



**A campaign for enhancing Legal Services to
Women inmates and their accompanying
children in prisons**

NATIONAL LEGAL SERVICES AUTHORITY

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1. Introduction:-

All persons deprived of their liberty must be treated at all times with humanity and with respect for the inherent dignity of the human person.¹ Fundamental rights do not part company with the prisoners at the gates². Women are entitled to the equal enjoyment and protection of all human rights in the political, economic, social, cultural, civil and all other fields³. In prisons also it is imperative to ensure that Women prisoners do not suffer discrimination and are not subjected to any form of violence or exploitation.

Women Prisoners constitute a vulnerable group in prisons due to their gender. Most of the women prisoners lack awareness about their rights. Due to their separation from family, they are more prone to mental illness and depression. Women prisoners are vulnerable to sexual abuse and other forms of violence. Catering to the medical and nutritional needs of pregnant women prisoners is vital. Women in prisons generally have more health problems than male prisoners. Most women in prisons have little idea of their own health status and may be less aware than most people of healthy lifestyles. The problems are exacerbated in smaller sub-jails.

Many women prisoners being illiterate are not aware about judicial proceedings. Most of them remain unaware about the status of their cases. It is important to educate them about their right to appeal, availability of Free Legal Services and the utility of Jail Legal Services

1 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
2 Sunil Batra etc vs Delhi Administration And Ors 1978 AIR 1675
3 Convention on the Elimination of All Forms of Discrimination against Women

Clinics. In most of the cases, there is a delay in filing of their appeals. There are around 18,000 women prisoners in Indian Jails⁴.

About 1800 children below the age of six years are also living with their mothers in jails in India. In some cases, children have taken birth while their mothers were in the prison. Apart from facilitating preparation of identification documents, their rights qua nutritional, recreational health and educational needs are required to be protected and promoted.

The Hon'ble Supreme Court in R.D Upadhyay vs State of Andhra Pradesh & Others , AIR 2006 SC 1946_ recognized the Rights of Women Prisoners and Children living with their mothers in Jails. While acknowledging some positive steps taken in this regard, the court noted that “ a lot more is required to be done in the States and Union Territories for looking after the interest of the children” and went on to issue guidelines to ensure holistic development of the children of women prisoners inside prisons and pregnant prisoners. Apart from this, the Hon'ble Supreme Court in various other judgments has recognized various rights of Prisoners.

Legal Services Institutions are engaged in securing the rights of weaker sections of society. In view of the aforesaid scenario, this campaign has been devised to protect, secure and promote rights of women prisoners and children accompanying them in jails.

4 India's women prisoners population has ballooned 61% over the past 15 years, far outstripping the male growth rate of 33%, but infrastructure growth hasn't kept pace. (Hindustan Times, Jul 26, 2017)

2. Objectives of Campaign :-

- Making women prisoners aware about their rights and also of the functioning of the Legal Services Authorities so as to decrease their vulnerability.
- Securing the rights of pregnant women prisoners recognized in R.D Upadhyay case *supra*.
- Ensuring treatment of women prisoners suffering from mental illness and depression.
- Facilitating women prisoners' access to educational and vocational skills.
- Actualisation of health, educational and recreational needs of children.
- Facilitating preparation of identity documents of children living with their mothers in jails.

3. Suggestive Strategy :-

(i) Formation of team-

DLSA shall form a team consisting of two/three panel lawyers (preferably women lawyers), Psychologist, Lady Doctor(s), and an official from Department of Women and Child and an official each from Departments of Prison and Education and representative of NGO(s). The Department of Women and Child, Department of Prison, Department of Health and Department of Education may be apprised of the objectives of the campaign and requested to nominate officials from their departments.

(ii) **Engaging with NGOs:-**

Women after release from prisons generally require rehabilitation. In such a scenario, NGOs working for welfare of Women and Children ,especially those who are already working with the jail inmates, be identified and engaged in the process so that women after release from prison become self-sufficient. The women inmates who are likely to be released may be apprised of the said NGOs.

Some of the children living with their mothers in jails may be differentially abled. They require different approach. NGOs/Institutes working in said field may be identified in co-ordination with Jail authorities, Department of Women and Child and Department of Health so that health, recreational and educational needs of such children may be taken care of .

(iii) **Case Status of UTPs and Convicts:-**

As a preparatory step for the campaign, the DLSA shall make it convenient to collect the details of all the women UTPs, Convicts and detenues qua their district who are in jail.

Upon receipt of the name and case particulars i.e. FIR, Year, PS, District, Trial Court Name, Next date of hearing, DLSA under the guidance of Chairperson, DLSA, shall ascertain the current status of their trial from the respective courts. The team formed must be apprised of the said compilation so that activities under the campaign are conducted smoothly and effectively.

(iv) **Briefing of Team Members:-**

Team members be apprised of the objectives of the campaign and the various activities to be done under the campaign. They be apprised that under this campaign interaction with each of the women prisoners is required so that problems and legal needs of women prisoners are understood in right perspective. This is vital for providing appropriate and correct solutions to the problems.

In the workshop, team members be apprised of various rights of women prisoners, particularly, the rights upheld in R.D.Upadhyay Vs. State of A.P. & Ors.

Interactions with identified NGOs may also be held to assess and chart out course of action regarding rehabilitation after release.

(v) **Schedule of visits** : -

The DLSA concerned shall frame the schedule for the visits of the Team Members to the jails. The Jail Authorities be also intimated about it. The schedule shall also include organizing of camps including a camp for Health Check-up in Jails.

(vi) **Visits and interactions:-**

The team members shall visit jails and interact with each of the women prisoners. They shall carry out the activities envisaged under the present campaign. While carrying out the activities under the campaign due regard be given to the Jail Manual.

4. Activities under Campaign :-

Suggestive Activities under the Campaign are mentioned below. However, SLSA may modify/ add to it, keeping in view the prevailing conditions and circumstances.

(i) Legal Aid :-

During interaction with the undertrial/convicts & detinue women prisoners, the team may do the following activities:-

- Under-Trials be made aware about the status of their cases including the next date in their cases/bail applications etc.
- The Judicial process may be explained to them so that they get basic understanding of the process and the stages through which their case may pass.
- All the women prisoners be apprised about the availability of free legal services. They be also apprised about the functions of Legal Services Clinics in Jail so that they avail services being provided at Jail Legal Services Clinics.
- In case of unrepresented women prisoners, free legal aid be provided. Panel Advocates be deputed to represent them before Courts of law, Authorities/Board. Office of DLSA shall render necessary help in this regard to the team in case of difficulty in identifying such women prisoners.
- In case of women prisoners whose trials have not started yet, appropriate applications, as per the circumstances, may be filed before the court concerned so that the women prisoners do not languish without trial in the jails for infinite time without any trials.

- In case of convicts, it be checked as to whether their appeals have been filed or not. In this regard, necessary co-ordination be made ,as per circumstances, by DLSA and SLSA with High Court Legal Services Committee or Supreme Court Legal Services Committee, as the case may be.
- In case the appeals/SLPs have not been filed then appropriate steps may be taken like collection of documents such as copy of judgment, order on sentence, copies of chargesheet, copies of depositions, copies of documents exhibited etc., and the matter be processed further for filing of appeals/SLPs, after informing and taking the consent of the convict. Necessary co-ordination in such cases be made with High Court Legal Services Committee and Supreme Court Legal Services Committee.
- In case women prisoners (including detenues) except convicts are not being produced before the trial court/Board, the matter may be brought to the notice of concerned authorities and appropriate steps be taken. It be also ensured that detenues are represented before Authorities/Board.

(ii) Awareness Camp:-

Awareness camp in the jail may be held on any day during the said campaign. In the said camp, the following areas may be touched:-

- Women prisoners may be made aware about the types of legal services being provided by the Legal Services Authorities.
- Women prisoners be made aware about their rights as mentioned in the various judgments of the Hon'ble

Supreme Court such as R.D Upadhyay case (*supra*). They be apprised about their rights spelt out in the jail manual.

- They be also apprised about the Rights of Children living with them inside the Jail⁵ .
- Women Prisoners be apprised about the right of appeal in case of conviction. They be also apprised about bail.

(iii) Selection of Women inmates as PLVs:-

Some of the Women Prisoners amongst inmates be selected and trained as PLVs as per NALSA's Scheme for Para Legal Volunteers. The same will help in understanding the legal needs of women prisoners with better perspective and providing legal services accordingly. They be trained amongst other aspects about the Rights of Women Prisoners and the role they can play as Para Legal Volunteer for realization of those rights.

(iv) Identification and facilitating treatment of Women Prisoners suffering from mental illness/depression:-

As aforesaid, the team constituted under this campaign shall include Psychologist and govt. doctors. They shall examine each of the women prisoners to know as to whether women prisoners are suffering from any mental illness or depression. Help of other doctors from govt. hospitals, versed in the said subject, may also be taken for conducting the said exercise.

⁵ The Hon'ble Supreme Court in R.D Upadhyay *vs State of Andhra Pradesh & Others*, AIR 2006 SC 1946 , case upheld various rights of the children living with their mothers inside the Jails.

After identification of inmates suffering from mental illness or depression requiring treatment, appropriate steps in accordance with the advice of the doctor and in co-ordination with Department of Prisons may be taken for facilitating the treatment of such women prisoners.

(v) Securing rights of pregnant women:-

The nutritional and health needs of pregnant women prisoners are vital. The Hon'ble Supreme Court has recognized certain rights of pregnant women prisoners in R.D Upadhyay (supra) which inter-alia, includes the following:

- Before sending a woman who is pregnant to a jail, the concerned authorities must ensure that jail in question has the basic minimum facilities for child delivery as well as for providing pre- natal and post-natal care for both, the mother and the child.
- When a woman prisoner is found or suspected to be pregnant at the time of her admission or at any time thereafter, the lady Medical Officer shall report the fact to the superintendent. As soon as possible, arrangement shall be made to get such prisoner medically examined at the female wing of the District Government Hospital for ascertaining the state of her health, pregnancy, duration of pregnancy, probable date of delivery and so on. After ascertaining the necessary particulars, a report shall be sent to the Inspector General of Prisons, stating the date of admission, term of sentence, date of release, duration of pregnancy, possible date of delivery and so on.
- Gynaecological examination of female prisoners shall be performed in the District Government Hospital. Proper pre-natal and post-natal care shall be provided to the prisoner as per medical advice.
- As far as possible and provided she has a suitable option, arrangements for temporary release/parole (or suspended sentence in case of minor and casual offender) should be made to enable an expectant prisoner to have her delivery outside the

prison. Only exceptional cases constituting high security risk or cases of equivalent grave descriptions can be denied this facility.

Team shall examine and report on the aforesaid aspects. By coordinating with the Department of Health and Jail Authorities steps be taken by DLSA to secure aforesaid and other rights of such women prisoners. In case, filing of appropriate application before the trial court having the judicial custody of the prisoner is required, the same may be filed.

In appropriate cases, bail/parole applications of women prisoners may be filed.

(vi) Health Rights:-

A Medical Camp in Jail may be held for women prisoners, and, in the said medical camp, information be disseminated about preventive health care measures. Health Check-ups by lady doctors may be conducted in the said camp. It will cater to the health rights of women prisoners. It is also important because in case of communicable diseases such as tuberculosis other inmates including the children living with women prisoners may get infected.

Paediatricians may also be included in the medical camp to conduct medical examination of children so that their health rights are secured.

(vii) Securing Rights of Children :-

The Hon'ble Supreme Court in R.D Upadhyay case *supra*, inter-alia, observed that "A child shall not be treated as an undertrial/convict while in jail with his/her mother. Such a child

is entitled to food, shelter, medical care, clothing, education and recreational facilities as a matter of right”. Further the Hon’ble Supreme Court, inter-alia, observed as follows:

- Births in prison, when they occur, shall be registered in the local birth registration office. But the fact that the child has been born in the prison shall not be recorded in the certificate of birth that is issued. Only the address of the locality shall be mentioned.
- As far as circumstances permit, all facilities for the naming rites of children born in prison shall be extended.
- Female prisoners shall be allowed to keep their children with them in jail till they attain the age of six years.
- Children in jail shall be provided with adequate clothing suiting the local climatic requirement for which the State/U.T. Government shall lay down the scales.
- State/U.T. Governments shall lay down dietary scales for children keeping in view the calorific requirements of growing children as per medical norms.
- A permanent arrangement needs to be evolved in all jails, to provide separate food with ingredients to take care of the nutritional needs of children who reside in them on a regular basis.
- Separate utensils of suitable size and material should also be provided to each mother prisoner for using to feed her child.
- Clean drinking water must be provided to the children. This water must be periodically checked.
- Children shall be regularly examined by the Lady Medical Officer to monitor their physical growth and shall also receive timely vaccination. Vaccination charts regarding each child shall be kept in the records. Extra clothing, diet and so on may also be provided on the recommendation of the Medical Officer.

- In the event of a woman prisoner falling ill, alternative arrangements for looking after any children falling under her care must be made by the jail staff.
- Sleeping facilities that are provided to the mother and the child should be adequate, clean and hygienic

Team shall examine and report on the aforesaid aspects. By co-ordinating with the Department of Health and Jail Authorities steps be taken by DLSA to secure aforesaid and other rights of children living with women prisoners. In case filing of appropriate application before the trial court having the judicial custody of the prisoner is required, the same may be filed. Steps be taken to secure aforesaid and other rights of children. Preparation of birth certificates of children be facilitated by taking into account the directions given in R.D Upadhyay case *supra*. Health rights of children with special needs be also secured as per the advice of doctors and in co-ordination with identified NGOs/Institutions.

(viii) Access to education and vocational skills:-

The team members shall encourage women prisoners to undertake vocational trainings, as it may enable women inmates to earn a living and lead a self-supporting life after release.

If any woman prisoner has educational needs then in co-ordination with Department of Education and Department of Prisons etc. her access to education be facilitated.

NGOs engaged in empowerment/welfare of women by skill development etc. may be identified and requested to work for rehabilitation of women prisoners after their release.

(ix) Remediating acute unhygienic conditions:

In case the team notices acute unhygienic condition in Jails for women prisoners, it shall bring it to the notice of concerned DLSA by way of submitting report in that regard. DLSA shall, thereafter, take up the matter with the concerned departments so that necessary action is taken for remediating the situation and protecting the rights of women prisoners and children living with them, under law of the land. The matter be followed up till the situation is remedied.

5. Collaborative Departments:-

The following list is suggestive:-

- i. Department of Prisons
- ii. Department of Health
- iii. Department of Women and Child
- iv. Department of Education

SLSAs shall conduct meetings with the aforesaid departments regarding the present campaign so that co-ordinated approach is adopted for successful & meaningful completion of the campaign.

6. Expected Outcome:-

- ✓ Increased awareness amongst women prisoners of judicial process and availability of free legal aid.
- ✓ Legal representation before court of law of all women prisoners and ensuring timely filing of appeals.

- ✓ Increased awareness amongst women prisoners about their rights thereby decreasing their vulnerability.
- ✓ Actualisation of the nutritional/health rights of women prisoners including those who are pregnant.
- ✓ Actualisation of the Rights of children living with their mothers in jails including preparation of their identity documents.
- ✓ Increased access to educational and vocational skills of women prisoners.
- ✓ Identification and treatment of women prisoners suffering from mental illness and depression.

7. Duration:-

The campaign shall be for a duration of 10 days.

8. Follow up, Supervision and Compilation:-

DLSA shall take follow up action so that the legal services promised to and required by the women inmates and the children during the campaign are actually delivered.

Follow up, may spread beyond the duration of period of this campaign. The campaign shall be carried out under the supervision of SLSAs. The activities, achievement and learnings at the campaign shall be compiled by SLSAs and also shared with NALSA.



SLSA/DLSA _____ Name of the Jail _____

Inmate Profile

(To be filled up by DLSA team)

1. Inmate Detail

- 1.1 Name
- 1.2 Age
- 1.3 Father/Husband Name
- 1.4 FIR(s)
- 1.5 If in Jail in more than one case, details
.....
- 1.6 P.S/District
- 1.7 Offence in which she is in custody.....
- 1.8 In jail since.....
- 1.9 Trial Court(s) Name.....
- 1.10 Next date of hearing.....
- 1.11 In case a convict, whether appeal filed.....
- 1.12 Name of the court where appeal filed
- 1.13 Whether represented by advocate(tick) : Private/Legal advocate
- 1.14 Whether a child is living with the inmate in the jail
(If Yes, please fill form no. II)

2. Legal Aid Needs

- 2.1 Current Needs
-

2.2 Whether needs are adequately met.....

2.3 Comments

2.4 Action taken /recommended

3. Health Needs:-

3.1 Current Needs

3.2 Whether needs are adequately met.....

3.3 Comments

3.4 Action taken /recommended

4. Educational/Future Rehabilitation Needs

4.1 Current Needs

4.2 Whether needs are adequately met.....

4.3 Comments

4.4 Action taken /recommended

Date : _____

Signature _____

Proforma for Child

1. Particulars of Child

- 1.1 Name of child
- 1.2 Gender
- 1.3 Age
- 1.4 Identification documents such as
Birth Certificate/Aadhar Card Available/Not Available
- 1.5 Action taken/recommended
-
-

2. Nutritional/Health needs of the child

- 2.1 Whether Nutritional needs are met
- 2.2 Any health issues
-
- 2.3 Action taken/recommended
-
-
-

3. Recreational needs of the child

- 3.1 Creche/Nursery facility Available/Not Available
- 3.2 Action Taken/recommended
-
-
-

4. If child is above 4 years:

- 4.1 Whether going to school
- 4.2 Action Taken/recommended
-
-
-

Date: _____

Signature _____