Prisons and Protection of Rights during the Pandemic

The following submissions made by the Police and Prisons Monitor, Mrs. Maja Daruwala, must be read with all the attached submissions which have come from various different sources. The recommendations aim to assist the NHRC in devising protocols/advisories for prison departments across India to ensure preparedness, prevention and control mechanisms in the prisons that will go toward minimising risks to inmates who are not required to accept undue risk to life when they are already deprived of liberty.

With each passing day COVID-19 continues to affect the lives of thousands of prisoners in India. The pandemic has led to severe curbs on rights of prisoners, particularly their communication with family and lawyers, access to courts, access to medical care, access to rehabilitation and vocational facilities. These exacerbated vulnerabilities of prisoners have been recognised worldwide, and has been at the center of several statements and calls upon governments to prioritise prisons during the pandemic. The World Health Organisation (WHO) in a joint statement with UNODC, OHCHR and UNAIDS, drew the attention of world leaders to the “heightened vulnerability of prisoners and urged them to take all appropriate public health measures in respect of this vulnerable population”\(^1\). Terming physical distancing and self-isolation as practically impossible inside prisons, United Nations High Commissioner for Human Rights, Michelle Bachelet, too had urged governments to find ways to release prisoners, especially those vulnerable COVID-19.\(^2\)

In India, in addition to the extensive curbs on several prisoners’ rights, the pandemic has resulted in an increased burden on the already under-resourced prison system, both financially and in terms of human resources – with funds having to be diverted to respond to the crisis and staff and families facing the risk of contracting the virus. The situation has laid bare the deficiencies of the prevailing medical healthcare provisions within prisons, and heightened concerns of staff vacancies and increasing workload. With suspension of regular court work and continuance of only “urgent hearings”, case pendency’s are likely to increase many-fold. These will again impact prison populations, increasing periods of detention pending trial. Similarly, with appeal hearings delayed, and early release processes stalled, convicts will remain confined for longer durations. These limitations and curbs on prison processes are likely to negatively affect the ability of the prison system to improve or even to keep up the standards it struggles to maintain today.


General Assessment

While prison departments across the country have taken various precautionary measures to respond to the pandemic, reports of rights violations and continued spread of the virus are frequently reported. As on 9th August 2020, more than 3100 prisoners and prison staff had already tested positive, and 11 had died. Given that prisoners are entirely at the mercy of state and in their care when in custody, it is only governments that must be held accountable for exposing prisoners to unreasonable risk and must be responsible for ensuring a high degree of safety in an environment that they alone control. The Central and state governments must adhere to national protocols and international standards in ensuring that rights of prisoners are not compromised during the pandemic. The role of the National Human Rights Commission (NHRC) as a statutory authority that protects the rights of all and monitors prisons assumes much importance in this situation. Therefore, in order to mitigate the cost of human life and reduce the risk of prisons becoming hotbeds of COVID-19, the following steps are proposed to be undertaken by the State Governments, Central Government and the NHRC. This note is a summation of key recommendations, national and international good practices, and other practical guidance to assist in decision making processes by relevant authorities.

Developments since March 2020

Early in the pandemic, much before the rise of cases in the country the Supreme Court took suo moto notice of the threat posed to prisons. In re: Contagion of COVID-19 Virus in Prisons. In its 16th March, 2020 order the court stated, “the bitter truth is that our prisons are overcrowded, making it difficult for prisoners to maintain social distancing. Studies indicate that contagious viruses like COVID-19 proliferate in closed spaces such as prisons. Studies also suggest that prison inmates are highly prone to contagious viruses. The rate of ingress and egress in prisons is very high, especially since persons (accused, convicts, detenues etc.) are brought to the prison on a daily basis. Apart from them, several correctional officers and other prison staff enter the prison regularly, and so do visitors (kith and kin of prisoners) and lawyers. Therefore, there is a high risk of transmission of COVID-19 virus to the prison inmates... We are of the opinion that there is an imminent need to take steps on an urgent basis to prevent contagion of COVID-19 virus in our prisons.”

6 Section 12 (C) of the Protection of Human Rights Act, 1993, underlines the functions of the NHRC and enables it “…to study living conditions of inmates thereof and make recommendations thereon to the Government.” Further, Justice J.S. Verma, the former Chairperson of the commission while speaking in a seminar on ‘Prison Reforms’ said the role of the commission is to “improve the quality of governance of authority and public functionaries, and indicate the areas of inefficiency.”
7 Suo motu writ petition (Civil) No. 1/2020
Subsequently, in its order dated 23rd March, it directed measures to all states and UTs for reducing overcrowding in prisons. To assist in this, it directed the constitution of High-Powered Committees in each state/UT to determine the categories of prisoners to be released on interim bail/parole or furlough to reduce overcrowding in prisons. Subsequent to these decongestion efforts, as on 13th July, a total of 61,100 prisoners are reported to have been released from states/UTs, leading to a reduction in occupancy rates by approximately 15.4%.8

In May, the Ministry of Home Affairs (MHA), Government of India had, in view of the increased vulnerability of prisoners to the COVID-19 and the rise in number of positive cases in prisons, issued an advisory.

This advisory9 has been sent to the Chief Secretaries, DG/IG of police departments and DG/IG of prison departments of all States and UTs. Among other useful guidance, the advisory contains the Standard Operating Procedure (SOP) for Handling Arrested Persons, Detainees and Inmates during the Pandemic, prepared in coordination with BPR&D and Ministry of Health and Family Welfare, for the safe custody, medical care, transport while avoiding transmission of COVID19 and also ensuring safety of prison staff.

A. **RECOMMENDATIONS TO STATE GOVERNMENTS**

It is an essential ingredient of all protocols/advice/guidance* given here that they must be designed and implemented so as to maximize the rights of all prisoners without discrimination or unnecessary restrictions being imposed. It must be the endeavor of administrations to ensure conditions and practices respect these fundamental rights and are not imposed for the ease of administration to the detriment of inmates.

Since prisons is a state-subject, the primary responsibility of prison management lies with the respective State Governments. While state governments have adopted a number of measures to address the situation and mitigate the spread of the virus,10 to further address the future repercussions of this situation, the following issues require urgent and affirmative action.

The suggestions in this note do not deal with the long existing structural short falls within the prisons system. Ideally more financial assistance to prisons particularly targeted to ensuring many of the suggestions below are implemented would increase the possibilities of practical implementation. As would filling vacancies, sanctioning more staff, appointing social workers,

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8 This figure does not account for number of admissions in prisons during this period. See https://www.humanrightsinitiative.org/content/stateut-wise-prisons-response-to-covid-19-pandemic-in-india.

9 MHA advisory titled “Management of COVID-19 in Indian Prisons - guidelines and protocols which may be followed while dealing with persons arrested, detained and those in Prisons and Correctional Homes”

* For the purposes of this document, these terms are used interchangeably.

10 As submitted to the Supreme Court through affidavits, and as shared in the national consultation.
and upgrading infrastructure and staff capacity. For details of structural capacity of prisons to function to benchmarks see. India Justice Report: Ranking states on police, judiciary, prisons and legal aid - Surveys and Reports - Tata Trusts.

1. Ensure essential healthcare facilities in every prison

Almost without exception prisons work with inadequate medical and nursing staff. Medical escorts to take prisoners to local hospitals are in short supply. There is perennial lack of knowledge among prisoners - and often amongst staff – about the high levels of personal hygiene that has to be maintained in an enclosed environment. Delay in providing immediate assistance to the sick or getting them to essential care are common everywhere but even more acute in small districts and rural areas. With the prolonging pandemic the following must be addressed on urgent basis –

   a) Setting up of Special Task Force for the implementation of COVID-19 measures as adopted by Delhi, Punjab and Uttar Pradesh.\textsuperscript{11}

   b) Fill up vacancies of medical officers and para-medic staff on a war footing – preferably not beyond the next six months. In the meantime, in prisons where there are only visiting doctors available, efforts can be made to explore collaboration with local private doctors as the pressure on the public healthcare system would be immense.

   c) Mobile and computer compatible apps are now easily available for quick remote consultation advice and prescription. Prison administrations need to ensure that these apps are live and available to prisoners. Put in place tele-medicine links or use/adapt already existing teleconferencing\textsuperscript{12} facilities for consultation with doctors and health workers on a regular basis so as to receive prompt advice and prescriptions.

   d) Train through collaboration with local health resources including medical colleges a number of convicts in each prison in paramedical skills (including the recognition of stress) and particularly in recognizing Covid-19 symptoms. This can be done with staff as well. It can be done via video on whatsapp or other such digital applications.

   e) Create collaborations and protocols with local and specialist hospitals so that inmates and staff can quickly be provided appropriate testing and treatment.

\textsuperscript{11} WHO also emphasised on the need to “establish an up-to-date coordination system that brings together health and justice sectors, keeps prison staff well-informed and guarantees that all human rights in these settings are respected”.

\textsuperscript{12} In California, CDCR has solicited correctional and health care staff from other institutions to fill behind vacant posts. More than 40 nursing staff from CCHCS have been redirected from other institutions and headquarters. In New York, the state has asked nurses from its Office for People with Developmental Disabilities and the Office of Mental Health to consider transferring to treat prisoners.
f) Display visual representation of the symptoms of the contagion in various parts of the prison.

g) Ensure the availability of thermal scanners and non-contact thermometers for prompt and early detection of the contagion, especially at entry at exit locations and times.

h) Create protocols for incoming and outgoing inmates such that they are tested for infection at both times.

i) Allow inmates access to medical records (it is their right) and ensure family members are informed of their condition and treatment.

j) Collaborate with local authorities and locally stationed security personnel to ensure the ready availability of escorts at all times so that any suspected patient can be immediately taken to the nearest government hospital/authorised place for further testing and isolation.

k) Review dietary provisions to include known foods that enhance immunity and build resistance. In addition, provide for adaptations in diet needed in the case of prisoners with underlying conditions, pregnant women, elderly, disabled and other vulnerable groups as per the provisions of the Model Prison Manual 2016.

l) Prepare protocols that are particular to the care of women in special circumstances, for instance, inmates who are pregnant, who are facing imminent childbirth and who are lactating. Protocols must ensure their dietary, hygienic, sanitation requirements.

m) Lack of hygiene essentials heightens risk of transmission. Earlier shortages of these items were made up visiting family members. Now essential items like soap, detergent, hair oil, toothpaste and toothbrush must be provided to all inmates regularly, free of cost so that basic personal hygiene and sanitation can be maintained.

n) Create more spaces for bathing and more mobile toilets for inmates.

o) Create timing and periodic rosters and reporting mechanisms that relate to all aspect of sanitization, health and hygiene and ensure daily records of the same are kept. This includes: inspection and sanitation of prison premises, (offices, barracks, common areas, hospital wards, kitchens, toilets and vehicles) inmates bathing and washing routines.
p) Ensure some space is kept aside and available for incoming inmates where they can be kept for the necessary time to ensure they are uninfected. Whether ill or healthy it is necessary to mention here that this sequestration is to minimize possible transmission and must not be of the nature that effectively resembles ‘solitary confinement’. No restrictions beyond ensuring physical distancing should be imposed.

q) Establish prompt and efficient channels of reporting to ensure both inmates and prison staff can inform the medical facility within the prison of symptoms or illness.

r) Protocols must be in place to review general health and categorise inmates as either low, medium or high risk. In particular to periodically check the health of vulnerable inmates who are old or suffering from co-morbidities from the general population. These inmates must be identified, their individual histories recorded and assisted to be away from the general population as well as given assistance if ill.

2. Ensure prisoners’ communication with families and lawyers
The prohibition on physical mulaqat and frequent imposition of lockdowns in different parts of the country has broken communication between inmates and their families and caused great hardship. The inability to meet with lawyers has meant that inmates’ right to representation and preparing a defense has also been negatively affected. It becomes the duty of the state to put in place practices to ameliorate hardship to the family as well as to put in place means by which every inmate is ensured easy access to his lawyer.

a) Whenever and wherever lockdowns have been relaxed, authorities must make immediate arrangements to resume safe physical visitations by family and lawyers to the facility and not continue with restrictions merely for administrative convenience. Other jurisdictions, for instance, UK, Scotland and Ireland offer adaptable guidelines for screening, the number of visitors, clearing items, and advance sanitization of spaces before every visit.

b) In addition, protocols must ensure there is close collaboration with legal aid authorities and local bar associations to effectuate widely publicised flexible arrangements for lawyers to confer effectively with clients as relevant to their case. This can involve phone calls, video or audio linking in a safe space where there is requisite privacy for consultation. This is not a privilege but a right and therefore the possibilities should be maximised. Legal services institutions that link to remote and village Common Services Centres, and the tele-law scheme, a joint effort of the Law
and Justice and Electronics and Information Technology Ministries can also be mandated to collaborate to facilitate video-calling to family.

(c) Mobile phones are widely used across India. They are inexpensive and a familiar means of communication amongst even the most disadvantaged. To effectuate communication between inmates, lawyers and families, greater access to phones must substitute for restricted physical meetings. Each prison sub jail or other detention facility must augment available official mobile phones so that prisoners can turn by turn regularly communicate with their families and lawyers. Dedicated lines that allow for vocal messaging are also a possibility, as done in France. These are easy and doable options. Every sub-jail and other facility must develop protocols to ensure all inmates have regulated but adequate access to phones and work through schemes with local legal aid authorities and bar associations to ensure this. A number of phone calls should be permitted free of costs.

3. Ensuring mental well-being of prisoners and prison personnel

Additional restrictions due to COVID-19, increased isolation, anxiety and uncertainty, alongside loss of communications with family and lawyers exacerbated mental stress. Prison staff too face mental health issues while adapting to changed circumstances, coupled with understaffing and inadequate health care facilities. To mitigate the stress, and improve mental health and wellbeing, communication and effective monitoring is the key.

(a) Health protocols must recognise that mental illness is real and have arrangements in place to recognise and deal with its various manifestations which can be mild or extreme, self-harming or violent and overt or obvious. These can include regular sessions on yoga, meditation, group counselling and meetings, the availability of recreational opportunity and professional counselling from trained staff and collaborations with local organisations and institutions.

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13 Department of Justice Launches Tele-Law: Mobile Application & Dashboard and Nyaya Bandhu (Pro Bono Legal Services) Mobile Application

14 In UK, as per the guidance issued by the government, secure video calling has been introduced in some prisons across England and Wales with a wider rollout in the coming weeks. Video calls are free for both prisoners and their families while we are dealing with the Covid-19 outbreak. Video calls would be provided through secure laptops in a designated room in each establishment and each prisoner allowed one video call per month, lasting up to 30 minutes.

15 In UK, the Ministry of Justice issued guidance which provides that for those who are unable to physically visit, there are other ways of contacting someone in prison, such as leaving voicemails using the Prison Voicemail Service. 900 locked mobile phone handsets had been rolled-out for use in establishments without access to in-cell telephony, allowing them to speak to a small number of pre-authorised contacts.

16 The French government passed an ordinance (2020-303 of March 25, 2020) adapting rules of criminal procedure urgently to deal with the Covid-19 epidemic. Article 13 of the ordinance provides “the interview with a lawyer of the person in custody or detention, as well as the assistance of the person by a lawyer during his hearings, may take place via an electronic means of communication, including telephone, under conditions guaranteeing the confidentiality of the exchanges”.

17 In Spain 200 mobile phones have been bought and the Prisons Legal Advice Service (Provided by Bar Associations) will continue to offer support through videoconference. In Italy, 1,600 mobile phones are bought and 1,600 more to be purchased by the Penitentiary Administration. The increase in the telephone calls, beyond the limits set by the legislation currently in force, free of charge for all inmates.
b) Staff and convict prisoners can be oriented to identifying people under stress and provide psychological first aid or peer counselling. Literature and audio-visual aids shown through in-barrack television, designed with psychologists/mental health experts, providing information and tools which can be used to maintain a sense of wellbeing must be issued, as done in Scotland. Staff is also provided guidance on coping mechanisms to protect them.

c) The continuity of occupations goes a long way to calm mental stress. Protocols and arrangements to continue prison occupations and permit those studying to continue their education must be part of prison management during this time and in the future. Italy provides a good example of facilitating ongoing school and education courses, final exams and tests through video-conference as done in.

d) Protocols to collaborate with various civil society organisations and charities to assist in the psychological and counselling services whether though phone calls or online via video conferencing can also be devised in order to get professional and competent mental health related services for both inmates and staff.

4. Release of prisoners

As the Chief Secretary of the state/UT and the head of the prison department are part of the High-Powered Committees (HPC), set up under the directions of the Supreme Court of India, they can consider (if not already considered) expanding the categories of release of prisoners to include,

a) Consider releasing undertrials who are unable to pay fines or pay for bail money or to produce personal bail.\(^{18}\)

b) Release convicts with long-term sentences and who have six months to be released.\(^{19}\)

c) Consider releasing undertrials and convicts who are above 60 years of age on temporary bail or parole; prisoners with existing health conditions including mental illness and disabilities.

d) Female prisoners, especially prisoners accompanied with children, pregnant or facing imminent childbirth must be released on high-priority by the High-Powered Committees. In addition, care must be taken by prison authorities to make enquiries

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\(^{18}\) Sri Lanka released some 8,000 prisoners on bail, on the directives of the President as per the recommendations of a special committee that gave relief to the prison inmates. The relief scheme covered inmates who are unable to pay fines or pay for bail money or to produce personal bail, imprisoned for minor offences and those who had completed the better part of their prison term or inmates suffering from illnesses and those who have not been granted bail have been considered under this relief scheme.

\(^{19}\) Kenya and California Department of Corrections and Rehabilitation (CDCR) has released those who have been there for a long time but have just about six months and below to go.
into their social support system outside and ensure they are not sent to worse circumstances.

e) Postponing the enforcement of up to six months sentences and fine conversion sentences.\textsuperscript{20}

f) Granting of pardon to those with a maximum sentence of three years and those approaching their release.\textsuperscript{21}

g) Release of undertrials (if convicted) who would be eligible to be released under the provisions of the Probation of Offenders Act, 1958.

h) Transferring eligible convicts to open prisons by liberalising rules to ensure full utilisation of open prisons in the state.

i) Allow house arrest to some inmates over the age of 65, pregnant female inmates and prisoners whose health conditions require help\textsuperscript{22} or are extremely medically vulnerable to Covid-19.\textsuperscript{23}

j) Frame standard operating procedures for release on bail/parole of foreign national prisoners, which address the practical impediments to release such absence of local surety, local residential address, insufficient financial means to purchase return tickets etc.

k) Consider releasing inmates booked or convicted under offences under state local laws.\textsuperscript{24}

l) Consider the release of political prisoners.\textsuperscript{25}

m) Ensure protocols are in place where a prisoner leaving prison premises has a place where he/she can maintain isolation and that the local authority is notified that the person has been discharged while making sure that transfer and follow-up has been tied with the local authorities.

\textsuperscript{20} Finland passed an amendment to the Criminal Code.

\textsuperscript{21} In Ethiopia, the President granted pardon to more than 4,000 prisoners in an effort to contain the spread of COVID-19, focussing on those with a maximum sentence of three years and those approaching their release.

\textsuperscript{22} The Turkish government passed a new “criminal enforcement” law that is expected to see up to 90,000 inmates released in order to relieve overcrowded prisons during the COVID-19 pandemic. UK also released pregnant prisoners or inmates in mother and baby units (MBU).

\textsuperscript{23} UK and California considered release of prisoners with comorbidities or who are high-risk medically.

\textsuperscript{24} Rwanda released women imprisoned for having abortions and infanticide.

\textsuperscript{25} Iran has temporarily freed about 85,000 people from jail, including political prisoners. UN rights chief Michelle Bachelet observed that, “now, more than ever, Governments should release every person detained without sufficient legal basis,” she said, including political prisoners and others detained simply for expressing critical or dissenting views.
n) Ensure a number of inmates are shifted to temporary jails to manage prison populations.

o) Ensure standards of proper sanitation and hygiene are maintained in temporary jails.

Importantly, presently HPCs base decisions to release on type of offence. However, it is strongly recommended that in addition to type they release prisoners based on risk-assessment. The first being a person’s vulnerability to contracting Covid while living in prison conditions. Another may be the possibility of committing another offence or absconding. The UK’s risk assessment model offers some insights. Clear parameters for risk assessment must be laid down and the rationale for refusal to release must be clearly put down in the minutes of their meetings. Further, in order to be sustainable, all of the efforts to reduce prison populations will need to be complemented by the support of probation, social, and health services in the community that are equally adapting their service delivery to the COVID-19 pandemic. The HPCs should undertake efforts towards achieving this.

5. **Ensure regular monitoring of prisons**

Prison oversight whether official or external has been perennially weak. The need for oversight which is assisting of the administration and useful to prevent abuse and unnecessary restrictiveness on day to day entitlements of prisoners is even more during these unprecedented times.

State authorities must now ensure internal procedures for regular monitoring are carried out regularly and with rigour and issue advisories to permit liberal visitation by National and State Human Rights Commissions and judicial officers without unnecessary restrictions and obstacles being put in the way.

As well waste no further time in constituting Board of Visitors. These are statutory bodies mandated by law but hardly known and poorly utilised. In addition, advisories must be repeatedly issued that:

a) Integrate the ‘Standard Operating Procedure (SOP) for Handling Arrested Persons, Detainees and Inmates during the Pandemic’ issued by the Union Ministry of Home Affairs (MHA), in their regular inspection formats.

b) Adapt checklists, based on a Standard Operating Procedure (SOP) issued by the Ministry of Home Affairs (MHA), Government of India, prepared by the

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26 [UK](#) issued directions on end of custody temporary release based on risk-assessment and with rationale for release of prisoners.
27 [UNODC’s position paper](#) on ‘COVID-19 preparedness and responses in prisons’.
Commonwealth Human Rights Initiative to assist in the internal and external monitors of prisons. The Checklist for Internal Monitoring is a reporting tool for prison head offices to supervise the status of COVID-19 response in prisons under their jurisdiction. The Checklist for External Monitoring is an oversight tool to be used by independent oversight bodies such as Human Rights Institutions, Legal Aid Institutions, etc. or ad-hoc bodies for supervising COVID-19 response in prisons, such as High Powered Committees in India.

c) Provide external monitors with access to prisoners via safe and confidential modes of communication such as telephones, or video conferencing, where physical inspections are not possible.

6. Ensure pro-active disclosure of information on website

The Right to Information Act 2005 requires all public authorities covered under the law to publish suo moto or proactively a wide range of information on their own, even if no one has specifically requested it. This includes information about its structure, functions, financial details, consultative arrangements, accessing information etc. This ensures that citizens always have access to authentic, useful and relevant information. While these provisions are applicable to prison department websites, in reality, very few prison departments regularly disclose requisite information on their websites.

For too long, compliance to Section 4 has been incomplete and uneven in information provided and often inaccessible and out of date. The current crisis necessitates full disclosure of all pertinent information on their websites. Advisories must press for Section 4 disclosure to be complete and current. This will enable constant monitoring by oversight bodies; further decongestions efforts by the High-Powered Committees and Under Trial Review Committees; and ensure that prisoners’ families and lawyers are aware of the situation pertaining to the COVID-19 infections inside prisons on a regular basis. Towards this, the state prison departments must ensure that the following set of information are provided on the website:

a) Prison-wise occupancy rate including sanctioned capacity; prison population as on 1st of every month; number of admissions during the month; number of releases during the month; prison population on the last day of every month; occupancy rate on the last day of every month.

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29 Please note, information pertaining to personal details of prisoners should not be proactively disclosed, as that would constitute a violation to their right to privacy.
30 Except for Maharashtra Prison Department, no other state prison department has proactively provided this information.
b) Prison-wise cases of COVID-19 including number of prisoners and staff in isolation facility; in quarantine facility; suspected cases; tests conducted; confirmed cases; deaths; recovered cases.

c) Prison-wise information on phone and video-conferencing facilities including number of phone sets; number of video-conferencing units, and means of access/requesting for appointment/e-mulaqaat.

d) Prison-wise and post-wise staff strength including sanctioned strength vis-à-vis actual strength.

e) Partnerships with district medical centres/ hospitals as well as visits by medical staff.

f) List of temporary jails and the daily maintenance of ingress and egress of inmates and staff.

g) List of quarantine jails and the daily record of ingress and egress of inmates and staff. These jails shall also maintain, amongst others, relevant record of every inmate, relating to his or her health condition relating to the infection of Covid virus, if any.

h) Medical records, treatment plans of prisoners suspected of Covid or admitted for treatment is readily available if requested.

Efforts should be made to update this information daily if possible, or at least once in every week.

7. **Ensure adequate budget allocation and prison staff strength**

The state governments should take decisions to:

a) Provide additional funding to the prison department to cater to the needs of the changing circumstances and to ensure continued implementation of precautionary measures in every prison.

b) Recruit sanctioned strength of staff in a time-bound manner. While the recruitment process is completed, depute staff from home guards and reserve forces, if required.

c) Develop staff incentivisation schemes to reward individuals for working additional shifts during the pandemic.

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31 Irish prison department updates prison-wise occupancy levels on daily basis.
32 In Thailand, prisons get Bt193m budget to prevent Covid-19 from spreading.
33 In California, CDCR has solicited correctional and health care staff from other institutions to fill behind vacant posts. More than 200 correctional officers and 20 sergeants from other institutions are being redirected to help with custody operations.
B. RECOMMENDATIONS TO THE CENTRAL GOVERNMENT

1. Reintroduce the ‘Modernization of Prisons Scheme’

Given the impacts of the COVID-19 on prisons across the country, MHA should initiate another round of Modernization of Prisons Scheme across the country. Apart from prompt construction of new prisons to ease overcrowding, the focus should be on improving the healthcare infrastructure, communication facilities and development and training of all staff.

C. RECOMMENDATIONS TO THE NATIONAL HUMAN RIGHTS COMMISSION AND STATE HUMAN RIGHTS COMMISSIONS

The ability of the NHRC monitoring and oversight over prisons and protect and promote the guaranteed rights of prisoners at this crucial juncture will be greatly enhanced by:

a) **Better coordination between NHRC and SHRCs** – As it is difficult for NHRC representatives to physically visit states for the purpose of investigation and inquiry, NHRC should urge the SHRCs to set up urgent response team comprising of representatives of SHRC and credible civil society organisations in the state. These urgent response teams should work in close coordination between the NHRC and SHRC in every state. NHRC may organise an online consultation with all SHRCs to discuss the new modus operandi and frame certain guidelines to ensure that the mandate of human rights institutions is fulfilled, which is most critical at this time.

b) **Increased role of SHRCs in prison monitoring** – MHA advisory of February 2011 on the appointment and working of Non-Official Visitors for Prisons highlights the role of the State Human Rights Commission in the functioning of the mechanism. It provides that, “The State Human Rights Commission suggestions on appointment of Non-Official Visitors should be taken into consideration by the State Government….The Board of Visitors should submit quarterly reports to the State Government under intimation to the State Human Rights Commission. Prison authorities must provide action taken reports to the Board of Visitors and the concerned State Human Rights Commission.” NHRC must seek periodic reports from the SHRCs on the functioning of BOVs in every State/UT and annually compile a

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34 In UK, HMPPS launched staff incentivisation schemes and bonus payments to reward individuals for working additional shifts during the pandemic.

35 With a view to reduce overcrowding in jails, Government of India started a Non-Plan Scheme namely “Modernization of Prisons” in 2002-03 in 27 states for five years, with an outlay of Rs.1800 crore on a cost sharing basis in the ratio of 75:25 between the Central and State Governments respectively. The components of the scheme were (a) Construction of additional prisons to reduce overcrowding; (b) Repair and renovation of existing prisons and construction of additional barracks; (c) Improvement in sanitation and water supply; and (d) Living accommodation for prison personnel. 2. The scheme was extended for two years without additional funds to enable the State Governments to complete their activities by 31.3.2009. The scheme has now ceased to exist on 31.3.2009.
report analysing the reports shared by SHRCs, and providing recommendations to strengthen prison monitoring.

c) **Increased role of NHRC in Prison Monitoring** – Increase its own prison monitoring capacity by appointing more prison monitors in various geographies with specific tasks to fulfill within timelines.

d) Develop a webpage as part of the NHRC website on prison monitoring providing state-wise reports of SHRCs and Special Rapporteurs and providing information on functioning of BOVs for every prison in the country. It must also provide guidance formats for reporting and documentation of prison visits by BOVs, in order to streamline documentation and ensure uniformity.

e) Increased role of NHRC and SHRCs in monitoring UTRCs for release of more prisoners in order to decongest prisons.

f) Monthly virtual meeting with the prison departments of all states and UTs on the status of COVID and measures/directions taken in this regard.

g) Revision of the first screening proforma issues by the NHRC to include COVID-specific symptoms to be checked by doctor at the time of admission.