



24 March 2021

Jail Mail
“the bitter truth is that our prisons are overcrowded...”

Dear Friends,

Greetings from CHRI!

Today marks the completion of a year since lockdown restrictions were implemented as a result of the COVID-19 pandemic. On this day last year, the Supreme Court passed a series of [directions](#) in an effort to reduce the overcrowding in prisons after taking *sou motu* cognizance of the risks of COVID inside prisons. Today, as the new infections in the country are rising again, many prisons are preparing for the return of prisoners released during the pandemic. This has renewed fears regarding the contagion of COVID-19 in prisons.

The order on the 23rd of March, 2020 directed the setting up of High-Powered Committees (HPC) at the level of the state or Union Territory to oversee and monitor the decongestion efforts. The Court also called on all Under Trial Review Committees (UTRC), that were previously instituted in each district under the directions of the Court to review cases of prisoners, to meet on a weekly-basis.

CHRI's report [Responding to the Pandemic: Prisons and Overcrowding](#), studied the efforts of the HPCs of 24 states/UTs and the functioning of the UTRCs in 17 states/UTs between 1 April 2020 and 30 June 2020. It also analysed how these measures translated into changes in prison populations during this period. The key findings of the report are as follows:

▪ **Were High Powered Committees formed in all states/UTs?**

Yes, all 24 states that responded had set up HPCs. An average of three meetings were held in these states between 1 April and 30 June 2020.

▪ **Who were released?**

The Supreme Court in its order asked the HPCs to come up with their own categories for identifying prisoners for release. They provided the example of those who were convicted or were undertrials for offences carrying a maximum prescribed imprisonment of seven years or less, or those who were convicted for a lesser number of years than the maximum. Twenty-six states/UTs identified this as a category for release of undertrials, while 17 did so for convicts. However, seven states/UTs did not determine any other category for the release of prisoners.

- **Who were not released?**

The top five categories of cases that were excluded from being considered for release are cases involving crime against women (19 states/UTs); crime against children (19 states/UTs); offence under Narcotic Drugs and Psychotropic Substances Act (17 states/UTs); foreign nationals (13 states/UTs); and offences under Unlawful Activities (Prevention) Act (10 states/UTs). Others include offences against national security, terrorism cases, where they are being investigated by the NIA, CBI, ED, special police cells, etc., economic offences, and serious offences.

- **Whether the district-level Undertrial Review Committees had weekly meetings?**

Of the 17 states/UTs that provided data on meetings of the UTRCs, UTRCs were formed in only 231 out of the 284 districts. In the 11 states/UTs where month-wise and district-wise data was available, Mizoram had the lowest compliance with no meetings being held during this period. Chandigarh had the highest percentage compliance at 117%. Other states that held more than the minimum required meetings were Odisha (108%), Jammu & Kashmir(108%), Himachal Pradesh(106%), Sikkim(106%) and Goa (104%).

- **Did Undertrial Review Committees follow their mandate?**

Our analysis of the UTRC minutes of 21 UTRCs showed that while they positively contributed in implementing the directions of the HPCs, this came at the cost of their regular work that required reviewing of undertrials in prisons in the district to assess whether they fit into any of the 14 categories prescribed by the Supreme Court.

- **Did the efforts result in reduction of overcrowding in prisons?**

Yes, the efforts of the HPC and the UTRC resulted in an average fall in prison population in 22 states/UTs by 10.42% between 1 April 2020 and 30 June 2020. The overall occupancy in these states/UTs stood at 107.8% on 31 December 2019. It fell to 103.1% by 1 April 2020 and further came down to 93.3% by 30 June 2020. Still, states like Bihar, Jharkhand, Uttar Pradesh and Andaman & Nicobar islands saw an increase in population during this time. Moreover, a closer look at the prison-wise populations revealed that 27% of the prisons of these states/UTs were overcrowded on 30 June 2020.

A report released by DLA Piper with inputs from the Association for the Prevention of Torture (APT) titled [*A global analysis of prisoner releases in response to COVID-19*](#) estimated the total release of prisoners between March and July 2020 in the 53 jurisdictions studied to be at least 475,000. The report cited [*CHRI's data*](#) on prisoners released which stood at over 68000, which forms about 14% of the total prisoners released in the countries included in the study.

- **Who made it happen?**

While the pandemic proved that an exercise in decongestion was feasible, it would not have been possible without the coordinated efforts of all stakeholders including prison departments, legal services institutions and judiciary. The tireless efforts of the functionaries are worthy of applaud. Their steadfast efforts have thus far ensured that prisons do not become COVID-19 hotspots.

So, what next now?

CHRI believes that the HPCs need to be extremely cautious before revoking interim bails. If it is not done prudently, decongestion efforts would be rendered futile. It must be done by preparing prison-specific plans that ensure compliance with physical distancing norms and adequate healthcare infrastructure to handle the inflow of returning prisoners. Further, CHRI's report stresses on the need to work towards creating long-term strategies for reforms in the criminal justice system to ensure the sustainability of these efforts.

Towards this, the various stakeholders need to:

As Police

1. Ensure that arrests are compliant of legal provisions regarding arbitrary arrests including S.41A, B, C, and D of the Code of Criminal Procedure;

As Judiciary

1. Actively consider alternatives to imprisonment, such as the implementation of the Probation of Offenders Act, 1958;
2. Continue to periodically monitor the occupancy of prisons;
3. Work with relevant departments to develop plans to overcome the backlog in cases following the pandemic through improving the information, communication and technology (ICT) infrastructure;

As Prison Officers

1. Ensure effective communication between prisoners and their clients, framing clear guidelines regarding prison visits for lawyers, telephone facilities, etc;
2. Ensure proactive disclosure of information relating to prison occupancy, health of prisoners, etc. to ensure access to information for relevant stakeholders;
3. Work with the Social Justice department to develop reintegration plans for newly released prisoners/detainees to ensure their rehabilitation;

As State Government

1. Allocate additional budgets for prisons and recruit staff to fill in vacant positions;
2. Work to improve the healthcare facilities inside prisons and develop prison-specific health care plans with medical experts;

As Legal Services Institutions

1. Strengthen the Prison Legal Services Clinics in prisons, inform prisoners on the status off their cases and conduct legal awareness sessions in prisons.

You can also write to us at chripriprisonsprog@gmail.com with comments and suggestions.

With best regards,

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