

**COMPILATION OF DIRECTIVES GIVEN BY THE HON'BLE SUPREME  
COURT OF INDIA  
THROUGH ITS JUDGEMENTS & ORDERS  
IN WRIT PETITION (CIVIL) NO. 406/2013  
IN RE - INHUMAN CONDITIONS IN 1382 PRISONS**

Sl. No	Issues	Directives
1.	Constitution of Under Trial Review Committee	<p><b>Order dated: 24.04.2015</b></p> <p>Under Trial Review Committee should be set up in every district. The composition of the Under Trial Review Committee is the District Judge, as Chairperson, the District Magistrate and the District Superintendent of Police as members for the purpose of implementation of Section 436A of the Code of Criminal Procedure, 1973.</p> <p>Under Trial Review Committee should consider the cases of all under trial prisoners who are entitled to the benefit of Section 436A of the Code. In a case of multiple offences, a review is to be conducted after half the sentence of the lesser offence is completed by the under trial prisoner. It is not necessary or compulsory that an under trial prisoner must remain in custody for at least half the period of his maximum sentence only because the trial has not been completed in time.</p> <p>There are a large number of compoundable offences for which persons are in custody. No attempt seems to have been made to compound those offences and instead the alleged offender has been incarcerated. The State Legal Services are directed, through the Member Secretary of NALSA to urgently take up the issue with the panel lawyers so that wherever the offences can be compounded, immediate steps should be taken and wherever the offences cannot be compounded, efforts should be made to expedite the disposal of those cases or at least efforts should be made to have the persons in custody released therefrom at the earliest.</p> <p><b>Order dated: 07.08.2015</b></p> <p>We are told that the Under Trial Review Committee consists of the District Judge, the Superintendent of Police and the District Magistrate. Since the issues pertaining to under trial prisoners are also of great concern of the District Legal Services Authorities, we direct that the Under Trial Review committee should also have the Secretary of the District Legal Services Authority as one of the members of the Committee. The Ministry of Home Affairs will issue a necessary order in this regard to the Superintendent of Police to associate the</p>

Secretary of the District Legal Services Authority in such meetings.

**Order Dated: 05.02.2016**

The Under Trial Review Committee in every district should meet every quarter and the first such meeting should take place on or before 31st March, 2016. The Secretary of the District Legal Services Committee should attend each meeting of the Under Trial Review Committee and follow up the discussions with appropriate steps for the release of undertrial prisoners and convicts who have undergone their sentence or are entitled to release because of remission granted to them.

The Under Trial Review Committee should specifically look into aspects pertaining to effective implementation of Section 436 of the Cr.P.C. and Section 436A of the Cr.P.C. so that undertrial prisoners are released at the earliest and those who cannot furnish bail bonds due to their poverty are not subjected to incarceration only for that reason.

The Under Trial Review Committee will also look into issue of implementation of the Probation of Offenders Act, 1958 particularly with regard to first time offenders so that they have a chance of being restored and rehabilitated in society.

The Member Secretary of the State Legal Services Authority of every State will ensure, in coordination with the Secretary of the District Legal Services Committee in every district, that an adequate number of competent lawyers are empanelled to assist undertrial prisoners and convicts, particularly the poor and indigent, and that legal aid for the poor does not become poor legal aid.

The Secretary of the District Legal Services Committee will also look into the issue of the release of undertrial prisoners in compoundable offences, the effort being to effectively explore the possibility of compounding offences rather than requiring a trial to take place.

The Under Trial Review Committee will also look into the issues raised in the Model Prison Manual 2016 including regular jail visits as suggested in the said Manual.

**Order dated 06.05.2016**

The committee will examine the cases of undertrials 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) Are imprisoned for offences which carry a maximum punishment of 2 years;
- c) Are detained under Chapter VIII of the Criminal Procedure Code i.e. under Sections 107, 108, 109 and 151 of Cr.P.C.; 12
- d) Become sick or infirm and require specialized medical treatment (S.437 of the Code);
- e) Women offenders (S.437 of the Code);
- f) Are first time male offenders between the ages 19 and 21 who are in under trial custody for offences punishable with less than 7 years of imprisonment and have suffered atleast 1/4th of the maximum sentence possible;
- 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;

**Order dated 31.10.17**

We direct that henceforth in all the meetings of the Under Trial Review Committee, the Superintendent of the concerned District Jail/Central Jail/Sub-Jail should also be included as a member of the Under Trial Review Committee in all States.

**Order dated 2.8.18**

The Under Trial Review Committees have been set up in every district of the country or are at least expected to be set up in every district of the country pursuant to our orders. **We would request the High Courts to consider the functioning of the Under Trial Review Committees alongwith the suo motu petitions since they are dealing with overcrowding and the release of under trial prisoners is also one of the concerns relating to overcrowding in prisons.** NALSA has prepared an SOP with regard to functioning of the Under Trial Review Committee.

**Order dated 4.12.18**

Guidelines have been framed by NALSA called "The Standard Operating Procedure for Under-Trial Review Committees". These Guidelines are taken on record and the Under Trial Review Committees will adhere to these Guidelines. It has been stated by NALSA, as a background note, that, as on 31.12.2017, the data received from different prison authorities indicates that the holding capacity of 1250 prisons in India is 3.78 lakhs and the actual inmates are about 4.19

lakhs.

....We have been given to understand that the number of under-trial prisoners of this country constitutes more than 67% of the prisons' population. Urgent steps are quite clearly and obviously necessary for the release of under-trial prisoners, if not for the early conclusion of their trial.

Under these circumstances, though NALSA has recommended for quarterly meetings to be held by the Under-Trial Review Committees, we direct that in the first six months of the year 2019, the Under-Trial Review Committees will meet once in a month to review the cases of under-trial prisoners and submit a report to the State Legal Services Authority. The reports will then be compiled and forwarded to NALSA.

**SOPs developed by NALSA** - The Standard Operating Procedure for Under-Trial Review Committees developed by NALSA is available at:

[https://nalsa.gov.in/sites/default/files/document/Standard%20Operating%20Procedure\(SOP\)%20for%20UTRCs.pdf](https://nalsa.gov.in/sites/default/files/document/Standard%20Operating%20Procedure(SOP)%20for%20UTRCs.pdf)

As per the SOP in para 2.2 the following mandate of the UTPs is listed as follows:

**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

		<p>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]</p> <p>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]</p> <p>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]</p> <p>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]</p> <p>2.2.11 UTPs women offenders [As per order of Hon'ble Supreme Court dated 06th May, 2016]</p> <p>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 1/4 th of the maximum sentence possible. [As per order of Hon'ble Supreme Court dated 06th May, 2016]</p> <p>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]</p> <p>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]</p>
2.	Overcrowding in Prisons	<p><b>Order dated 6.5.16</b></p> <p>We direct that the States particularly the Inspector General of Prisons should urgently identify those jails in the respective State where over-crowding is to the extent of 150% and above and provide the information to the learned Additional Solicitor General as well as to the learned Amicus Curiae. In addition, the States and the Inspector General of Prisons should prepare a Plan of Action either to reduce over-crowding or to augment the infrastructure so that there is more space available in the prisons. The cut-off date for calculating the over-crowding will be 30th April, 2016.</p> <p><b>Order dated 8.5.18</b></p> <p>In our opinion, this matter should be considered by each High</p>

		<p>Court independently with the assistance of the State Legal Services Authority/ High Court Legal Services Committee so that there is some sanity in the overcrowding in prisons since it involves violation of human rights. <b>Under the circumstances, we request the Chief Justice of every High Court to take up the issue of overcrowding in prisons as a suo moto writ petition.</b></p>
3.	Appointment of Board of visitors	<p><b>Order dated 02.05.2017</b></p> <p>The State Governments should take immediate steps to appoint a Board of Visitors who can visit jails and suggest remedial measures to improve the conditions of the prisoners-convicts as well as under trial prisoners.</p> <p><b>Order dated 15.09.2017</b></p> <p>The constitution of a Board of Visitors which includes non-official visitors is of considerable importance so that eminent members of society can participate in initiating reforms in prisons and in the rehabilitation of prisoners. Merely changing the nomenclature of 6 prisons to 'Correction Homes' will not resolve the problem. Some proactive steps are required to be taken by eminent members of society who should be included in the Board of Visitors. The State Governments are directed to constitute an appropriate Board of Visitors in terms of Chapter XXIX of the Model Prison Manual indicating their duties and responsibilities. This exercise should be completed by 30th November, 2017.</p> <p><b>Order dated 2.8.18</b></p> <p>It is stated by learned amicus curiae in his Note for Hearing that there are several States where the Board of Visitors have not been appointed. We have been informed that even in Tihar Jail, Delhi, the appointment of Board of Visitors has not been notified. In any case, nonofficial members are not included in Board of Visitors. It is for this reason that perhaps the conditions in prisons are pathetic and prompted a former Chief Justice of India to write to this Court to look into this issue. The appointment of Board of Visitors that regularly visits jails is an absolute necessity and it is also provided for in the Model Prison Manual prepared by the Ministry of Home Affairs, Government of India. We do not see why an acceptable document prepared by the Ministry of Home Affairs should not be followed by the Prison Departments. We are informed that the Ministry of Home Affairs has also issued advisories on appointment of visitors, but obviously they are not being followed.</p>

4.	Regarding Vacancies and Training of Staff/Officers of the Prisons	<p><b>Order dated 17.02.2017</b></p> <p>It is pointed out by learned amicus curiae that in response to Lok Sabha Starred Question which was answered on 2nd August, 2016, the sanctioned strength of jail officers/staff as on 31<sup>st</sup> December, 2014 is 79,988. Out of this, the actual strength is only 52,666. Thus, there is a gap of about 27,000 staff/officers as on 31st December, 2014. Since the question was answered in the Lok Sabha on 2nd August, 2016, it is unlikely that there has been a substantial improvement since that date.</p> <p>In view of the above, we direct all the State Governments and Union Territories to take immediate steps to fill up the existing vacancies and initiate concrete steps in this regard on or before 31st March, 2017.</p> <p>It has also been pointed out that there are serious deficiencies in the training of jail officers/staff. It appears that over the last many years hardly about 7800 staff has been given some kind of training, mostly refresher training. This is an unhappy state of affairs considering the fact that the number of staff is in the region of about 50,000. In view of the above and to standardize the training to be given to the various categories of staff in prisons, we direct the Union of India through the Ministry of Home Affairs to take urgent steps to prepare training manuals for various categories of staff and officers in jails. Concrete steps should be taken in this regard on or before 31 st March, 2017.</p> <p>The Ministry of Home Affairs may also consult the State Governments/Union Territories.</p> <p><b>Order dated 8.5.18</b></p> <p><b>...we find that once again there is little interest being shown by the prison authorities and the State Governments to recruit staff in prisons.</b> This, of course, has its own impact on prison administration. ...we are of opinion that this matter should also be taken up by each High Court. <b>Accordingly, we request the Chief Justice of every High Court to take up this matter as a suo moto writ petition.</b></p>
5.	Deaths in Prisons	<p><b>Order dated 15.9.17</b></p> <p><b>Custodial deaths</b></p> <p><b>1. We request the Chief Justice of the High Court to register a suo motu public interest petition with a view to identifying the next of kin of the prisoners who have admittedly died an unnatural death as revealed by the NCRB during the period between 2012</b></p>

**and 2015 and even thereafter, and award suitable compensation, unless adequate compensation has already been awarded.**

2. The Union of India through the Ministry of Home Affairs will ensure circulation within one month and in any event by 31st October, 2017 of (i) the Model Prison Manual, (ii) the monograph prepared by the NHRC entitled "Suicide in Prison - prevention strategy and implication from human rights and legal points of view", (iii) the communications sent by the NHRC referred to above, (iv) the compendium of advisories issued by the Ministry of Home Affairs to the State Governments, (v) the Nelson Mandela Rules and (vi) the Guidelines on Investigating Deaths in Custody issued by the International Committee of the Red Cross to the Director General or Inspector General of Police (as the case may be) in charge of prisons in every State and Union Territory. All efforts should be made, as suggested by the NHRC and others, to reduce and possibly eliminate unnatural deaths in prisons and to document each and every death in prisons – both natural and unnatural.

3. The Union of India through the Ministry of Home Affairs will direct the NCRB to explain and clarify the distinction between unnatural and natural deaths in prisons as indicated on the website of the NCRB and in its Annual Reports and also explain the sub-categorization 'others' within the category of unnatural deaths. The NCRB should also be required to sub-categorize natural deaths. The sub-categorization and clarification should be complied with by 31<sup>st</sup> October, 2017.

4. The State Governments should, in conjunction with the State Legal Services Authority (SLSA), the National and State Police Academy and the Bureau of Police Research and Development conduct training and sensitization programmes for senior police officials of all prisons on their functions, duties and responsibilities as also the rights and duties of prisoners. A copy of this order be sent by the Registry of this Court to the Member-Secretary of each SLSA to follow-up and ensure 'compliance.

5. The necessity of having counselors and support persons in prisons cannot be over-emphasized. Their services can be utilized to counsel and advice prisoners who might be facing some crisis situation or might have some violent or suicidal tendencies. The State Governments are directed to appoint counselors and support persons for counselling prisoners, particularly first-time offenders. In this regard, the services of recognized NGOs can be taken and encouraged.

6. While visits to prison by the family of a prisoner should be encouraged, it would be worthwhile to consider extending the time or frequency of meetings and also explore the possibility of using phones and video conferencing for communications not only between a prisoner and family members of that prisoner, but also between a prisoner and the lawyer, whether appointed through the State Legal Services Authority or otherwise.

7. The State Legal Services Authorities (SLSAs) should urgently conduct a study on the lines conducted by the Bihar



State Legal Services Authority in Bihar and the Commonwealth Human Rights Initiative in Rajasthan in respect of the overall conditions in prisons in the State and the facilities available. The study should also include a performance audit of the prisons, as has been done by the CAG. The SLSAs should also assess the effect and impact of various schemes framed by NALSA relating to prisoners. **We request the Chief Justice of every High Court, in the capacity of Patron-in-Chief of the State Legal Services Authority, to take up this initiative and, if necessary, set up a Committee headed preferably by the Executive Chairperson of the State Legal Services Authority to implement the directions given above.**

8. Providing medical assistance and facilities to inmates in prisons needs no reaffirmation. The right to health is undoubtedly a human right and all State Governments should concentrate on making this a reality for all, including prisoners. The experiences in Karnataka, West Bengal and Delhi to the effect that medical facilities in prisons do not meet minimum standards of care is an indication that the human right to health is not given adequate importance in prisons and that may also be one of the causes of unnatural deaths in prisons. The State Governments are directed to study the availability of medical assistance to prisoners and take remedial steps wherever necessary.

9. The constitution of a Board of Visitors which includes non-official visitors is of considerable importance so that eminent members of society can participate in initiating reforms in prisons and in the rehabilitation of prisoners. Merely changing the nomenclature of prisons to 'Correction Homes' will not resolve the problem. Some proactive steps are required to be taken by eminent members of society who should be included in the Board of Visitors. The State Governments are directed to constitute an appropriate Board of Visitors in terms of Chapter XXIX of the Model Prison Manual indicating their duties and responsibilities. This exercise should be completed by 30th November, 2017.

10. The suggestion given by the learned Amicus of encouraging the establishment of 'open jails' or 'open prisons' is certainly worth considering. It was brought to our notice that the experiment in Shimla (Himachal Pradesh) and the semi-open prison in Delhi are extremely successful and need to be carefully studied. Perhaps there might be equally successful experiments carried out in other States as well and, if so, they require to be documented, studied and emulated.

11. The Ministry of Women & Child Development of the Government of India which is concerned with the implementation of Juvenile Justice (Care and Protection of Children) Act, 2015 is directed to discuss with the concerned officers of the State Governments and formulate procedures for tabulating the number of children (if any) who suffer an unnatural death in child care institutions where they are kept in custody either because they are in conflict with law or because they need care and protection. Necessary steps should be taken in this regard by 31st December, 2017.

6.	omen and children in Prisons	<p><b>Order dated 2.8.18</b></p> <p>The issue of children of women prisoners is an extremely serious issue. It has been pointed out by learned amicus curiae that he has visited a prison in Faridabad, Haryana where he learnt that children of women prisoners who are below six years of age are not allowed to leave the prisons. This is hardly conducive to their well-being and health. There is another category of such children who have crossed the age of six years and they are released from prison, but there is nothing to indicate how such children are looked after. Surely, these children cannot be left to fend for themselves just because they are six years of age when their mother is in prison. The third category of children are minors above six years of age and whose mother is in custody. Such children also need to be looked after since their father or any next of kin, etc. may not be there to look after them. In view of this, we have suggested to learned amicus curiae that it might be appropriate if a Committee is appointed to look into this issue in great depth with the assistance of psychologists, social scientists and experts in different fields so that some pragmatic policy is framed for looking after such children.</p>
7.	Open Prisons	<p><b>Order dated 15.9.17</b></p> <p>10. The suggestion given by the learned Amicus of encouraging the establishment of 'open jails' or 'open prisons' is certainly worth considering. It was brought to our notice that the experiment in Shimla (Himachal Pradesh) and the semi-open prison in Delhi are extremely successful and need to be carefully studied. Perhaps there might be equally successful experiments carried out in other States as well and, if so, they require to be documented, studied and emulated.</p> <p><b>Order dated 8.5.18</b></p> <p>It is stated by learned Additional Solicitor General that steps are being taken to encourage setting up of open prisons. In fact, Model Rules called the Model Uniform Rules for the Administration of Open Correctional Institutions have been framed.</p> <p>As far as the Union of India is concerned, these Rules are final. Learned Additional Solicitor General says that these Model Rules will be circulated to all the State Governments for notification and implementation. We expect that on receipt of these Model Rules, necessary steps will be taken by the State Governments to notify and implement these Rules faithfully and sincerely.</p> <p>It is submitted by learned amicus curiae that there are already 63 open prisons in different parts of the country, but the existing capacity is not being fully utilized.</p> <p>We expect the State Governments concerned to not only try and utilize the existing capacity of these open prisons and if necessary increase the existing capacity of these open prisons in due course of time.</p>

		<p>The State Governments and Union Territory Administrations should also seriously consider the feasibility of establishing open prisons in as many locations as possible.</p>
8.	Detention centres	<p><b>Order dated: 2.11.18</b></p> <p><b>1. Setting up of New Detention Centre</b> Tenders have been invited for setting up of a new detention centre in Goalpara and the work is expected to be completed with Pre-Fab Tecnology within 31.08.2019. We expect the State of Assam to adhere to the timeline, more particularly since the executing agency is the Assam Police Housing Corporation Ltd.</p> <p><b>2. Reunion of families</b> There are 47 Declared Foreign Nationals/family members that are proposed to be transferred for being re-united. The affidavit states that since the detention centres are located at different places, the transfer process may take about 15 days.</p> <p>We are of the view that it would be inappropriate to keep the families separated without any valid reason, more particularly since many of them have already been separated for considerable period of time.</p> <p>Therefore, we require the State of Assam to speed up the process and complete it within a period of seven days and in any event within a maxmum period of ten days since sufficient time has already elapsed.</p> <p><b>3. Cooking gas facilities in detention centres of Tezpur, Silchar and Kokrajhar</b> Necessary steps are being taken to provide LPG pressure centres pipeline in these three financial year high jails-cum-detention 2018-2019.</p> <p>Some administrative approvals are required to be taken and tenders invited for this purpose. We expect the State of Assam to adhere to the timeline stated in the affidavit.</p> <p><b>4. Medical facilities in other detention centres</b> - It has been brought to our notice that there are medical facilities available in Goalpara Jail-cum-Detention Centre. The affidavit states that similar or better facilities will be provided in the Central Jail- cum-Detention Centres of Jorhat, Tezpur and Silchar.</p> <p>The upgrading of the medical facilities may take a little bit of time, but in the meanwhile, in the case of seriously ill patients, necessary steps are being taken with the assistance of the Department of Health Services to shift these patients to the nearest District Civil Hospital or any of the nearest Medical College hospitals for better medical treatment.</p> <p><b>5. Preparation of Detention Manual</b> Mr A.N.S. Nadkarni, learned Additional Solicitor General appearing for the Union of India says that the Detention Manual/Guidelines are under preparation and work is being</p>

		<p>taken up very seriously. In the meanwhile, some circulars, etc. have been issued.</p> <p>The Union of India will ensure that the requirements of the circulars/guidelines are adhered to by the State of Assam.</p> <p>Learned Solicitor General appearing for the State of Assam says that necessary steps will be taken to implement these circulars faithfully.</p>
9.	Preparation of Manual for Juveniles in conflict with law	<p><b>Order dated 05.02.2016</b></p> <p>Notice issued to the Secretary, Ministry of Women and Child Development to prepare a manual that will take into consideration the living conditions and other issues pertaining to juveniles who are in Observation Homes or Special Homes or places of Safety in terms of the Juvenile Justice (Care and Protection of Children) Act, 2015.</p> <p><b>Order dated 02.05.17</b></p> <p>It is stated by learned counsel for the Ministry of Women and Child Development, Government of India that a Manual has been prepared relating to the Living Conditions in Institutions for Children in Conflict with Law. The Manual should be circulated to all the State Governments/Union Territories expeditiously so that the suggestions and recommendations incorporated therein can be implemented, if necessary with State specific modifications.</p>
10.	Constitution of Supreme Court Committee on Prison Reforms	<p><b>Judgement dated 25.9.18</b></p> <p>12. The Ministry of Home Affairs in the Government of India shall forthwith issue a notification constituting a Supreme Court Committee on Prison Reforms consisting of:</p> <ol style="list-style-type: none"> <li>1. Hon'ble Mr. Justice Amitava Roy, former Judge of the Supreme Court as its Chair.</li> <li>2. Inspector General of Police, Bureau of Police Research and Development as its Member</li> <li>3. Director General (Prisons) Tihar Jail, New Delhi as its Member.</li> </ol> <p>13. The Committee will give its recommendations on the following issues as its Terms of Reference:</p> <ol style="list-style-type: none"> <li>1. Review the implementation of the Guidelines contained in the Model Prison Manual 2016 by States and Union Territories (UT's).</li> <li>2. Review the implementation by the States and UTs of the recommendations made by the Parliamentary Committee on Empowerment of Women in its report tabled in the Parliament titled 'Women in Detention and Access to</li> </ol>

Justice,' and the advisory issued by the Ministry of Home Affairs (MHA) in this regard.

3. To review the two training manuals for prison personnel prepared by Bureau of Police Research & Development (BPR&D), 'Training Manual of Basic Course for Prison Officers 2017' and 'Training Manual of Basic Course for Prison Warders 2017' and forwarded to States and UTs.

4. Review the recommendations made in the report of the Ministry of Women and Child Development in collaboration with the National Commission for Women and the National Law University Delhi on 'Women in Prisons'

5. Review the recommendations made in the report of the National Commission for Women on 'Inspection of Prisons/Jails/ Custodial Homes housing Women'.

6. Review the implementation by States and UTs of the Guidelines contained in 'Living conditions in Institutions for Children in Conflict with Law' prepared by the Ministry of Women and Child Development (MWCD) and the Model Rules and Procedures prepared by the MWCD under the Juvenile Justice (Care & Protection of Children) Act, 2015 and Juvenile Justice (Care and Protection of Children) Model Rules, 2016.

7. Review the status of the implementation of the guidelines and advisories issued by MHA to the States and UTs.

8. The Committee may give its consolidated recommendations based on the above and suggest measures to improve the implementation of the aforementioned guidelines and advisories, subject to budgetary resources available with the States and the Uts.

9. To examine the extent of overcrowding in prisons and correctional homes and recommend remedial measures, including an examination of the functioning of Under Trial Review Committees, availability of legal aid and advice, grant of remission, parole and furlough.

10. To examine violence in prisons and correctional homes and recommend measures to prevent unnatural deaths and assess the availability of medical facilities in prisons and correctional homes and make recommendations in this regard.

11. To assess the availability and inadequacy of staff in prisons and correctional homes and recommend remedial measures.

12. To suggest training and educational modules for the staff in prisons and correctional homes with a view to implement the suggestions.

13. To assess the feasibility of establishing Open Prisons, the possibility of and the potential for establishing Open Prisons in different parts of the country and give effect to the recommendations.

14. To recommend steps for the psycho-social well-being of minor children of women prisoners, including their

		<p>education and health.</p> <p>15.To examine and recommend measures for the health, education, development of skills, rehabilitation and social reintegration of children in Observation Homes, Places of Safety and Special Homes established under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015.</p> <p>16.Generally, any other recommendation that the Committee may deem appropriate, fit and proper in furtherance of reforms in prisons and correctional homes.</p> <p>17.The Committee while giving its suggestions and recommendations may also suggest changes or amendments to various guidelines contained in the Modern Prison Manual, 2016 and also various directives issued by the Government of India.</p> <p>14. The Committee is requested to give its recommendations in respect of the first three Terms of Reference, preferably within a period of three months from the date on which the necessary facilities are provided by the Government of India.</p>
11.	Prisoners on Death Row	<p><b>Judgement dated 13.12.18</b></p> <p>One of the important questions before us is: When could it be said that a convict is under the sentence of death? Could it be said that when the Trial Court convicts a prisoner and sentences him to death, then that prisoner is a death row prisoner? Or, could it be said that when the death sentence is beyond judicial scrutiny, that is after the sentence is upheld by this Court, the mercy petition is rejected and a challenge to the rejection is dismissed, then the prisoner is a death row prisoner?</p> <p>5. The issue must be considered in a humanitarian and compassionate manner. That apart the law laid down by this Court in Sunil Batra v. Delhi Administration and others is quite clear. It has been held in paragraph 223 of the Report that a prisoner under sentence of death can only mean a prisoner whose sentence of death has become final, conclusive and indefeasible and which cannot be annulled and voided by any judicial or constitutional procedure. In other words, a prisoner can be said to be a prisoner on death row when his sentence is beyond judicial scrutiny and would be operative without any intervention from any other authority. Till then, such a prisoner cannot be said to be under a sentence of death in the context of Section 30 of the Prisons Act, 1894. That being the position, as also mentioned in paragraph 101 of the Report, a prisoner is entitled to every creature comfort and facilities such as bed and pillow, opportunity to commerce with human kind, writing material, newspapers, books, meeting with family members etc.</p>

6. The above view has been reiterated in Sunil Batra (II) v. Delhi Administration in paragraph 42 of the Report and in Kishore Singh Ravinder Dev v. State of Rajasthan<sup>3</sup> in paragraphs 10 and 13 of the Report. In paragraph 10 of the Report in Kishore Singh, it was held that there is no difference between a separate cell and solitary confinement. Therefore, a convict on death row is entitled to move within the confines of the prison like any other convict undergoing rigorous imprisonment. However, certain restrictions may be necessary for security reasons, but even then, it would be necessary to comply with natural justice provisions with an entitlement to file an appeal.

10. With regard to the entitlement of a prisoner on death row to have meetings and interviews with his lawyers or members of his immediate family or even mental health professionals, we are of opinion that such meetings and interviews should be permitted. We follow the view expressed by this Court in Frances Coralie Mullin v. Administrator, Union Territory of Delhi. In paragraph 8 of the Report, it was specifically noted by this Court, after referring to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights that as a part of the right to live with human dignity, a prisoner is entitled to have interviews with members of his family and friends and no prison regulation and procedure to the contrary can be upheld as being constitutionally valid under Articles 14 and 21 of the Constitution unless it is reasonable, fair and just. Similarly, there cannot be any doubt that a prisoner must be entitled to have discussions with his lawyers so that he has effective legal representation and access to justice as well as remedies for justice. In our opinion, the law laid down by this Court in Frances Coralie Mullin would be equally applicable to death row prisoners for meeting mental health professionals for a reasonable period of time with reasonable frequency so that their rights can be adequately protected at all stages.

11. We make it clear that we have only reiterated the law laid down by this Court over several decades and which is based not only on the provisions of our Constitution but is also in conformity with international instruments. As held by this Court, the rights of prisoners as enunciated by this Court would be available not only in a particular State but would be available to them in all the States and Union Territory Administrations across the country. Accordingly, the State Governments and Union Territory Administrations must modify the prison manuals, regulations and rules accordingly.

12. We request the Justice Amitava Roy Committee to look into all the issues raised in the application in greater depth in

		addition to its Terms of Reference.
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