

सुरजीत डे

रजिस्ट्रार (विधि)

SURAJIT DEY

Registrar (Law)



राष्ट्रीय मानव अधिकार आयोग

मानव अधिकार भवन, सी-ब्लॉक, जीपीओ कम्पलेक्स,
आईएनए, नई दिल्ली-110 023 भारत

NATIONAL HUMAN RIGHTS COMMISSION

Manav Adhikar Bhawan, C-Block, GPO Complex,
INA, New Delhi-110 023 India

Ph. No. (O) 011-24663213 / 24663214

Fax : 011-24651332

Ph. : (R) 011-24653582

D.O. No. R-17/20/2020-PRP&P

5th October, 2020

Dear

Respected Sir/Madam

The National Human Rights Commission (NHRC) is mandated by the Protection of Human Rights Act, 1993 to promote and protect the human rights of all in the country. Towards fulfillment of its mandate, the Commission is deeply concerned about the rights of the prisoners and police personnel, who suffered and contracted infections in the COVID-19 times. The Commission felt a need to prepare advisories to uphold the basic and necessary rights of the prisoners and also to address the concerns of police personnel.

2. In order to assess the impact of the pandemic on realization of the rights of the prisoners and police personnel, the Commission constituted a Committee of Experts on Impact of COVID-19 Pandemic on Human Rights and Future Response including the representatives from the police and prison departments, concerned ministries, independent domain experts and civil society organizations.

3. On the basis of impact assessment done by the Committee of Experts and recommendations made by it, the Commission hereby issues an advisory on '*Human Rights of Prisoners and Police Personnel during COVID-19*', as given in the annexure.

4. May I please request you to direct the concerned department(s) in your Ministry/State to implement the recommendations made in the advisory and to submit the action taken report for information of the Commission.

With regards,

Yours Sincerely,

Annex: As above

(Surajit Dey)

Registrar (Law)

To

The Secretary,
Ministry of Home Affairs,
North Block
New Delhi-110001

The Chief Secretaries/Administrators of all States and UTs



IMPACT OF COVID-19 ON HUMAN RIGHTS & FUTURE RESPONSE: ADVISORY ON THE RIGHTS OF THE PRISONERS

Background

NHRC is 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.

The World Health Organisation (WHO) in a **joint statement** with United Nations Office on Drugs and Crime, Office of the High Commissioner for Human Rights and United Nation AIDS, 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”. Terming physical distancing and self-isolation as practically impossible inside prisons, United Nations High Commissioner for Human Rights, Ms. Michelle Bachelet, too had urged governments to **find ways to release prisoners**, especially those vulnerable COVID-19¹.

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.

While prison departments across the country have taken various precautionary measures to respond to the pandemic, reports of continued spread of the virus are

¹<https://news.un.org/en/story/2020/03/1060252>



NHRC India: Advisory On The Rights Of Prisoners and Police Personnel frequently reported. As on 28th September 2020, more than 17200 prisoners and prison staff had already tested positive, and 16 had died².

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*’.

Subsequently, in its order dated 23rd March, 2020, 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.

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 advisory³. This advisory has been sent to the Chief Secretaries, DG/IG of police departments and DG/IG of prison departments of all States and UTs. The advisory contains the Standard Operating Procedure (SOP) for Handling Arrested Persons, Detainees and Inmates during the Pandemic, prepared in coordination with Bureau of Police Research & Development 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.

On August, 2020, the Research Division of the National Human Rights Commission also sent letters to the DGs/IGs of prisons of all States and UTs to apprise the Commission of the **conditions of prisons during Covid-19** and the **best practices/safety measures followed** by the prison administration to tackle the issue. This study will be used by the Commission as part of its mandate according to Section 12 (c) of the Protection of Human Rights Act, 1993.

² <https://www.humanrightsinitiative.org/content/stateut-wise-prisons-response-to-covid-19-pandemic-in-india>

³ 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"



NHRC India: Advisory On The Rights Of Prisoners and Police Personnel

Advisory 1: Role of Prison Administration

It should be the endeavor of administrations to ensure that fundamental rights of inmates are not violated.

1. Ensuring essential healthcare facilities in every prison. According to Chapter VII of the Model Prisons Manual 2016, medical administration is one of the most important concerns of prison management.
2. Creating collaborations and protocols with local and specialist hospitals so that inmates and staff can quickly be provided appropriate testing and treatment.
3. Display visual representation of the symptoms of the contagion in various parts of the prison.
4. Filling up vacancies of medical officers and para-medical 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 may be made to explore collaboration with local private doctors as the pressure on the public healthcare system would be immense.
5. 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.
6. Sufficient stocks for medicines like paracetamol, vitamin E, Zinc and others may be maintained in all prisons. All prisons must be provided with extra budget for these procurements.
7. Similarly, although social distancing is difficult to observe, appropriate isolation and distancing measures may be enforced to the extent possible, especially for elderly and sick inmates.
8. All inmates should be provided with soaps, sanitisers and face masks and their regular usage must be mandated.

Advisory 2: Proper infrastructure facilities

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

Qin



NHRC India: Advisory On The Rights Of Prisoners and Police Personnel

2. Create protocols for incoming and outgoing inmates so that they are tested for infection at both times.
3. 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.
4. 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.
5. Create more spaces for bathing and more mobile toilets for inmates.
6. 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.
7. Where ever possible, quarantine centres/isolation facilities may be created within prisons especially metro cities like Delhi where sufficient medical infrastructure and staff is available.
8. Awareness classes regarding COVID, its spread and precautions must be conducted regularly apart from displaying sign boards.

Advisory 3: Health of Prisoners

1. Allow inmates access to **medical records** (it is their right) and ensure family members are informed about their condition and treatment.
2. Review **dietary provisions** to include 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.
3. Protocols must be in place to review general health and categorise inmates as either low, medium or at 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 with their individual health histories recorded and assisted to be away from the general population as well as given assistance if found ill.

Qia



NHRC India: Advisory On The Rights Of Prisoners and Police Personnel

4. Health protocols may 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.

Qis





IMPACT OF COVID-19 ON HUMAN RIGHTS & FUTURE RESPONSE: ADVISORY ON THE RIGHTS OF THE POLICE PERSONNEL

Background

The negative police actions during Covid-19 have surfaced in the public domain for quite some time and NHRC has taken note of these incidents and have issued notices to the state governments on such occasions. At the same time the role of police as „*first responders*“ to fight against Covid-19, the Commission has brought out an advisory in consultation with domains experts, Ministry of Home Affairs and other similar stakeholders that the police departments needs to adopt while performing their duty.

The **COVID-19 pandemic** created social upheaval and altered norms for all members of society, but its **effects on first responders** have been particularly profound. **Police officers have been expected to coordinate local shutdowns**, encourage social distancing, and enforce stay-at-home mandates all while completing the responsibilities for which they are already **understaffed and underfunded**.

The **impact** of the COVID-19 pandemic on officer's **stress, mental health, resiliency, and misconduct** is explored drawing insight from news articles available on the public domain and from the general pattern observed during near similar situations earlier.

COVID-19 policing is hypothesized to serve as a significant stressor for officers and compound the general and organizational stress associated with the occupation.

Policing is one of the most **mentally taxing occupations** contending with long and often rotating **shifts**, threats of violence, lack of time for leisure activities, increased need for **hyper vigilance** and lack of public support creating chronic stress.

As a result, police personnel suffer from **mental health problems** at a rate greater than the general population even before dealing with added pandemic challenges, stress, and uncertainty.

Mental health **problems** among law enforcement personnel are **associated** with **work environment, agency culture**, inconsistent shift scheduling, and presumably higher exposure to traumatic events and subsequent post-traumatic stress disorder.

Qis



NHRC India: Advisory On The Rights Of The Police Personnel

Law enforcement officers are not immune from the stress that COVID-19 placed on the general population. In fact, they are likely more heavily impacted as they are one of the “**essential workers**”, that must continue to work and respond to calls for service while others shelter at home. As first responders normally and more so during the shutdown, they may experience increased stress risk due to the prolonged threat of virus exposure and stay-at-home ordinance compliance enforcement.

In addition to carrying the burden for stricken colleagues, COVID-19 presented officers with novel and exacerbated stressors. **First**, they were expected to implement new policies to ensure social distancing while stay-at-home directives were challenged on political, economic, and legal grounds.

Second, they were required to adapt existing practices to “virus reality.” Community and offender programs, service call responses, and patrol practices had to be adapted to limit exposure and **ensure enough officers remained healthy to maintain public safety.**

The threat of COVID-19 and the challenges of social distancing policies present a particular problem for the law enforcement agencies. The agency has fewer resources and is less likely **to employ individuals** that specialize in health policy, mental health management, and information distribution to **guide both the workforce and population it serves throughout the pandemic.**

In addition to reduced police productivity, we are seeing more incidents of police misconduct. By the nature of the occupation, police officers must uphold high standards of ethical behavior, but police misconduct is associated with increases in **organizational stressors**. Therefore, there is a need for soft skill training as an integral part of training curriculum.

These are likely to increase during the uncertainty and increased protocols during a pandemic. Furthering these challenges, police officers are the face of the government on the street. That is, they are likely the only direct representative of the government and its laws that many people interact with. As community tensions have increased and citizens voice greater resistance to stay-at-home mandates and business restrictions, police officers are forced to deal with implementing unpopular rules that they did not create.



NHRC India: Advisory On The Rights Of The Police Personnel

In the wake of this unprecedented situation, it is likely that many agencies were caught unprepared for the mental stress that their officers would experience. However, with scientists already assuming/predicting second waves and future outbreaks now is the time to prepare officers for those situations. In India as on 28th September 2020, more than 1,24,000 police personnel from all police organisations had already tested positive, and 674 had died¹.

Further, it is to be kept in mind that the pandemic has a disastrous impact on the poor and it is important that the police devise sensitive approaches to the hardships and frustrations of the people. Police should be sensitised to develop a deep understanding of how people are being affected by the lock-down.

To boost up the morale of police personnel being front warriors who suffered and contracted infections in performance of their duties to maintain law and order in Covid-19 times, the Commission felt a need to prepare an advisory to uphold the basic and necessary concerns of the police personnel. Advisory so prepared is to emphasize how to sensitize the police leaders to be more sensitive and supportive of their subordinate concerns avoiding authoritarian approach.

Advisory 1: Role of Police Heads

1. The Chief of Police could reach out to its department more often with circulars/appreciations and enquire into grievances.
2. To nominate an officer in the rank of Inspector General of Police State, who will be the nodal officer to address the issues faced by the police force, who are the first responders.
3. The immediate focus is on building awareness among the entire police department about the disease, followed by measures to build immunity. The focus is also on early detection of the disease to control mortality. Preventive steps included enforcing cleanliness and hygiene practices, ensuring physical distancing within barracks and living quarters, codifying standard operating procedures (SOP) on preventive measures and ensuring administrative backup.

¹ <https://www.policefoundationindia.org/covid-19-data>



NHRC India: Advisory On The Rights Of The Police Personnel

4. As always, any use of force in managing the assembly must be proportionate and only when necessary; and authorised by law in accordance with procedural safeguards, and mandated procedures on initiating use of force and reporting on force always used. The SOP should state that all use of force will be investigated, and excess force penalised.
5. Issue advisories time and again with the instructions to be followed on arrests/ charges/ bail procedures etc.
6. Ensure there is a single spokesperson for the police to serve as a source of authoritative information for the public.
7. Insurance coverage to police personnel who die due to Covid in the line of duty.
8. SOPs must lay down the standards of overall cleanliness and sanitisation in reception areas, interview rooms, waiting areas, toilets and lock ups so as to ensure the ability to keep physical distance while being available for safe public dealing and continuing every day police work.
9. As a matter of good practice all SOPs should be framed in consultation with field units.
10. Collate all Covid-19 helpline numbers set up by the police at all levels, and prominently display as a consolidated list on the state police website and in all police stations for easy access.
11. Each police department must have a worst-case scenario business continuity plan—ensuring the continuity of the core functions of police services, while supporting the public health services and general governance of the State.

Advisory 2: Role of City Police Commissioner/ Superintendent of Police

Police Headquarters in city/district may be guided to augment or reconsider and rationalise the reallocation of funds to prioritize:

1. The sanitisation of police stations;
2. General health of police personnel prioritising those at the coal face;
3. The adequate supply of hygiene and safety supplies at all levels;
4. The police officers should be provided with the necessary safety equipments based on the nature and place of duty.



NHRC India: Advisory On The Rights Of The Police Personnel

5. The dissemination of information to reach the remotest areas and ensure the effective functioning of helplines and online platforms given their increased usage in the foreseeable future.
6. Ensure all police stations have functioning CCTV cameras in police stations that cover all spaces at all time.
7. Day to Day instructions can be given by Superior officers to the men, either online or through SMS/WhatsApp.
8. Coordinate to ensure police personnel have special emergency wards reserved in hospitals.
9. To issue guidelines for police on traffic control and management especially in context of movement of essential and emergent services.
10. Coordinate with district and state health departments, medical facilities/hospitals in ensuring police personnel are provided with compulsory and frequent testing and health check-ups, high-priority in receiving treatment.
11. Prepare protocols for referring police personnel/victim/witnesses who have come in contact with Covid positive persons to medical facilities for testing and treatment.
12. The importance of communicating with police persons' families. Educating families about safety norms to be observed.
13. SOPs must lay down the standards of overall cleanliness and sanitisation in reception areas, interview rooms, waiting areas, toilets and lock ups so as to ensure the ability to keep physical distance while being available for safe public dealing and continuing every day police work.
14. Use of "UV Disinfectant Machine" for files and documents. Weapons, blinkers, dragon-light and anti-riot equipment should also be sanitised UV-Rays Disinfectant.
15. As a matter of good practice all SOPs should be framed in consultation with field units.

Advisory 3: Station House Officers/ Unit heads, their role and functions:

1. SHO needs to give proper information to the station or personnel under their limit on the guidelines given by the State government/ Central government while performing law and order functions.

Handwritten signature/initials



NHRC India: Advisory On The Rights Of The Police Personnel

2. Pregnant Women Police personnel to be given office related duties. For Example: Computer and Helpline duties.
3. Enquiring or checking the records of cases registered during the Covid pandemic to ensure registration of cases and timely reporting to the district magistrate.
4. Reaching out to victims of domestic violence and other crimes against women and children reported within the jurisdiction of every police station.
5. Arrests in minor cases, bailable cases to be avoided. Arrests and remand to be undertaken only in serious cases. In non-bailable offence, the accused be produced before the court at the earliest if he or she is no longer required for investigation.
6. Police officers should try to innovate & create new practices / steps to ensure that social distancing is maintained, in day to day policing duties.
7. All Police officers should ensure that if they fall ill or became sick, they should immediately inform the same to their superiors, for further medical advice.
8. The Police personnel proceeding to arrest should wear mask and gloves and also carry sanitizers.
9. SHOs should form a WhatsApp group of all police personnel, for sharing important information.
10. Police officers can avoid engaging in long conversations with the motorists, passengers etc while checking. They should be more professional in this regard.
11. If police personnel become ill whilst on duty, he/she need not carry on working. Inform senior officer and occupational health department immediately.

Advisory 4: Policing and Mental Health issues:

1. To decrease consecutive working days to catch up on sleep and avoid cumulative sleep deprivation that leads to problems of **insomnia**.
2. **Structural issues:** shortage of staff, shift length and timings, number of consecutive working days, job role clarity leads to **fatigue, increased frustration** leading to various forms of **aggression** (hostile, verbal, physical).
3. **Motivation:** material rewards, bonuses, appreciation, micro-level awards/honours, **appreciation letters**.
4. **Well-being programme-** That which could include activities on tasks that promotes psychological and physical well-being. Example: mandatory yoga, deep breathing session, nutritional counselling etc.

Qus



NHRC India: Advisory On The Rights Of The Police Personnel

5. Need for **in-house team of mental health professionals** (psychiatrists and psychologists) in the police department at district levels to work on the following issues with the police personnel during the pandemic:
- a. Managing stress
 - b. Sensitization to tackle the fear of virus.
 - c. Addressing workplace grievances
 - d. Insomnia/ other sleep disorders
 - e. Impulsive behaviour
 - f. Substance abuse and dependence
 - g. Depression and anxiety
 - h. Post-Traumatic Stress Disorder (PTSD)
 - i. Unhealthy and Conflicting family relations/ social relations
 - j. Issue related to negative portrayal, self-esteem.

