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IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

VIKRAM NATH; J., SANDEEP MEHTA; J.

WRIT PETITION (CRIMINAL) NO(S). 162 OF 2025; JULY 16, 2026

NATIONAL LEGAL SERVICES AUTHORITY *versus* UNION OF INDIA & ORS.

Constitution of India, 1950 – Article 21 and Article 32 – Prisons and Inmates – Incarceration of Elderly and Terminally Ill Prisoners – Right to Live with Dignity - Writ petition filed by NALSA under Article 32 raising systemic concerns over the continued confinement of convicted/undertrial prisoners of advanced age (above 70 years) and those who are terminally ill – i. Suspension of Rights Denied - The Supreme Court observed that prisons are instruments of lawful confinement but not spaces where constitutional values are suspended - The guarantees of dignity, fairness, and humane treatment continue to operate with full force even behind prison walls - Prolonged detention under conditions of severe physical suffering and inadequate medical care results in the erosion of human dignity, converting lawful punishment into cruel, inhuman, or degrading treatment – ii. Locus Standi of NALSA - NALSA has the requisite *locus standi* to maintain public interest/social justice litigation to espouse the collective constitutional rights of vulnerable and marginalized sections under Section 4(d) of the Legal Services Authorities Act, 1987 - iii. Federal Competence vs. Judicial Restraint - While "prisons and persons detained therein" falls exclusively under the legislative domain of States (Schedule VII, List II), the Court holds that constitutional restraint cannot equate to constitutional abdication where persistent or systemic violations of fundamental rights occur. [Relied on *National Legal Services Authority v. Union of India & Ors.* (2014) 5 SCC 348; *Maneka Gandhi v. Union of India* (1978) 1 SCC 248; *Sunil Batra v. Delhi Administration* (1978) 4 SCC 494; *Dr. P. Varavara Rao v. National Investigation Agency* (2022 SCC OnLine SC 1004); Paras 17-38]

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J U D G M E N T

Mehta, J.

For clarity of exposition and to facilitate structured consideration of the issues arising in the present matter, this judgment has been organised under the following heads: -

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1. Heard.

2. The manner in which a constitutional democracy treats those who find themselves in positions of heightened vulnerability within its institutional framework is often the clearest reflection of its commitment to the rule of law and human dignity. Prisons, though instruments of lawful confinement, are not spaces where constitutional values are suspended. The guarantees of dignity, fairness and humane treatment continue to operate with full force even behind prison walls, where the power of the State is exercised in its most intrusive form and the vulnerability of individuals is at its highest.

I. INTRODUCTION

3. The instant writ petition has been instituted by National Legal Services Authority¹, under Article 32 of the Constitution of India raising grave and systemic concerns regarding the continued incarceration of convicted prisoners who are of advanced age (above 70 years) or are terminally ill. The petition highlights that despite their severely deteriorating health conditions and the manifest inadequacy of medical and caregiving facilities within prisons, such prisoners continue to remain confined, resulting in prolonged physical suffering and erosion of human dignity. It is contended that this state of affairs amounts to a direct infringement of fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India.

4. NALSA, in furtherance of its statutory mandate under the Legal Services Authorities Act, 1987, to lay down policies and frame mechanisms for making legal services easily accessible to the weaker sections of society, conducted a nationwide **Special Campaign for Old Prisoners & Terminally Ill Prisoners** between 10th December, 2024 and 10th March, 2025. Through this structured and comprehensive exercise, NALSA identified a distinct class of prisoners whose continued incarceration, despite advanced age or terminal illness, warrants immediate constitutional scrutiny, as their condition renders them particularly vulnerable to neglect, suffering and deprivation of dignity within the prison system. In the backdrop of the aforesaid exercise, and in discharge of its constitutional and statutory responsibilities, NALSA has, by way of the present writ petition, *inter alia*, sought directions for grant of bail and release of such identified prisoners, subject to the satisfaction of the respective learned trial Courts, so as to ensure that punishment does not degenerate into cruel, inhuman or degrading treatment and that the right to live with dignity is preserved even within the prison system. For the sake of ready reference, the reliefs sought in the writ petition are reproduced hereinbelow: -

“a. To grant bail to persons identified by the Petitioner under the Special Campaign for Old Prisoners & Terminally Ill Prisoners subject to the satisfaction of the respective Ld. Trial Courts; And/or

b. Pass any other order or relief in favour of the Petitioner in the interest of Justice, equity, and good conscience.”

II. FACTUAL BACKGROUND AND MATERIAL PLACED BEFORE THIS COURT

5. The present proceedings bring to the fore a distinct yet interlinked facet of the broader constitutional concern relating to humane conditions of incarceration, namely, the continued confinement of elderly and terminally ill prisoners within the prison system. The

¹ Hereinafter, being referred to as “NALSA”.

factual foundation of this issue is grounded in empirical data placed on record by NALSA, drawing substantially from official statistics and structured field-level campaigns/interventions.

6. According to the Prison Statistics India Report, 2022 published by the National Crime Records Bureau (NCRB), as on 31st December, 2022, there were a total of 1,33,415 convicted prisoners in India. Out of this population, 27,690 convicts, constituting approximately 20.8%, were aged 50 years and above. While the report does not specifically disaggregate data for convicts beyond the age of 70 years, it is evident that a non-trivial proportion of the prison population comprises elderly individuals, many of whom are likely to be afflicted with age-related morbidities and chronic medical conditions.

7. The NCRB data further reveals that a significant number of custodial deaths are attributable to illnesses, with medical causes emerging as one of the predominant factors leading to mortality within prisons. Aging-related complications also account for a substantial portion of such fatalities. These figures underscore the heightened vulnerability of elderly and terminally ill prisoners, particularly in an institutional setting that is structurally ill-equipped to provide continuous, specialized and dignified healthcare.

8. It is within this backdrop that the constitutional dimensions of incarceration assume critical importance. The right to life and dignity under Article 21 of the Constitution of India is not placed under cessation upon conviction. India's international obligations under instruments such as the Universal Declaration of Human Rights, 1948 and the International Covenant on Civil and Political Rights, 1966 reinforce the prohibition against cruel, inhuman or degrading treatment of persons in custody. The evolving standards of penology thus demand that punishment, even when lawfully imposed, must not transgress the boundaries of human dignity.

9. NALSA has brought to the notice of this Court that the executive branch has also acknowledged the constitutional imperative of addressing the plight of disabled, terminally ill and old aged prisoners. Judicial cognizance of this issue was first taken by the High Court of Delhi in ***Suo Motu Writ Petition (Criminal) No. 201 of 2009***, where an Hon'ble Judge, after a prison visit, expressed grave concern over the continued incarceration of prisoners who had no realistic chance of recovery. Pursuant thereto, the Government of India issued an Advisory dated 13th August, 2010 on the policy for treatment of terminally ill prisoners/inmates (TIPs), recommending, *inter alia*, that State Governments and Union Territories consider the release of such prisoners as part of general amnesty measures.

10. It is submitted that notwithstanding the existence of the aforesaid policy framework, instances continue to surface that reflect systemic inertia. By way of illustration, in a recent case, a 93year-old woman prisoner lodged in a prison in Karnataka, whose condition necessitated intervention of the District Legal Services Authority, which moved this Court seeking her release. In another case, the High Court Legal Services Committee placed before the Calcutta High Court the matter of a terminally ill undertrial prisoner, resulting in the grant of bail. These cases are symptomatic of a larger structural problem rather than isolated aberrations.

11. It is this backdrop that, in furtherance of its statutory mandate under the Legal Services Authorities Act, 1987, and with a view to address this systemic gap, NALSA initiated a ***Special Campaign for Old Prisoners & Terminally Ill Prisoners*** from 10th December, 2024 to 10th March, 2025. The said campaign represents the first nationwide, structured effort aimed specifically at identifying elderly and terminally ill prisoners and facilitating appropriate legal and administrative interventions.

12. Under this initiative, District Units were constituted across States and Union Territories, tasked with visiting prisons, scrutinizing medical records, interacting with inmates, and compiling verified data. A standardized methodology was adopted to ensure uniformity and reliability of identification.

13. Pursuant to the aforesaid exercise, information collated from various State Legal Services Authorities disclosed that a total of 5,393 prisoners were identified as falling within the broad category of elderly and/or terminally ill inmates. Out of this cohort, NALSA identified 11 convicts who were terminally ill and 84 convicts who were above the age of 70 years, spread across 17 States² and 1 Union Territory³ (who are party-respondents to the present writ petition), all of whom stand convicted by the respective High Courts but have not yet approached this Court by way of appeal or special leave petition.

14. The data placed on record includes detailed particulars, which collectively demonstrate that a segment of the prison population is presently undergoing incarceration in conditions that raise serious constitutional and humane concerns. These materials, annexed to the writ petition, form the empirical substratum of the present proceedings and exhort this Court to examine whether the continued confinement of such prisoners serves any legitimate penological purpose, or whether it amounts to punitive suffering divorced from constitutional morality.

III. PROCEEDINGS BEFORE THIS COURT

15. Upon consideration of the issues raised in the present writ petition, this Court issued notice to the respondents on 5th May, 2025 and called upon the Union of India and all States and Union Territories who were arraigned as party-respondents, to file their respective responses. Despite due service and sufficient opportunity, only the States of Bihar and Himachal Pradesh have filed their counter affidavits. The remaining respondents have failed to place any response on record, notwithstanding the constitutional significance of the issues involved.

16. Thereafter, the matter was heard at length on 18th July, 2025. Ms. Rashmi Nandakumar, learned counsel appearing for NALSA and learned counsels appearing for the responding States were heard on the merits of the case. Learned counsel for the parties were permitted to furnish written submissions.

IV. SUBMISSIONS OF THE PARTIES

A. NALSA

17. Ms. Rashmi Nandakumar, learned counsel appearing for NALSA, submitted that NALSA has the requisite *locus standi* to maintain the present writ petition, inasmuch as this Court has consistently relaxed the traditional rules of '*locus standi*' and 'person aggrieved' in matters concerning enforcement of fundamental rights of vulnerable and marginalized sections of society. It was urged that being a statutory body constituted under the Legal Services Authorities Act, 1987, NALSA has no private or personal interest in the outcome of the present proceedings and is acting purely in discharge of its public duty. Reliance was placed on Section 4(d) of the said Act, which obligates NALSA to undertake social justice litigation whenever issues of grave systemic injustice came to fore. Learned counsel further submitted that this Court has previously recognised and affirmed the standing of NALSA to espouse collective constitutional rights, including in ***National Legal***

² States of Andhra Pradesh, Bihar, Chhattisgarh, Haryana, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, West Bengal and Odisha.

³ National Capital Territory of Delhi.

Services Authority v. Union of India & Ors.⁴, where NALSA was permitted to represent the rights of the transgender community.

18. Learned counsel submitted that the continued incarceration of terminally ill and elderly prisoners constitutes a direct infringement of their fundamental rights under Article 21 of the Constitution of India, as the procedure which results in prolonged detention in conditions of severe physical suffering cannot be regarded as fair, just or reasonable. Reliance was placed on the judgment of this Court in ***Maneka Gandhi v. Union of India***⁵, to contend that any deprivation of life or personal liberty must conform to substantive due process. It was further submitted that in ***Sunil Batra v. Delhi Administration***⁶, this Court has read into Article 21 the right against cruel, inhuman and degrading punishment, and has expressly recognised the right of prisoners to health, humane environment and proper medical treatment. According to learned counsel, incarceration of persons suffering from terminal illness or those of advanced age in overcrowded and medically ill-equipped prisons subjects them to needless suffering, thereby rendering such detention constitutionally impermissible.

19. It was submitted on behalf of NALSA that, in addition to filing the present writ petition, NALSA has also undertaken institutional reforms including the revising of its Standard Operating Procedure⁷ for Under Trial Review Committees⁸ so as to systematically identify and address cases of terminally ill and elderly prisoners. The revised SOP now expressly includes both these categories within the scope of UTRC scrutiny, and mandates consideration of undertrial prisoners who are sick or infirm, including those who are terminally ill and require specialized medical treatment, as well as those who are aged 70 years and above, for humane and time-bound consideration. It was urged that this mechanism enables proactive, structured and timebound evaluation of such vulnerable prisoners for release on bail, parole or remission, thereby strengthening the institutional framework for protecting their dignity and right to health within the criminal justice system.

20. It was further urged that the concept of premature or compassionate release of terminally ill and elderly prisoners has gained wide acceptance in international practices. It was submitted that many nations have adopted humane policies recognizing that continued incarceration of such prisoners serves no legitimate penological purpose. Learned counsel submitted that this global trend finds its normative foundation in the Universal Declaration of Human Rights, 1948, and that India, being a signatory to international human rights covenants and guided by the constitutional mandate under Article 51(c) to foster respect for international law, ought to give due recognition to such standards within its domestic legal framework.

21. Learned counsel further submitted that, for the purposes of the present proceedings, this Court may consider adopting a principled and uniform definition of ***“terminal illness”*** as recognised in statutory and international frameworks, so as to ensure consistency and objectivity in the identification of eligible prisoners. In this regard, reference was made to the **Medical Treatment of Terminally-Ill Patients (Protection of Patients and Medical Practitioners) Bill, 2016**, which defined ***“terminal illness”*** as a condition causing extreme pain and suffering and which, according to reasonable medical

⁴ (2014) 5 SCC 348

⁵ (1978) 1 SCC 248.

⁶ (1978) 4 SCC 494.

⁷ For short, “SOP”.

⁸ For short, “UTRCs”.

opinion, will inevitably result in death, or a persistent and irreversible vegetative state under which no meaningful existence is possible. Reliance was also placed on the **UNODC⁹ Handbook on Prisoners with Special Needs (2009)**, which defines “**terminal illness**” as a situation where there is no reasonable medical possibility that the patient’s condition will not continue to degenerate and result in death. It was submitted that incorporation of such a definition would enable a fair, objective and humane application of any relief granted by this Court.

22. Learned counsel lastly submitted that this Court is fully empowered to mould appropriate relief in the present case in exercise of its jurisdiction under Article 32 read with Article 142 of the Constitution of India, particularly having regard to the evolving constitutional understanding of dignity, proportionality and humane treatment in punishment. It was contended that the failure of State authorities to devise and implement effective mechanisms for the protection and early release of terminally ill and elderly prisoners constitutes a continuing violation of Article 21 of the Constitution of India, thereby warranting judicial intervention and constitutional redress.

B. State of Bihar

23. Learned counsel appearing on behalf of the State of Bihar submitted that during the Special Campaign conducted by NALSA, a total of 13 prisoners were identified in the State, out of which 2 prisoners were suffering from terminal illness and 11 prisoners were above the age of 70 years. It was further submitted that in several cases, the procedure for premature release has either been initiated or placed before the competent authorities, while in some cases appeals are pending before the High Court or this Court or same are in the process of being filed. In a few (three) instances, prisoners have already been released pursuant to orders of the State Sentence Remission Board. The State placed on record detailed prison-wise and case-wise information regarding the status of appeals, health conditions and steps taken for premature release, and submitted that the objective of the campaign is being facilitated through coordination with legal services institutions, with a view to ensuring that eligible elderly and terminally ill prisoners receive appropriate legal and administrative consideration in accordance with law.

C. State of Himachal Pradesh

24. Learned counsel appearing on behalf of the State of Himachal Pradesh submitted that as on 15th May, 2025, there are no terminally ill prisoners lodged in the jails of the State, though a total of 17 elderly prisoners, comprising 5 undertrial prisoners and 12 convicts, are presently incarcerated. It was further stated that one inmate, namely Mastan Singh, lodged in District and Open-Air Jail, Bilaspur, is suffering from renal failure and is undergoing dialysis two to three times a week, in addition to receiving treatment from Postgraduate Institute of Medical Education and Research, Chandigarh and All India Institute of Medical Sciences, Bilaspur. The State expressed that it has no objection if this Court considers grant of bail to prisoners identified by NALSA under the **Special Campaign for Old Prisoners & Terminally Ill Prisoners**, subject to the satisfaction of the respective learned trial Courts and in accordance with law.

IV. ANALYSIS AND DISCUSSION

25. We have heard and considered the submissions advanced by learned counsel for the parties and have thoroughly examined the material available on record.

⁹ United Nations Office on Drugs and Crime.

26. At the outset, this Court considers it necessary to emphasise that the factual matrix placed before it does not merely warrant consideration of individual cases in isolation but raises issues of a systemic and institutional character. The present proceedings compel this Court to examine whether the existing legal frameworks, remission policies and executive advisories governing incarceration are being meaningfully implemented in practice, and whether there exists a need for a principled and uniform mechanism to ensure that advanced age and terminal illness are recognised not as exceptional contingencies, but as constitutionally relevant considerations in the administration of criminal justice.

27. It is relevant to note that the present proceedings arise in the backdrop of a nationwide **Special Campaign for Old Prisoners and Terminally Ill Prisoners** initiated by NALSA between 10th December, 2024 and 10th March, 2025. The campaign was conceived as a structured and time-bound intervention to identify prisoners who were either terminally ill or of advanced age, and to facilitate appropriate legal and administrative measures for their release and humane treatment. For this purpose, NALSA constituted a three-tier institutional mechanism comprising a National Unit, State Units and District Units, with the District Units tasked with visiting every prison within their respective jurisdictions and undertaking physical verification of such prisoners.

28. In order to ensure objectivity and medical consistency, the NALSA adopted the definition of “**terminal illness**” contained in the UNODC Handbook on Prisoners with Special Needs (2009), which describes it as “*a situation where there is no reasonable medical possibility that the patient’s condition will not continue to degenerate and result in death.*” The campaign was guided by clearly articulated objectives, namely, identification and release of elderly and terminally ill prisoners, ensuring humane treatment for those who could not be released, and facilitating their reintegration into society wherever possible. As a result of this exercise, data collated from the State Legal Services Authorities revealed that a total of 5,393 prisoners were identified, including 1,886 undertrial prisoners and 3,507 convicts falling within these vulnerable categories.

29. In order to operationalize the objectives of the campaign, NALSA further revised its SOP for UTRCs, thereby institutionalizing the process of identification and consideration of elderly and terminally ill prisoners. The revised SOP now expressly mandates UTRCs to examine the cases of undertrial prisoners who are sick or infirm, including those who are terminally ill and require specialized medical treatment, as well as those who are aged 70 years and above. This institutional reform ensures that vulnerable prisoners are proactively identified and that their cases are placed before competent authorities/committees for consideration of bail, parole or remission, thereby embedding humane principles within the routine functioning of the criminal justice system.

30. Significantly, the material placed before this Court also reveals that the issue of terminally ill prisoners is not a novel concern. As early as in 2010, pursuant to the directions issued by the High Court of Delhi in **Suo Motu Writ Petition (Criminal) No. 201 of 2009**, the Government of India issued a comprehensive advisory to all States and Union Territories laying down a policy framework for the treatment of terminally ill prisoners. The Advisory emphasized a duty upon the State Governments/UT Administrations to devise appropriate policies for identification of terminally ill prisoners, ensure specialized and continuous medical care, frame clear criteria for compassionate release, and facilitate interaction with family members. It categorically underscored that the State must resort to all possible legal measures to enable terminally ill prisoners to live

the remaining part of their lives with dignity, in peace and in the close vicinity of their family members and close friends.

31. The Advisory further called for constitution of District-level and State-level Medical Boards to certify cases of terminal illness within prescribed timelines, and exhorted State Governments and Union Territory Administrations to explore all available legal avenues, including general amnesty and petitions for clemency under Articles 72 and 161 of the Constitution of India. The existence of such a detailed and compassionate policy framework for over a decade reflects a clear and conscious executive acknowledgment that continued incarceration of terminally ill prisoners is not merely an administrative issue, but one that squarely engages the core constitutional values of dignity, proportionality and humane treatment embedded within Article 21 of the Constitution of India.

32. Despite the existence of this policy framework for over a decade, the factual material placed before this Court indicates that its implementation across States and Union Territories has been uneven and largely dependent on individual initiatives rather than systemic compliance. The persistence of large numbers of terminally ill and elderly prisoners within overcrowded prisons reflects a disconnect between normative policy commitments and ground-level execution. This institutional gap directly implicates the State's constitutional obligations under Article 21, which mandates not merely lawful detention, but detention consistent with dignity, fairness and humane treatment.

33. The constitutional jurisprudence of this Court consistently recognized that age and medical condition are relevant and often decisive considerations in matters of bail and premature release. In *Dr. P. Varavara Rao v. National Investigation Agency*¹⁰, permanent bail was granted on medical grounds to an elderly prisoner aged 82 years. In *Rasik Chandra Mondal v. State of West Bengal*¹¹, interim release was directed for a centenarian convict, acknowledging the challenges posed by advanced age. These decisions affirm that incarceration, when it results in avoidable physical suffering and denial of medical care, ceases to be a lawful restriction and becomes constitutionally impermissible. They underscore a settled constitutional principle: that punishment must not become retributive suffering divorced from proportionality, humanity and purpose.

34. Furthermore, the Law Commission of India, in its 268th Report, reinforced this constitutional position by advocating a liberal and humane approach to bail, particularly for prisoners of advanced age or suffering from serious illness. The Report expressly recommends mandatory bail where the accused is suffering from a life-threatening condition and adequate medical care is unavailable in custody, recognizing that continued detention in such circumstances only compounds suffering and serves no legitimate penological purpose. These recommendations reflect an evolving constitutional understanding of bail not merely as a procedural discretion, but as a substantive safeguard intrinsically linked to the right to live with dignity under Article 21 of the Constitution of India.

35. At this stage, it would be apposite to note that international legal standards lend substantial normative force to the position that continued incarceration of elderly and terminally ill prisoners is incompatible with principles of human dignity. Instruments such as the UNODC Handbook on Prisoners with Special Needs, the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), and the Council of Europe Parliamentary Assembly (PACE) Report uniformly recognize that prison

¹⁰ 2022 SCC OnLine SC 1004

¹¹ Writ Petition (Criminal) No. 313 of 2020

systems are structurally ill-equipped to provide adequate end-of-life or palliative care, and that compassionate or early release mechanisms are essential to safeguard the inherent dignity of such prisoners. Comparative state practice across jurisdictions further demonstrates that advanced age and terminal illness are widely treated as legitimate grounds for conditional or early release, subject to considerations of public safety and proportionality. In light of Article 51(c) of the Constitution of India, which enjoins the State to foster respect for international law, these standards assume persuasive constitutional relevance and serve as important normative benchmarks for the evolution of humane penological practices within the Indian legal system.

36. Viewed cumulatively, the material placed before this Court reveals not merely isolated humanitarian claims, but a deeper and systemic convergence of constitutional principles, executive policy, judicial precedents and international norms. The continued incarceration of elderly and terminally ill prisoners, in the absence of structured, transparent and consistent release mechanisms, or palliative care within the institutional framework raises fundamental questions about proportionality, dignity and the moral legitimacy of punishment itself. The present case thus calls for a systemic recalibration of criminal justice system, wherein vulnerability is not treated as an afterthought, but as a constitutionally significant determinant for humane treatment of prisoners.

37. At this juncture, it becomes necessary for this Court to examine the constitutional distribution of powers in relation to prisons and persons detained therein. Under the Schedule VII List II of the Constitution, the subject of “prisons and persons detained therein” falls exclusively within the legislative domain of the States, and the primary responsibility for framing, adopting and effectively implementing laws and policies in respect of prison rests with the respective State Governments and Union Territory Administrations. The obligation to operationalize reformatory and humane standards, therefore, lies squarely with these authorities, which alone possess the legislative competence and administrative control necessary to translate constitutional mandates into institutional practice. Failure to give effect to these frameworks does not merely reflect an administrative lapse, but results in a substantive erosion of the guarantee under Article 21, which mandates that incarceration shall not extinguish the right to live with dignity or the opportunity for reformation.

38. It must, however, be equally acknowledged that under the doctrine of separation of powers, this Court cannot assume the role of a legislature or embark upon law-making in areas expressly reserved for the elected branches of government. Judicial directions cannot transgress into the realm of legislative policy or supplant statutory frameworks, particularly in matters where the Constitution vests primary competence in the States. The role of this Court is not to legislate, but to interpret, enforce and give meaningful effect to constitutional guarantees, while remaining mindful of the limits of institutional authority and judicial restraint.

39. However, constitutional restraint cannot be equated with constitutional abdication. Where legislative or executive inaction results in persistent or systemic violations of fundamental rights, this Court cannot remain a passive spectator. In such circumstances, constitutional adjudication cannot retreat into silence, and this Court is duty-bound to issue appropriate directions to ensure that existing constitutional and statutory frameworks are effectively implemented and that the guarantees under Article 21 of the Constitution of India do not remain merely formal or illusory. It is in this limited but necessary supervisory role that this Court now proceeds to issue the following directions to the States and Union Territories.

V. DIRECTIONS

40. In exercise of the powers under Articles 32 and 142 of the Constitution of India, and in furtherance of the constitutional mandate under Article 21, this Court hereby issues the following directions to the Union of India as well as all the States and Union Territories: -

A. All States and Union Territories shall, within a period of three months from the date of this judgment, formulate and notify a comprehensive policy for early or premature release of prisoners who are of advanced age and/or are terminally ill. Such policy shall be framed in consultation with the respective State Legal Services Authorities so as to ensure institutional coordination and effective identification of eligible prisoners.

B. The said policy shall clearly define the eligibility criteria and procedural framework for consideration of release. In particular, the policy shall expressly provide a clear and uniform definition of ***“terminal illness”***. For this purpose, States and Union Territories may adopt, with such modifications as deemed appropriate, the definition contained in the **UNODC Handbook on Prisoners with Special Needs (2009)**, which describes terminal illness as *“a condition where there is no reasonable medical possibility that the patient’s condition will not continue to degenerate and result in death.”*

C. The policy shall mandate constitution of independent Medical Boards at the Divisional and State levels for objective medical assessment and certification of terminal illness or advanced medical vulnerability. Such Boards shall comprise suitably qualified medical professionals and shall conduct periodic reviews of identified cases.

D. The policy shall prescribe a time-bound, transparent and accessible procedure for submission, examination and disposal of applications for early or compassionate release. Procedural delays which result in prisoners spending their final months or years under incarceration shall be avoided, and all decisions shall be reasoned and subject to judicial review.

E. The policy shall be integrated with the functioning of Under Trial Review Committees (UTRCs), and such committees shall be mandatorily required to periodically review cases of prisoners who are terminally ill, of advanced age, or suffering from any other condition leading to physical incapacitation, as the case may be, and to recommend appropriate legal action including bail, parole, remission or release.

F. States and Union Territories may adopt the framework proposed by NALSA, as annexed to the present judgment as **Schedule A**, or modify the same to suit local administrative and legal requirements, provided that the core principles of dignity, proportionality and humane treatment are preserved.

G. The policy shall also provide for coordination with community health services, social welfare departments and legal aid institutions to ensure continuity of medical care and social support for prisoners released under compassionate grounds.

H. The entire process for consideration of applications for early, premature or compassionate release shall be mandatorily integrated with the National e-Prisons Portal. Every application shall be digitally registered and assigned a unique tracking number, and the portal shall record each stage of processing, including submission of the application, medical evaluation, reports of the prison authorities, recommendations of the Medical Board and the Under Trial Review Committee, decisions of the competent authority, and the reasons therefor. The e-Prisons portal shall facilitate time-bound processing through automated alerts and monitoring of statutory or prescribed timelines, ensure transparency and accountability in decision-making, generate periodic compliance reports, and enable

effective supervisory oversight by the State Government, the State Legal Services Authority, and other competent authorities, while maintaining appropriate safeguards for the confidentiality and privacy of prisoners' medical and personal information.

I. The Union of India shall, through the Ministry of Law and Justice, Ministry of Home Affairs and the National Informatics Centre (NIC) under the Ministry of Electronics and Information Technology (MeitY), provide all necessary technical support, digital infrastructure, software development, maintenance and capacity-building assistance to the States and Union Territories to facilitate effective compliance with the directions issued by this Court. The National Informatics Centre shall ensure that the e-Prisons portal is suitably configured, upgraded and maintained to enable seamless implementation of the framework directed herein, including digital processing, monitoring and tracking of applications for early, premature or compassionate release, and shall extend all necessary assistance to the States and Union Territories to ensure uniform, timely and effective implementation of these directions.

J. The Union of India through the Ministry of Law and Justice, and all the States and Union Territories shall file a compliance affidavits before this Court within six months, indicating the status of compliance with the directions issued hereinabove as well as the status of the formulation and implementation of the aforesaid policy, including data regarding the number of prisoners identified, released, and those presently under consideration.

K. A copy of this judgment shall be forthwith transmitted by the Registry of this Court to the Secretary, Ministry of Law and Justice, Government of India; Secretary, Ministry of Home Affairs, Government of India; the Secretary, Ministry of Electronics and Information Technology, Government of India; and the Chief Secretaries of all the States and Union Territories, for ensuring due compliance with the directions issued hereinabove.

L. The Registry is directed to implead the States of Arunachal Pradesh, Assam, Goa, Gujarat, Karnataka, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Uttarakhand, as well as the Union Territories of Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli and Daman and Diu, Jammu and Kashmir, Ladakh, Lakshadweep and Puducherry, as party-respondents in the present proceedings.

41. The directions issued hereinabove are intended to give meaningful effect to the constitutional guarantee of life with dignity and to ensure that the criminal justice system does not inflict needless suffering upon those whose vulnerability is manifest and irreversible. This Court reiterates that punishment must remain anchored in proportionality, humanity and the possibility of reform, and that incarceration cannot be permitted to degenerate into institutional neglect incompatible with the values of a constitutional democracy.

42. List on 19th January, 2027 for consideration of the compliance affidavits to be filed by the States and Union Territories.

SCHEDULE A

I. For Terminally Ill Prisoners:

Step 1	Initial screening and identification by Prison Medical Officer.
Step 2	Review by Undertrial Review Committee (UTRC) in accordance with the "UTRC Framework".

Step 3	Eligible Under Trial Prisoners/Convicts shall be referred to the District Medical Board, which shall determine whether the prisoner is “terminally ill”. Upon such determination, a certificate of terminal illness may be issued.
Step 4	The District Medical Board shall forward the names of recommended Under Trial Prisoners/Convicts to the State Government for consideration of release.
Step 5	In cases where the Under Trial Prisoners/Convicts are not recommended by the State Government for release, the concerned District Legal Services Authority (DLSA) may move appropriate applications, if not already filed.

II. For Old Aged prisoners:

Step 1	Review by Undertrial Review Committee (UTRC) in accordance with the “UTRC Framework”.
Step 2	UTRC, through the Prison Superintendent, shall forward the names of recommended Under Trial Prisoners/Convicts to the State Government for consideration of release, to be decided on a case-to-case basis.
Step 3	In cases where the Under Trial Prisoners/Convicts are not recommended by the State Government for release, the concerned District Legal Services Authority (DLSA) may move appropriate applications, if not already filed.

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