



Commonwealth Human Rights Initiative

New Delhi, India. London, UK. Accra, Ghana

New Delhi, India. London, UK. Accra, Ghana

NGO with Special Consultative Status with the Economic & Social Council of the United Nations

International Director
Sanjoy Hazarika

13.04.2021

Senior Advisor
Maja Daruwala

To

Hon'ble Mr. Justice Sharad Arvind Bobde

Chief Justice of India

Supreme Court of India

Tilak Marg

Mandi House

New Delhi 110001

International Advisory Commission
Alison Duxbury - Chairperson
Wajahat Habibullah
Joanna Ewart-James
Sam Okudzeto
Sanjoy Hazarika

Executive Committee (India)
Wajahat Habibullah - Chairperson
B. K. Chandrashekar
Kishore Bhargav
Jayanto Choudhury
Maja Daruwala
Nitin Desai
Kamal Kumar
Madan B. Lokur
Poonam Muttreja
Jacob Punnoose
Vineeta Rai
A P Shah
Sanjoy Hazarika

Executive Committee (Ghana)
Sam Okudzeto – Chairperson
Akoto Ampaw
Kofi Quashigah
Emile Short
Juliette Tuakli
Sanjoy Hazarika

Director, Africa Office
Wilhelmina Mensah

Executive Committee (UK)
Joanna Ewart-James – Chairperson
Pralab Barua
Owen Tudor
Emma Kerr
Sanjoy Hazarika

Director, UK Office
Sneh Aurora

Sub: Request to take cognizance of rising COVID-19 infections inside prisons amid the second wave of the pandemic

Respected Chief Justice:

Kindly accept respectful greetings and good wishes from the Commonwealth Human Rights Initiative (CHRI).

CHRI has been engaged in issues related to access to justice and access to information for more than two decades. In particular, it focuses on issues related to systemic reform of prisons and policing. It has had an impact on influencing policy changes and ensuring compliance by duty holders. A short note about CHRI's Prison Reforms Programme is enclosed here.

When Coronavirus (COVID-19) was declared a global pandemic on 11th March, 2020, the Supreme Court of India was quick to recognise the possible threat this could pose to the prisoners in many overcrowded prisons across the country.

The order on 23 March 2020 in *IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS*, directed states/UTs to constitute a High Powered Committee in each state and called for weekly meetings of the Under Trial Review Committee (UTRC). CHRI's report, *Responding to a Pandemic: Prisons and Overcrowding*, released on 19 December 2020, 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.

Our analysis of the available data showed that:

- 1) 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. However, a closer look at the prison-wise occupancies of 19 states and two UTs reveal that 27% of the prisons of these states/UTs were still overcrowded.
- 2) While this is a health crisis that is disproportionately impacting senior citizens, it is disappointing to note that only five state HPCs (Mizoram, Punjab, West Bengal, Delhi and Jammu & Kashmir) considered cases of elderly prisoners for release.
- 3) Barring the three HPCs (Mizoram, Punjab and Delhi), no other HPC considered undertrials who were suffering from co-morbidities, chronic diseases and pre-existing conditions like chronic diabetes, HIV, serious neurological issues, chronic lung and kidney disease, severe asthma, heart condition, cancer, Hepatitis B or C, Tuberculosis, etc.
- 4) Regarding compliance to the direction of setting up a state-level monitoring team to ensure that the directives issued with regard to prison and remand homes are being complied with scrupulously, the HPC minutes of only Haryana, Odisha, Punjab, Uttar Pradesh and Chandigarh provided compliance with the said direction.
- 5) While the UTRCs contributed towards the implementation of the directions given by the HPCs, it is also a matter of concern that while doing so, they did not concurrently conduct their usual course of work by reviewing the 14 categories of cases prescribed. Only nine out of the 21 UTRCs, whose minutes were analysed by the CHRI, reviewed all mandated categories as ordered by the Supreme Court, and as prescribed in the NALSA SOP on the functioning of UTRCs.

While most of the HPCs and the High Courts have ordered the return of released prisoners, many prisons are again facing overcrowding. As a result, it is extremely challenging for prison staff to implement physical distancing norms.

For instance, in Delhi, the prison population has reportedly reached 20,000 for the first time against the capacity of 10,000.

Last week alone, infections within prisons have been reported from Delhi, Andhra Pradesh, Madhya Pradesh, Uttar Pradesh and Punjab. The sudden second wave of infections underlines the urgent need to contain the spread of the virus in prisons.

We respectfully submit that should you take cognizance of this issue, prisons across the country would be pressed to address the health and safety of prisoners. Special attention may be paid to those individuals above 60 years of age or with other comorbidities. Towards this, it is our view that the High Powered Committees may be directed to hold meetings to review the situation in their respective states. CHRI has prepared formats for a review process which would enable the HPCs to seek periodic reports from the prison departments.

Thank you for your time and consideration.

With respectful regards and wishes for good health during these times.



Sanjoy Hazarika
International Director
Commonwealth Human Rights Initiative
3rd floor, 55A, Siddhartha Chambers, Kalu Sarai New Delhi- 110 016
Tel: +91-11-43180207 (Direct), +91-11-43180200 Extn.-207 (Board)
Fax: +91-11-4318 0217