Behind Bars? Status Report On Legal Aid For Persons In Custody (2018)
- Key to Transparency - Your Guide to using the Right to Information Act, 2005, to collect data about Indian Prisons (2018)
- Circle Of Justice: A National Report On Under Trial Review Committees (2016)
- Looking Into The Haze: A Study On Prison Monitoring In India (2016)
- Monitoring Prisons: A Visitor's Guide – Original Edition 2010 (Revised and Re-printed 2017)
- Maharashtra's Abandoned Prisons - A Study of Sub-Jails (2010)
- Conditions of Detention in the Prisons of Karnataka (2010)
- Pre-trial Detention and Access to Justice in Orissa (2010)
- Rights Behind Bars - Landmark Judicial Pronouncements and National Human Rights Commission Guidelines (2009)
- Liberty at the Cost of Innocence: A Report on Jail Adalats in India (2009)
- Community Participation in Prisons - A Civil Society Perspective (2008)
- Andhra Pradesh Prisons: Behind Closed Doors (2006)

Rajasthan

- Legal Aid For Prisoners : Status Report On Implementation Of Three Schemes In Rajasthan (2016)
- The Missing Guards - A Study On Rajasthan's Court Production System (2014)
- Road to Release - Third Watch Report on Rajasthan Periodic Review Committees (2015)
- Road to Release - Second Watch Report on Rajasthan's Periodic Review Committees (2014)
- Undertrials - A Long Wait To Justice (2011)

West Bengal

- Monitoring The Monitors – A Micro Study On Monitoring Committees In West Bengal (2017)
- Prison Legal Aid Clinics In West Bengal: Bringing Justice Closer? (2017)
- Undertrial Review Committees: Setup and Functioning in West Bengal Joint Study by CHRI & Directorate of Correctional Services, WB (2015)
- Legal Aid Services : In Correctional Homes Of West Bengal (2015)

Briefing Papers, Guidebooks, Pamphlets

- Ten Things You Should Know About Legal Aid in India (2018)
- Legal Aid at Police Stations (2018)

- Guide For Prison Officers Refugees & Asylum Seekers (2018)
- A Basic Guide - Defending Asylum Seekers In Detention (2018)
- Frequently Asked Questions by Foreign Nationals in Indian Prisons (2017)
- NALSA Standard Operating Procedures on Representation of Persons in Custody (2016) – English, Hindi, Bengali
- Guidebook for Prison Visitors
- Ten Things You Should Know About Indian Prisons: A CHRI Breakdown and Commentary on National Prison Statistics (2016)
- Early Access to Legal Aid: Stages of Pre-Arrest and Arrest
- Arnesh Kumar Vs. State Of Bihar: Importance of S.41A of the Code of Criminal Procedure Code, 1973
- Alternatives to Imprisonment - Probation of Offenders Act, 1958
- Undertrial Prisoners and The Criminal Justice System

CHRI Programmes

CHRI believes that the Commonwealth and its member countries must be held to high standards and functional mechanisms for accountability and participation. This is essential if human rights, genuine democracy and development are to become a reality in people's lives. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to justice and access to information. It does so through research, publications, workshops, information dissemination and advocacy. It has three principal programmes:

1. Access to Justice

Police Reforms: In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In South Asia, CHRI works to strengthen civil society engagement on police reforms. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

Prison Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

2. Access to Information

CHRI is acknowledged as one of the main organisations working to promote Access to Information across the Commonwealth. It encourages countries to pass and implement effective Right to Information laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh and Ghana. In the latter CHRI is the Secretariat for the RTI civil society coalition. CHRI regularly critiques new legislation and intervenes to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. Its experience of working in hostile environments as well as culturally varied jurisdictions allows CHRI to bring valuable insights into countries seeking to evolve and implement new laws on right to information. In Ghana, for instance it has been promoting knowledge about the value of Access to Information which is guaranteed by law while at the same time pushing for introduction of an effective and progressive law.

3. International Advocacy and Programming

CHRI monitors commonwealth member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN and the African Commission for Human and People's Rights. Ongoing strategic initiatives include: advocating for and monitoring the Commonwealth's reform; reviewing Commonwealth countries' human rights promises at the UN Human Rights Council, the Universal Periodic Review; advocating for the protection of human rights defenders and civil society space; and monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.



Commonwealth Human Rights Initiative
3rd floor, 55A, Siddhartha Chambers, Kalu Sarai
New Delhi - 110 016
Tel: +91-11-4318 0200
Fax: +91-11-4318 0217
Email: chriprisonsprog@gmail.com
Website: www.humanrightsinitiative.org