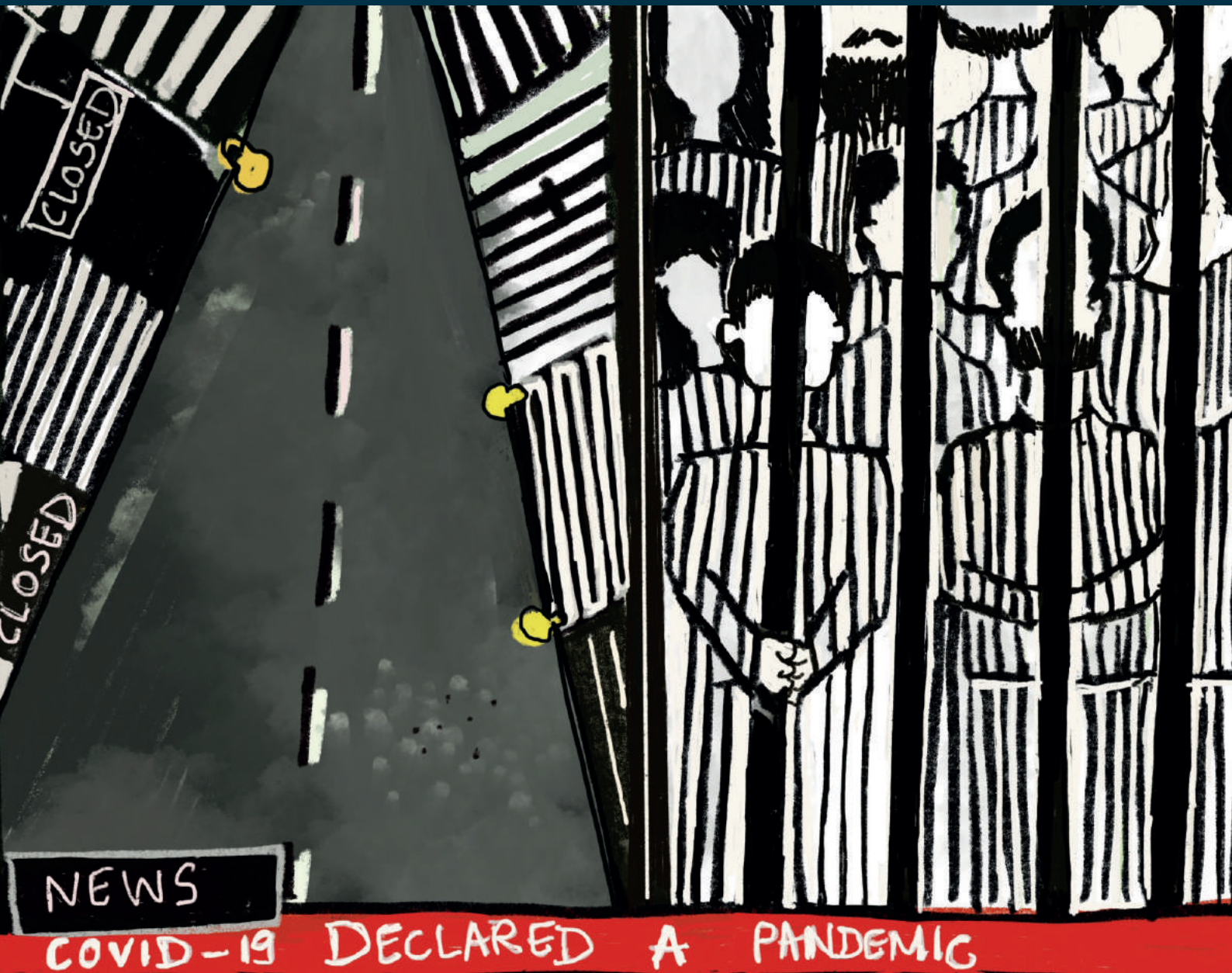


RESPONDING TO THE PANDEMIC: PRISONS AND OVERCROWDING



CHRI

Commonwealth Human Rights Initiative
working for the *practical* realisation of human rights in
the countries of the Commonwealth



Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-governmental, non-profit organisation headquartered in New Delhi, with offices in London, United Kingdom, and Accra, Ghana. Since 1987, it has worked for the practical realization of human rights through strategic advocacy and engagement as well as mobilization around these issues in Commonwealth countries. CHRI's specialisation in the areas of Access to Justice (ATJ) and Access to Information (ATI) are widely known. The ATJ programme has focussed on Police and Prison Reforms, to reduce arbitrariness and ensure transparency while holding duty bearers to account. CHRI looks at policy interventions, including legal remedies, building civil society coalitions and engaging with stakeholders. The ATI looks at Right to Information (RTI) and Freedom of Information laws across geographies, provides specialised advice, sheds light on challenging issues, processes for widespread use of transparency laws and develops capacity. CHRI reviews pressures on freedom of expression and media rights while a focus on Small States seeks to bring civil society voices to bear on the UN Human Rights Council and the Commonwealth Secretariat. A growing area of work is SDG 8.7 where advocacy, research and mobilization is built on tackling Contemporary Forms of Slavery and human trafficking through the Commonwealth 8.7 Network.

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RESPONDING TO THE PANDEMIC: **PRISONS AND OVERCROWDING**



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VOLUME II

STATE INFORMATION REPORTS

LIST OF ABBREVIATIONS

CrPC	Code of Criminal Procedure, 1973
DG Prisons	Director General of Prisons or Head of the Prison Department in a state/ UT
DLSA	District Legal Services Authority
HPC	High Powered Committee
MHA	Ministry of Home Affairs
NALSA	National Legal Services Authority
NCRB	National Crime Records Bureau
PSI	Prison Statistics India
SLSA	State Legal Services Authority
SP Police	Superintendent of Police
SP Prison	Superintendent of Prison
UNODC	United Nations Office on Drugs and Crime
UT	Union Territory
UTRC	Undertrial Review Committees
WHO	World Health Organisation

ABOUT THE REPORT

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 the rights of prisoners, particularly their communication with families and lawyers, access to courts, access to medical care, access to rehabilitation and vocational facilities, etc. These exacerbated vulnerabilities of prisoners have been recognised worldwide and has been at the centre of several statements and calls upon governments to prioritise prisons during the pandemic. This national study brings forth the decongestion efforts undertaken in prisons by states/union territories across the country in response to the pandemic.

The pandemic has raised important questions on state responsibility to check and prevent the spread of the virus in prisons as part of its duty to protect the lives of those incarcerated across the country. Earlier, in March 2020, “to ensure that the spread of the coronavirus within the prisons is controlled”, the Supreme Court of India took cognizance of the vulnerability of prisoners and instituted a suo moto petition, *In Re: Contagion of Covid-19 Virus in Prisons*¹. The court directed the constitution of an High Powered Committee (HPC) in every state/union territory to determine the categories of prisoners to be released on interim bail/ parole or furlough to reduce overcrowding in prisons.

The present study examines the functioning and the efforts made by the HPCs and the Undertrial Review Committees (UTRC)² of 28 states/UTs to decongest prisons and address the issue of overcrowding. It provides vital data on impact of decongestion efforts on prison populations across these states. Broadly, this study seeks to understand whether these efforts were effective in reducing prison populations. Premised on these analyses it seeks to identify possible future solutions to address the issue of overcrowding in prisons.

¹ Suo Motu Writ Petition (C) No. 1/2020, order dated March 23, 2020.

² This district-level oversight body was constituted by the Supreme Court in April 2015 in another writ petition *‘Re-inhuman Conditions in 1382 Prisons’*. Having representatives of judiciary, district administration, district police and prison, the UTRC periodically reviews the cases of prisoners and apply appropriate correctives to ensure no one is held for unjustifiably long periods in detention.

INTRODUCTION

The outbreak of a communicable respiratory disease called the Coronavirus (COVID-19) has created a major health crisis in the world, with the World Health Organisation declaring it a pandemic on 11 March, 2020. While it has impeded the normal course of work in most sectors across the globe, some have been affected more than others. One such institution is prisons. Prisons by their very definition are enclosures where people are confined while they either await the conclusion of their trial, or undergo a sentence upon conviction. The closed environment with limited space for physical distancing poses an increased risk of infection and threatens the lives of prisoners, particularly during a pandemic.

The limitations of prison authorities to effectively quarantine or practice physical distancing among prisoners due to the endemic problem of overcrowding, imperils the lives of many people incarcerated in prisons. This has been recognised globally. The United Nations Office on Drugs and Crime (UNODC) has observed, “the systemic neglect of prisons and other places of detention in many countries has resulted in inadequate resources, management, oversight and accountability mechanisms, including ill-equipped personnel and limited linkages to public health systems.”³ The briefing note by Penal Reform International, an international NGO, also notes the common demographic characteristics of people in detention, who generally have poorer health than the rest of the population, often with underlying health conditions.⁴ Another concern raised is regarding the poor hygiene standards and how the security or infrastructural constraints often impede frequent handwashing or access to hand sanitizers. Furthermore, prisons are often also spaces that are overcrowded well beyond their capacity, which leads to an increased risk of contracting communicable diseases.

In these circumstances, an important measure to prevent the spread of COVID-19 and ensure the health and safety of the prisoners is by reducing prison population. However, while decongestion is a much-needed immediate response, it is not the sole one. The complex interplay of the functioning of various agencies of the criminal justice system has a direct or indirect impact on admission in prisons, prisoners’ period of detention, their access to legal representation, the occupancy rate and the living conditions inside prisons, thus, necessitating the need to implement systemic measures that can result in a reduction in overall occupancy of prisons on a permanent basis.

Indeed, the pandemic has brought focus to the endemic issue of overcrowding that plagues prisons across the globe, as well as in India. With over 4 lakh prisoners, 69% of whom

³ Position Paper : COVID-19 preparedness and responses in prisons, UNODC (31 March, 2020) - https://www.unodc.org/documents/Advocacy-Section/UNODC_Position_paper_COVID-19_in_prisons.pdf (Last accessed on 9 October, 2020).

⁴ Briefing Note - Coronavirus: Healthcare and human rights of people in prison, Prison Reform International (13 March 2020) - https://www.unodc.org/documents/Advocacy-Section/UNODC_Position_paper_COVID-19_in_prisons.pdf (Last accessed on 9 October, 2020).

are awaiting trial, prisons in India are overcrowded by 18.5%.⁵ This 18.5% is, however, an underestimation as individual prisons can be severely overcrowded⁶. In 2019, one fourth of the states/UTs had an acute occupancy rate of more than 150% and more than half of the states/UTs had occupancy above capacity.⁷ As on 12 October, 2020, a total of 18157 prisoners and prison staff had tested positive and 17 had reportedly died due to the virus.⁸

In March 2020, the Supreme Court took cognizance of the threat of the virus in prisons, much before the rise of cases in the country in '*In re: Contagion of COVID-19 virus in prisons*'⁹. The court stated, "*the bitter truth is that our prisons are overcrowded, making it difficult for prisoners to maintain social distancing...like any other viral diseases susceptibility of COVID-19 is greater in over-crowded places, mass gatherings, etc. 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, detainees 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.*"

Subsequently, in its order dated 23 March, 2020, the court directed states/UTs to constitute an HPC consisting of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s) to determine the categories of prisoners to be released on interim bail/ parole or furlough to reduce overcrowding in prisons. The court further directed that the Undertrial Review Committee constituted in the *In re Inhuman Conditions in 1382 Prisons case* [(2016) 3 SCC 700], should meet every week and review cases.¹⁰

⁵ Table 1.2 - Capacity, Inmate Population and Occupancy Rate of Jails as on 31st December, 2019, Prison Statistics India 2019 Report, National Crime Records Bureau - https://ncrb.gov.in/sites/default/files/psi_table_and_chapter_report/TABLE-1.2_2019.pdf (last accessed on 12 November 2020).

⁶ Supreme Court shocked at over 600 per cent overcrowding in jails, Times of India (30 March 2018) - <https://timesofindia.indiatimes.com/india/supreme-court-shocked-at-over-600-per-cent-overcrowding-in-jails/articleshow/63546393.cms> (last accessed on 12 November 2020).

⁷ Ten Things You Should Know About Indian Prisons - An Analysis of Prison Statistics India 2019, CHRI (4 September 2020) - <https://www.humanrightsinitiative.org/publication/ten-things-you-should-know-about-indian-prisons-an-analysis-of-prison-statistics-india-2019>.

⁸ There are no official sources which provide the number of positive cases in prisons. CHRI has been collating this data based on news reports and other publicly accessible sources - State/UT wise Prisons Response to COVID-19 Pandemic in India - <https://www.humanrightsinitiative.org/content/stateut-wise-prisons-response-to-covid-19-pandemic-in-india> (last accessed on 12 November 2020).

⁹ Suo motu writ petition (Civil) No. 1/2020.

¹⁰ In April 2015, the Supreme Court directed for the constitution of Undertrial Review Committee (UTRC) in every district across the country. It is a five-member committee headed by the District and Sessions Judge and comprising the District Magistrate; Superintendent of Police; Secretary, District Legal Services Authority and officer-in-charge of prison as members.

This study presents an enquiry into the functioning of the HPCs and the UTRCs across 24 states/UTs and provides vital information on changes to prison population in these states between April and June 2020. It examines the categories of prisoners identified by the HPCs to be considered for release; the frequency of the UTRC meetings during this period; impact of these measures on prison populations; and highlights some good practices adopted by functionaries in various states.

Structure of the Report

The report has two parts - national analysis and state-wise analysis. The first part is an attempt to enumerate the decongestion efforts initiated by the Supreme Court's *sou motu* writ petition *In Re: Contagion of Covid 19 Virus in Prisons*, followed by the cases initiated at the high courts in various states; the demands made by the civil society in this regard and; the Advisory issued by the Ministry of Home Affairs (MHA). Further, the report, through a trend-analysis of prison population over the past five years, examines the changes in prison occupancy-level pursuant to the decongestion measures. Thereafter, the information from the HPC minutes has been analysed and the status of compliance with the Supreme Court directions assessed. This is followed by a chapter on the functioning of the UTRCs and their contribution to the process of decongestion. The first part concludes with a summary of findings and recommendations for future interventions.

The second part includes individual reports of the states/UTs. These provide a summation of HPC directions, number of UTRC meetings and an analysis of district-wise prison population figures.

Research Methodology & Information Received from State/UTs

In order to document the decongestion efforts by different states and Union Territories (UTs), the CHRI formulated a list of parameters and sought information from both the prison department and the State Legal Services Authority (SLSA) of 28 states and eight union territories. This information was sought for the period from 1 April to 30 June, 2020, the quarter following the directions of the Supreme Court.

The request to the state prison headquarters included information regarding:

- the minutes of the HPC meetings;
- prison-wise and month-wise data on release and admissions;
- prison-wise and month-wise data on prison population based on the category of prisoners;
- prison-wise and month-wise data on prison population based on gender of prisoners and;
- number of temporary prisons set up in the state/UT.

From the SLSAs, CHRI sought information regarding:

- the number of districts where UTRCs were set up;

- district-wise number of UTRC meetings held during this period;
- the minutes of the UTRC meetings from any five districts;
- the minutes of the HPC and;
- good practices adopted by the jail visiting lawyers and the para-legal volunteers towards effectuating releases.

A copy of the format shared with states/UTs is included in **Annexure I and II**.

Overall, the information was received from 22 state/UT prison departments and 19 SLSAs. Of these, responses from both the prison department and the SLSA were received for 13 states/UTs. In total, we received responses from either/both these institutions for 28 states/UTs (Andaman & Nicobar Islands, Andhra Pradesh, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Rajasthan, Sikkim, Telangana, Tripura, Uttarakhand, Uttar Pradesh and West Bengal).

Table 1: Names of states/UTs provided information

22 State/UTs Prison Departments provided information	19 SLSAs provided information	States/UTs from where information was received from both the Prison Department & the SLSA
1. Andaman & Nicobar Islands	1. Andhra Pradesh	1. Bihar
2. Bihar	2. Bihar	2. Chandigarh
3. Chandigarh	3. Chandigarh	3. Goa
4. Chhattisgarh	4. Delhi	4. Gujarat
5. Goa	5. Goa	5. Haryana
6. Gujarat	6. Gujarat	6. Himachal Pradesh
7. Haryana	7. Haryana	7. Jharkhand
8. Himachal Pradesh	8. Himachal Pradesh	8. Maharashtra
9. Jharkhand	9. Jammu & Kashmir	9. Manipur
10. Kerala	10. Jharkhand	10. Meghalaya
11. Maharashtra	11. Karnataka	11. Mizoram
12. Manipur	12. Maharashtra	12. Nagaland
13. Meghalaya	13. Manipur	13. Sikkim
14. Mizoram	14. Meghalaya	
15. Nagaland	15. Mizoram	
16. Punjab	16. Nagaland	
17. Rajasthan	17. Odisha	
18. Sikkim	18. Sikkim	
19. Telangana	19. West Bengal	
20. Tripura		
21. Uttarakhand		
22. Uttar Pradesh		

However, the information received varied across states, and for many was incomplete on select parameters. Thus, the **state-wise reports** include the analysis of the HPC minutes

for **20 states** and four **UTs**.¹¹ The minutes of **19 States** and two **UTs**¹² were shared with us by either the state prison department or the SLSA. In the case of **Uttarakhand** and **Delhi**, the minutes available in the public domain have been taken. As far as possible, the information as provided in the minutes is written verbatim and is edited for brevity. We did not receive the HPC minutes for Bihar, Jharkhand, Kerala, Rajasthan and Andaman & Nicobar Islands, and neither were these shared on the website. Odisha, Uttarakhand and Delhi were the only states/UT where the HPC minutes were proactively disclosed by the SLSA. We were requested to file an RTI to seek the information in the case of Bihar and Telangana who then responded to our query. However, the SLSA of Madhya Pradesh responded with a letter formally declining our request for information.

Twenty two state/UT prison departments¹³ provided information on the prison population as on 1 April, 1 May, 1 June and 30 June. This information was used in the analysis of prison population between 1 April and 30 June and the impact it had on the state-level occupancy rate. It is also compared with the occupancy rate as on 31 December, 2019 as provided in the Prison Statistics India 2019, recently published by the NCRB.¹⁴ Since state averages are often misleading, the prison-wise occupancy rates are compiled in **Annexure III**, received from 22 states/UTs.

The chapter on the UTRCs includes the state/UT-wise information on the number of the UTRC meetings held and the analysis of the minutes of the UTRC meetings. Nineteen SLSAs provided the information on the UTRC functioning. However, some provided partial information. Seventeen SLSAs¹⁵ provided the information regarding number of UTRC meetings held during April to June 2020. Of these, 11 SLSAs¹⁶ provided month-wise and district-wise information.

In order to assess if a state complied with the court's direction, 12 meetings and above have been considered as compliance as there are 12 complete weeks (Monday to Friday). As per the calendar, there were total 13 weeks in these three months. So ideally, 13 meetings should have taken place in this period in each district. However, for the purpose

¹¹ Andhra Pradesh, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Sikkim, Telangana, Tripura, Uttarakhand, Uttar Pradesh, West Bengal, Chandigarh, Delhi and Jammu & Kashmir.

¹² Andhra Pradesh, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Sikkim, Telangana, Tripura, Uttar Pradesh, West Bengal, Chandigarh and Jammu & Kashmir.

¹³ Andaman & Nicobar Islands, Bihar, Chandigarh, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Kerala, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Punjab, Rajasthan, Sikkim, Telangana, Tripura, Uttarakhand, Uttar Pradesh.

¹⁴ Prison Statistics India 2019 Report, National Crime Records Bureau - <https://ncrb.gov.in/sites/default/files/PSI-2019-27-08-2020.pdf> (Last accessed on 15 October 2020).

¹⁵ Andhra Pradesh, Chandigarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha and Sikkim.

¹⁶ Chandigarh, Haryana, Jammu & Kashmir, Jharkhand, Meghalaya and Mizoram did not provide district-wise and month-wise information on the number of UTRCs held.

of calculation, 12 is considered as some districts may have conducted their meetings in the previous half or later half of the first/last week of the month and it should not serve as a disadvantage to them.

For analysis of the UTRC minutes, one state is selected from each zone - Haryana (North); Gujarat (West); Andhra Pradesh (South); Odisha (East) and Manipur (North-east). Since the number of UTRC minutes provided varied, maximum two minutes per district were considered for analysis. As a result, it includes the analysis of total 32 UTRC minutes - Andhra Pradesh (4)¹⁷; Gujarat (8)¹⁸; Haryana (4)¹⁹; Manipur (6)²⁰; and Odisha (10)²¹ of 21 districts.

¹⁷ Andhra Pradesh SLSA provided one UTRC minutes each from East Godavari, Kurnool, Ongole and Vizianagaram.

¹⁸ Gujarat SLSA provided total 44 minutes - Gandhinagar (9), Rajkot (13), Surat (8) and Kachch Bhuj (14).

¹⁹ Haryana SLSA provided one UTRC minutes each from Panchkula, Kurukshetra, Jhajjar and Gurugram.

²⁰ Manipur SLSA provided total 6 minutes - Imphal East (2), Imphal West (2), Chandel (1) and Tamenglong (1).

²¹ Odisha SLSA provided total 53 minutes - Cuttack (13), Ganjam (6), Koraput (9), Mayurbhanj (12) and Sambhalpur (13).

EXECUTIVE SUMMARY

As ‘physical distancing’ emerged as the new *mantra* of 2020, the Supreme Court of India, initiated efforts to decongest prisons as it recognized the inability of the country’s overcrowded prisons to comply with these norms. The court directed the constitution of High-Powered Committees (HPCs) at state-levels to oversee the decongestion efforts, while also directing the Undertrial Review Committees (UTRC), a district-level body mandated to review cases of prisoners, to meet every week.

This report documents the performance of the HPCs of 24 states and union territories and assesses the reduction in prison populations between 1 April, 2020 and 30 June, 2020. It also analyses the functioning of the UTRCs of 17 states and union territories during the said period, and assesses the compliance with the mandate to meet weekly, and analyses the minutes of their meetings from across five regions to understand the role of the UTRCs in decongestion process. A study was conducted of responses received from prison departments in 20 states and two UTs²² and the State Legal Services Authorities (SLSAs) of 16 states and three UTs²³. The report also includes state-wise reports, which include the analysis of the HPC minutes and data on the UTRC meetings for each of the 24 States and four UTs.²⁴ The key findings from the report are as follows:

A. Impact of Decongestion Efforts on Prison Occupancy

Analysis of the prison population, of 22 states/Union Territories, indicates an average fall in the prison population by 10.42% between 1 April 2020 and 30 June 2020. However, the inmate population in Bihar, Jharkhand, Uttar Pradesh and Andaman and Nicobar Islands increased during this period.

While the overall occupancy rate in the 22 states/UTs on 31 December, 2019 stood at 107.8%, it had come down to 103.1% by 1 April, 2020. **Between 1 April and 30 June, 2020, the overall occupancy had further come down to 93.3%. However, a closer look at the prison-wise occupancies of 19 states and two UTs²⁵ reveal that 27% of the prisons of these states/UTs were still overcrowded.**

As a precautionary measure, to reduce the risk of spread of COVID-19 inside prisons, several countries set up temporary prisons. This enabled them to keep new inmates in

²² Andaman & Nicobar Islands, Bihar, Chandigarh, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Kerala, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Punjab, Rajasthan, Sikkim, Telangana, Tripura, Uttarakhand and Uttar Pradesh.

²³ Andhra Pradesh, Bihar, Chandigarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Sikkim and West Bengal.

²⁴ Andhra Pradesh, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Rajasthan, Sikkim, Telangana, Tripura, Uttarakhand, Uttar Pradesh, West Bengal, Andaman & Nicobar Islands, Chandigarh, Delhi and Jammu & Kashmir.

²⁵ Jharkhand did not provide prison-wise occupancy figures and only provided total occupancy of the state prisons.

quarantine for 14 days and mitigated the risk of the spread of virus to existing prison populations. In India, only **seven states** and **one UT** had set up temporary prisons during this period. These included Bihar (3), Goa (1), Kerala (55), Maharashtra (36), Manipur (1), Meghalaya (1), Uttarakhand (5) and Chandigarh (1).

However, **some states²⁶** resorted to transfer of prisoners from overcrowded prisons to others, and did not focus on decongestion measures. In Bihar, the prison department transferred 14,903 prisoners which amounted to more than 35% of their prison population, to ease overcrowding in select prisons. However, at the end of June, 25 prisons were overcrowded, as opposed to 19 prisons on 1st April. Further, the overall occupancy increased from 86.7% on 1st April to 92% on 30th June 2020.

Another practice was noticed in Haryana where the women prisoners from one prison (*Gurgaon*) were transferred to another prison (*Jhajjar*) due to insufficient infrastructure for effective quarantine/isolation. However, this resulted in overcrowding in Jhajjar prison.

B. Functioning of the High Powered Committees

The HPCs were constituted in all 28 states/UTs that provided information. These had a Chairperson who was the Executive Chairperson of the State Legal Services Authority, and two Members - the Principal Secretary (Home/Prison) and the Director General of Prisons - as mandated by the Supreme Court.

There was an average of three meetings in each of the 24 states/UTs. While the HPCs of Himachal Pradesh, Meghalaya, Nagaland, Telangana, Tripura and Sikkim only held one meeting each, Odisha held the maximum number of 15 meetings during this period. No correlation was found between the number of meetings held by the HPCs and the release of prisoners, though a higher number of meetings did ensure regular monitoring of prisons, and effective measures to curb the spread of the virus.

C. Categories identified by HPCs for Release of Prisoners

The Supreme Court had left it to the discretion of the HPCs to determine the categories of cases for different class of prisoners. It had merely suggested that those who have been convicted or are undertrial for offences for which the maximum prescribed imprisonment is seven years or less, with or without fine or those who are convicted for a lesser number of years than the maximum may be considered for release. While this category was identified by 26 states/UTs for release of undertrials and by 17 states/UTs for release of convicts, seven states/UTs²⁷ did not determine any other category at all.

²⁶ Bihar, Chhattisgarh, Gujarat, Haryana, Karnataka.

²⁷ Goa, Odisha, Telangana, Tripura, Uttar Pradesh, Uttarakhand and Andaman and Nicobar Islands.

The highest number of categories for undertrials were identified by the HPCs of Delhi (18), Punjab (15) and West Bengal (10). For convicts, the highest numbers were those of Delhi (7), Odisha (6) and Punjab (6). Three states²⁸ did not determine any category for convicts and considered their release on a case to case basis.

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.²⁹ Similarly, barring the three (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. Only Punjab HPC specifically mentioned pregnant women as the category for release. It was disappointing to note that in Chhattisgarh, the HPC considered and resolved not to issue any general direction for release of prisoners aged above 60 years in view of the scope of the orders passed by the apex court.

D. Categories identified by HPC for Exclusion from Consideration

The top five categories of cases that were excluded, even for a consideration for release are cases involving crime against women (19 states/UTs)³⁰; crime against children (19 states/UTs)³¹; offence under Narcotic Drugs and Psychotropic Substances Act (17 states/UTs)³²; foreign nationals (13 states/UTs)³³ and; offence under Unlawful Activities (Prevention) Act (10 states/UTs)³⁴. Other excluded categories could be further sub-divided. One category include offences against national security or against the state or terrorism cases or those which are being investigated by the NIA, CBI, ED, special police cells, etc. Another category is related to economic offences like financial frauds, offence relating to counterfeit currency; offences under Prevention of Money Laundering Act, Prevention of Corruption Act, etc. Some states also excluded prisoners based on number of pending trials; period of detention; belonging to other states and; those who violated conditions during parole or interim bail. Other excluded categories include serious offences under IPC, special laws and state local laws.

²⁸ Manipur, Tripura and West Bengal.

²⁹ The definition of elderly prisoners varied - Punjab considered '65 years and above' as the parameter and Delhi considered 65 years for male undertrials and 60 years for women prisoners.

³⁰ Andhra Pradesh, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Sikkim, Telangana, Uttarakhand, West Bengal, Chandigarh, Delhi, Jammu & Kashmir.

³¹ *Ibid.*

³² Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Meghalaya, Nagaland, Odisha, Punjab, Sikkim, Telangana, Uttarakhand, West Bengal, Chandigarh, Delhi, Jammu & Kashmir.

³³ Haryana, Maharashtra, Meghalaya, Nagaland, Punjab, Sikkim, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Chandigarh, Delhi, Jammu & Kashmir.

³⁴ Goa, Gujarat, Haryana, Karnataka, Maharashtra, Meghalaya, Nagaland, Punjab, Telangana, Delhi.

E. Process of Identification, Consideration and Release of Prisoners

Undertrials:

To implement the directions of the HPC, various functionaries including the legal services institutions, prisons, district administration and police authorities had to work in a coordinated manner to ensure the release of prisoners. This involved various stages that started with the identification of prisoners eligible for release and filing applications.

In most states the legal aid functionaries worked in close coordination with prison authorities in drafting and filing applications³⁵, in Gujarat and West Bengal standard bail applications, bond proformas were used and in Himachal Pradesh and some districts of Maharashtra bail applications were filed online/ through email to comply with the social distancing guidelines of the Central Government. In Manipur, the HPC directed that its resolution with the list of eligible undertrials were to be treated as bail application.

In considering the bail applications, some states resorted to the routine method of filing before the concerned judicial magistrate, while in other states special sitting of the remand magistrates was directed to dispose of all applications. In Karnataka, a district-level Committee consisting of the District Judge, Commissioner of Police, Jail Superintendent and Public Prosecutor had to collate the details of undertrials and evaluate on a case-to-case basis. In six states³⁶ the judicial magistrates were asked to visit the prisons to consider the bail applications, whereas, in Uttarakhand and Chandigarh, online hearings of bail applications were conducted.

Convicts:

Most HPCs directed the concerned state government and prison authorities to release the convicts on parole or furlough as per the act and rules. The HPCs in states like Delhi and Haryana also directed for the amendment of the existing rules to expand the eligibility and/or time-period of emergency/regular parole under existing rules.

In six states/UTs³⁷ the HPC directed the prison departments to exercise their powers to grant remission for eligible prisoners. In three states³⁸ this was identified as a separate category for release. Bail was considered for convicts in the case of Gujarat and Manipur. Different procedures with regard to consideration of parole applications was followed in different states.

³⁵ The HPCs in seven states (Chandigarh, Chhattisgarh, Karnataka, Maharashtra, Mizoram, Odisha, Uttarakhand) specifically directed the legal services authorities at different levels to depute panel lawyers to facilitate the same.

³⁶ Andhra Pradesh, Chhattisgarh, Goa, Gujarat, Punjab and Uttar Pradesh.

³⁷ Haryana, Odisha, Punjab, Chandigarh, Meghalaya and Delhi.

³⁸ Himachal Pradesh, Mizoram and Sikkim.

In Himachal Pradesh³⁹, Maharashtra⁴⁰, Mizoram⁴¹, Odisha, Uttarakhand⁴² and West Bengal, the HPCs directed the district magistrates and superintendents of police to make arrangements for transit of prisoners from the prisons to their respective homes. While in Uttar Pradesh, the prisons department worked with UP State Road Transport Corporation to provide an adequate number of clean and sanitised buses for transportation of released prisoners, in Gujarat, with coordination of NGOs and district administration, ration kits were also provided to released inmates.

F. Period of Release

Based on the information provided in the HPC minutes, the period of initial release for undertrials ranged between four weeks and 24 weeks with Uttarakhand releasing undertrials for as long as six months. However, Andhra Pradesh and Chhattisgarh initially released undertrials only for four weeks.

With regard to convicts, Meghalaya and Mizoram released eligible convict prisoners by remitting their sentences. Uttarakhand enabled convicts to benefit from a six-month release, the longest such period in the country. Initially, Odisha and Chhattisgarh only provided special parole for 21 days, which was later increased by seven weeks (approximately) in both states.⁴³

While 10 states⁴⁴ and three UTs⁴⁵ provided an initial period of release for both undertrials and convicts, only nine of them further extended the time-period for both categories. It is important to note here that a majority of releases were temporary in nature, meaning these prisoners would be re-admitted to prisons.

G. Medical Facilities inside Prisons

Concerned with inadequate health care facilities, a number of steps were taken by the HPCs. In Haryana⁴⁶ and Karnataka⁴⁷, they directed the state government to fill the sanctioned but vacant posts of all medical officers and paramedical staff.

³⁹ The concerned District Magistrate to ensure that the travel pass is provided to the released prisoners.

⁴⁰ Buldana, Bhandara and Jalgaon districts.

⁴¹ The Deputy Commissioners and Superintendants of Police shall also inform the Local Level Task Force to ensure that the released prisoners safely reach their residence.

⁴² The HPC granted 6 to 10 days from the date of filing the personal bond to the transmission of such prisoners on their release from jails to their respective places and also to coordinate with the other state and their District Administration, whose prisoners are going to be released on interim bail and parole for transmission of such prisoners to their respective places and vice versa.

⁴³ The extensions were given for a specific date. Chhattisgarh after the initial release till 31 May, later extended it to 30 June 2020; Odisha extended it till 3 May 2020.

⁴⁴ Andhra Pradesh, Chhattisgarh, Gujarat, Haryana, Karnataka, Maharashtra, Punjab, Uttar Pradesh, Uttarakhand, West Bengal.

⁴⁵ Chandigarh, Delhi and Jammu & Kashmir.

⁴⁶ The Haryana HPC also directed to depute one Medical Officer each and other para medical staff for examination and treatment of prisoners at Special Jails, Karnal, Hisar and Rewari.

⁴⁷ Karnataka HPC minutes provided that immediate steps needs to be taken for appointment of sanctioned medical staff in 9 central prisons, 21 district prisons and 15 taluka/ revenue prisons.

In Karnataka, Mizoram and Nagaland, doctors were deputed at some prisons to attend to health issues. In Haryana and Chandigarh, the HPCs directed the setting up of prisoner wards in the COVID-19 dedicated hospitals. The Uttarakhand HPC not only ensured adequate health check-ups of prisoners before their release, but also directed the Chief Medical Officer to make the necessary arrangements for their medical examination a week after their transfer from the jail to their respective locations.

To ensure effective distancing in prisons, the Odisha HPC asked the prison department to open enough kitchens with facilities of adequate utensils, roti makers and other infrastructure; each kitchen in a jail was to cater to a maximum of 200 prisoners, in accordance with the recommendations in the Mulla Committee Report, 1983.

In Punjab, the prisons followed the policy of ‘Chasing the Virus’ under which 85% of staff was tested and random sampling of prisoners was done. It instituted a three-level of testing; before entering the special jails, after completion of 14 days’ quarantine period in special jails; following 14 days’ quarantine in regular jails.

H. Communication with Family

As substitution for physical meetings, the prison departments were directed by the HPCs to allow prisoners to speak to their families/ relatives on landline phones in Karnataka, Haryana, Manipur, Mizoram, Odisha and Chandigarh. Mobile communication was allowed by the HPCs of Manipur and Mizoram. The Haryana, Mizoram, Odisha, Punjab and Chandigarh HPCs went a step ahead to enable communication through video conferencing.

I. Monitoring Team

After the direction of the Supreme Court to set 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 Haryana, Odisha, Punjab, Uttar Pradesh and Chandigarh provided compliance with the said direction. Additionally, they also formed the district-level monitoring team. As a good practice, the Odisha and Chandigarh HPCs directed the UTRCs to act as district-level monitoring body which avoided multiplicity of oversight bodies.

J. Functioning of the Undertrial Review Committee during the Pandemic

Formed under the directions of the Supreme Court in April 2015⁴⁸, the Under-trial Review Committee (UTRC) is headed by District & Sessions Judge; with District Magistrate; Superintendent of Police; Secretary, District Legal Services Authority; and Officer-in-charge of all prisons in a district as members. In 2018, the NALSA issued a Standard Operating Procedure (SOP) on UTRCs to help them streamline their work by identifying 14 categories.

⁴⁸ Writ Petition (Civil) 406/2013, Re-inhuman Conditions in 1382 Prisons.

During the pandemic, the Supreme Court directed the UTRCs across the country to function on a weekly basis. Based on the information received from 17 SLSAs, the UTRCs were formed in only 231 out of the 284 districts in these 17 states.

Further, in the 11 states/UTs where month-wise and district-wise data was available, Chandigarh had the highest percentage compliance at 117%, followed by Odisha and Jammu & Kashmir (108%); Himachal Pradesh and Sikkim (106%); Goa (104%) and; Haryana (100%). However, Mizoram had the lowest compliance at zero percentage compliance. Manipur, Nagaland and Meghalaya also had very low compliance at six, 31 and 39 percent respectively.

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.

LESSONS LEARNT AND NEXT STEPS

The key lesson of the pandemic is that decongestion of prisons is possible and that prison reforms cannot happen in isolation. These would need to grow with accountability and reform of the criminal justice system. The process of decongestion should not be viewed as a one-time exercise. Coordinated efforts of all stakeholders including prison departments, legal services institutions and judiciary are required to address some of the systemic challenges faced by the prison system. Mandate holders in the criminal justice system need to work for:

1. Regular decongestion exercises to effectively address the problem of overcrowding in prisons.
2. Along with decongestion, the focus must also be on regulating the inflow into prisons by ensuring strict implementation of legal provisions that check arbitrary arrests (S.41A, B, C and D of the Code of Criminal Procedure, 1973).
3. The judiciary and other stakeholders must consider alternatives to imprisonment like the implementation of Probation of Offenders Act, 1958, to support efforts to reduce overcrowding in prisons.
4. The decongestion efforts of states must be monitored by the Supreme Court at frequent intervals.
5. The judiciary, with the help of the concerned departments, must develop recovery plans to regain the normal pace of work to mitigate the impact of the pandemic on judicial processes like strengthening shared information, communication, and technology (ICT) infrastructures among the functionaries.

6. States need to ensure effective communication between lawyers and their clients in prisons. This can be strengthened by the bar councils and prison departments through framing of guidelines for conducting prison visits, telephonic conversations etc.
7. Prison departments must proactively disclose information on prison occupancy and health of prisoners to enable free flow of information among the monitoring bodies, lawyers, families of prisoners and civil society.
8. Prison and social justice empowerment departments must develop reintegration plans for newly released prisoners/detainees to ensure their rehabilitation.
9. State Governments must allocate additional budgets for prisons and recruit staff to fill in vacant positions.
10. State Governments must endeavour to improve the healthcare facilities inside prisons with prison-specific long-term health care plans to be developed with the medical experts.
11. Legal services institutions must strengthen the functioning of prison legal services clinics and to prioritise efforts to apprise prisoners of the progress in their cases, current court processes and conduct legal awareness sessions to ensure that prisoners are informed about their legal rights.
12. All stakeholders must endeavour to make temporary solutions permanent by developing long-term strategies for reforms in the functioning of the criminal justice system.

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EFFORTS AT THE NATIONAL LEVEL

The pandemic has succeeded, to some extent, in bringing issues of overcrowding and inadequate healthcare in prisons to the fore. It made it imperative that all the district-level functionaries-police, judiciary, legal services institutions, legal counsels and oversight bodies-work in a more coordinated manner to ensure the fundamental right to life of prisoners. The analysis of information received indicates that the unprecedented situation made the system spring into action at all levels, from a prison in the remotest area of the country to the highest court of law. This chapter attempts to enlist efforts made at different levels to mitigate and check the spread of the virus in prisons in India.

A. Efforts by the Supreme Court of India:

Concerned about the susceptibility of COVID-19 being greater in overcrowded places like prisons, the high rate of inflow and outflow of population on daily basis, the difficulty in maintaining social distancing and the high risk of prisons to be the potential breeding grounds for the virus, the Supreme Court of India, on 16 March, 2020, instituted a *suo motu* writ petition, titled '*In Re : Contagion Of COVID 19 Virus In Prisons*'. The apex court observed that the issue of overcrowding of prisons is a matter of serious concern particularly in the present context of the pandemic. While recognising the efforts of some of the state governments and prison departments in adopting urgent preventive measures, the court in its order, dated 23 March, 2020, directed:

- ❖ Each state/UT to constitute a High Powered Committee (HPC) comprising the (i) Chairman of the State Legal Services Authority, (ii) the Principal Secretary (Home/Prison), (iii) Director General of Prison(s) to determine the categories of prisoners to be released on interim bail/ parole or furlough to reduce overcrowding in prisons.
- ❖ The High Powered Committee shall take into account the directions contained in para no.11 in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.⁴⁹
- ❖ The Undertrial Review Committee constituted in the *in're Inhuman Conditions in 1382 Prisons*' writ petition⁵⁰, should meet every week and review cases.
- ❖ The physical presence of all the undertrial prisoners before the courts must be stopped forthwith and recourse to video conferencing must be taken for all purposes.
- ❖ The transfer of prisoners from one prison to another for routine reasons must not be resorted except for decongestion to ensure social distancing and medical assistance to an ill prisoner.
- ❖ There should not be any delay in shifting sick person to a Nodal Medical Institution in case of any possibility of infection is seen.

⁴⁹ "Aforesaid provision makes it clear that in all cases where the arrest of a person is not required under Section 41(1), Cr.P.C, the police officer is required to issue notice directing the accused to appear before him at a specified place and time. Law obliges such an accused to appear before the police officer and it further mandates that if such an accused complies with the terms of notice he shall not be arrested, unless for reasons to be recorded, the police office is of the opinion that the arrest is necessary. At this stage also, the condition precedent for arrest as envisaged under Section 41 Cr.PC has to be complied and shall be subject to the same scrutiny by the Magistrate as aforesaid."

⁵⁰ (2016) 3 SCC 700.

- ❖ Prison-specific readiness and response plans must be developed in consultation with medical experts. “Interim guidance on Scaling-up COVID-19 Outbreak in Readiness and Response Operations in camps and camp like settings” jointly developed by the International Federation of Red Cross and Red Crescent (IFRC), International Organisation for Migration (IOM), United Nations High Commissioner for Refugees (UNHCR) and World Health Organisation (WHO), published by Inter-Agency Standing Committee of United Nations on 17 March, 2020 may be taken into consideration for similar circumstances.
- ❖ A monitoring team must be set up at the state level to ensure that the directives issued with regard to prison and remand homes are being complied with scrupulously.

B. Efforts Undertaken by the Ministry of Home Affairs

The Ministry of Home Affairs (MHA), Government of India, in view of the increased vulnerability of prisoners to the virus and the rise in number of positive cases in prisons, issued an advisory on 2 May, 2020. This 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”, was 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 contained the *Standard Operating Procedure (SOP) for Handling Arrested Persons, Detainees and Inmates during the Pandemic*, prepared in coordination with the Bureau of Police Research & Development (BPR&D) and Ministry of Health and Family Welfare, for the safe custody, medical care, transport while avoiding transmission of COVID-19 and also ensuring safety of prison staff.

C. Efforts Undertaken by the High Courts

Pursuant to the order of the Supreme Court, while many high courts took *suo motu* cognizance of the COVID-19 situation and prisons, some passed useful directions as part of the earlier pending writ petitions related to prison issues and in some high courts petitions with specific prayers were filed. Among these, 12 high courts appear to have been vigilant of the situation and exercised its constitutional powers to protect the life of persons behind bars. A summary of these cases and the important orders that were passed are provided below:

Table 2: Information on cases instituted in High Courts

S.No.	Name of High Court	Case Title	Directions
1.	Allahabad High Court	In Re Respondent: State of U.P. PUBLIC INTEREST LITIGATION (PIL) No. - 564 of 2020	(6 April, 2020) To meet the eventualities that occurred as a consequence of the lockdown imposed to arrest the spread of coronavirus, the court ordered that all accused-applicants whose bail application were allowed on or after 15 March, 2020 but had not been released due to non-availability of sureties amid the lockdown, may be released on execution of personal bonds provided the accused-applicants undertake to furnish the required sureties within a period of one month from the date of his/her actual release.

2.	Andhra Pradesh High Court	In Re. Corona Virus-COVID-19 PANDEMIC v. State of Andhra Pradesh and ors.	(26 March, 2020) The court ordered that in criminal matters where bail/suspension had been granted by the court either anticipatory or regular for a limited period, which are likely to expire within one month from the day, were to be automatically extended for a further period of one month. As per the resolution of the HPC, the court also directed that the convicts or undertrial offenders for the offences to which maximum sentence prescribed is not more than seven years, may be released on interim bail on furnishing adequate bail bonds if they are not second offenders and also not offenders under Section 376 of IPC and POCSO Act, for a period of one month. For the purpose of bail bond, the Principal District and Sessions Judge was to assign the Judicial Magistrate to reach the district jails on being asked by the Superintendent of the Central Jail of the area, for furnishing/accepting adequate bail bonds to the satisfaction of the magistrate, for their release to a limited period. They were also to give an undertaking that they would quarantine for 14 days at their home under the surveillance of the doctor with the help of the Police.
3.	Bombay High Court	High Court on its own motion v. State of Maharashtra and ors.	(23 April, 2020) The Bombay High Court directed the HPC to decide whether the distinction made between prisoners/undertrials accused under IPC and those under special enactments like MPID, MCOCA, NDPS, PMLA, UAPA etc for release on parole due to the pandemic of Covid-19, is discriminatory. In its judgement of 5-8-2020, the court refused to quash the HPC decision and upheld the classifications as non-discriminatory.
4.	Bombay High Court	Faruk Khan and ors. V. State of Maharashtra and ors.	(14 September, 2020) The Bombay High Court held that those prisoners or undertrials who have already been granted emergency parole as per notification dated May 8 for decongestion of prisons in view of the coronavirus, need not apply for extension of parole once the initial 45 day period is over.
5.	Bombay High Court	People's Union Civil Liberties and ors. V. State of Maharashtra and ors.	(12 June, 2020) The court sought details of pending bail applications of inmates from trial courts. It also asked the ADG, Prisons to furnish the information on the protocol being followed in correctional homes for testing of inmates who are asymptomatic and in direct and high risk contact of inmates who have tested positive for COVID-19, and whether inmates have passed away after testing positive for COVID-19.

6.	Calcutta High Court	In Re: Overcrowding in Prison	(24 March, 2020) The court directed that the release of eligible inmates was to be decided on case to case basis by the committee, which was to be constituted by the state government with due involvement of the Legal Services Authority. The HPC was to consider all precautionary measures within the correctional homes apart from taking adequate steps to enable release of eligible convicts and undertrial inmates.
7.	Calcutta High Court	The Hon'ble Court's in its Own Motion v. State of West Bengal	(31 March, 2020) The High Court asked for the compliance of the recommendations that the HPC came up with to reduce overcrowding in prisons after its first meeting on 27 March, 2020.
8.	Chhattisgarh High Court	Suo Moto v. State of Chhattisgarh and Ors.	(30 March 2020) The High Court extended the time period of all bail orders passed by it and by the courts subordinate to it, which have expired or will expire on or after March 16, till May 15, 2020. It also directed the SLSA to ensure forthwith the release of prisoners as identified by the state HPC to be eligible for release on interim bail, as a measure to de-congest prisons, in compliance with the Supreme Court's order.
9.	Delhi High Court	Shobha Gupta and ors. v. Union of India ors.	(23 March, 2020) The court directed the Delhi government and Delhi Police to take immediate steps to implement its decision to: <ol style="list-style-type: none"> 1. Introduce 60 days parole in one spell. 2. Introduce a temporary facility of 'special furlough' due to the threat of epidemic, natural disaster, etc. which warrants an easing of inmate population in the interest of inmates and society at large 3. Introduce "emergency parole" (parole for upto eight weeks in one spell). 4. In case of undertrial prisoners who are booked only in onecase in which the maximum sentence is seven years or less and have completed a minimum of three months in jail, they were to be granted interim bail for 45 days on request (preferably on a personal bond). 5. Undertrial prisoners were at liberty to apply for interim bails.

10.	Delhi High Court	Court of its own motion v. State of Delhi	(9 April, 2020) The High Court ordered that all bail orders, passed by the court or by the court's subordinate to it, on or before 7 April, 2020, in pursuance whereof the undertrial prisoners had not been released on bail owing to failure to satisfy the condition of furnishing surety bond, were to be modified to be read as granting bail without the condition of furnishing surety bond and instead allowing such undertrial prisoners to be released on furnishing personal bond to the satisfaction of Superintendent of Jail.
11.	Gauhati High Court	Guwahati v. The State of Assam and ors. PIL(Suo Moto) 4/2020	(23 July, 2020) The Gauhati High Court registered a suo motu Public Interest Litigation (PIL) regarding the rising cases of COVID-19 in Assam prisons. The court sought information regarding the number of COVID-19 positive cases, the precautionary steps that were taken, the process of disinfecting the prisons and the treatment being provided to jail inmates. It directed that the best of the measures available with the state of Assam be employed to give qualitative treatment to the jail inmates across the state so that no further damage is caused. The court also directed that the persons who had not tested positive for Covid-19 be segregated and be maintained as such so that the disease is not transmitted to them. And that, all the jail inmates in Assam be tested for COVID-19.
12.	Gujarat High Court	Suo Motu v. State of Gujarat and 2 others	(27 March, 2020) The Gujarat High Court extended all bail orders, regulatory or anticipatory, that were due to expire before April 30, by a month. The court, while stating that a blanket order restraining arrests could not be passed, directed the Department of Home, Government of Gujarat to ensure that before any accused is arrested and sent to jail, it is confirmed that he/she is not suspected to be or infected with Coronavirus.
13.	Karnataka High Court	Shri Amol Kale v. State of Karnataka and ors.	(3 September, 2020) The Karnataka High Court directed the state government to furnish details of facilities available inside prisons for treating COVID-19 patients and the number of inmates so far infected.
14.	Madhya Pradesh High Court	Madhuri Krishnaswami v. State of Madhya Pradesh & Ors. Writ Petition No. 8391 of 2020	(29 June, 2020) The Madhya Pradesh High Court issued notice on a petition alleging non-implementation of the Supreme Court order for decongestion of prisons in the state. The court issued a notice to the MP Government, its Law and Legal Affairs Department, its Health Department, the Director General of Prisons, State Legal Services Authority and the Director General of Police.

15.	Madras High Court	V. Krishnamurthy v. The State of Tamil Nadu and ors.	(3 April, 2020) The Madras High Court issued notices on a writ petition seeking immediate constitution of an HPC, to determine the class of prisoners that can be released on interim bail, amid the COVID-19 pandemic.
16.	Punjab and Haryana High Court	Ishu Grover @ Ishu @Golu v. U.T., Chandigarh and another	(30 March, 2020) The court directed all the subordinate courts in Punjab, Haryana and Chandigarh to release the accused who had already been granted bail on furnishing their personal bonds without enforcing the condition of surety bonds/bail bonds (while laying down the condition that when situation becomes normal, the accused would be bound to furnish surety bonds/bail bonds. All District & Sessions Judges in Punjab, Haryana and Chandigarh, were asked to make a mechanism, clearly providing on their official websites, the contact numbers and e-mails of the CJMs/Duty Magistrates or other Judicial Officers on duties so that the compliance of the orders granting bail could be made. And also to upload the orders passed by the Courts in their respective Sessions Divisions, before or on the date of lockdown.

D. Efforts Undertaken by the Prison Departments to curb the spread of COVID-19

The Supreme Court recognised that, “*there is an imminent need to take steps on an urgent basis to prevent the contagion of COVID-19 virus in our prisons. If prisoners are tested positive for the COVID-19 virus, immediate measures have to be taken for their quarantining and medical treatment.*”⁵¹ As a result, it directed for notices be issued to the Chief Secretaries/Administrators, Home Secretaries, Directors General of all the Prisons and Department of Social Welfare of all the States and the Union Territories to suggest immediate measures which should be adopted for the medical assistance to the prisoners in all jails and the juveniles lodged in the Remand Homes and for protection of their health and welfare.⁵²

States undertook various measures to prevent the spread of virus in prisons. These included measures such as creation of isolation wards, quarantine of new prisoners including prisoners of foreign nationality for a specific period, preliminary examination of prisoners for symptoms of COVID-19, ensuring availability of medical assistance, scanning of staff and other service providers at entry points, sanitisation of prison campus and wards, supply of masks, barring or limiting of visitors to prisoners, suspension of cultural and other group activities, awareness and training with regard to stoppage of transmission of COVID-19 and court hearings through video-conferencing, efforts to boost the immunity of prisoners by providing them *kadha* as per AYUSH guidelines, to name a few.⁵³

⁵¹ Order dated 16 March 2020.

⁵² The scope of this report is limited to the efforts taken by states/UTs in regard to prisons.

⁵³ Suo Motu Writ Petition (C) No. 1/2020, order dated March 23, 2020. Also see report of National Consultation on ‘Prisons & Ensuring Effective Response to COVID-19’ organised by CHRI and Madhya Pradesh Prisons & Correctional Services in June 2020. Available at <https://www.humanrightsinitiative.org/publication/report-of-the-national-consultation-on-prisons-ensuring-an-effective-response-to-covid19> (last accessed on 12 November, 2020).

Chapter (4) of the report documents some of the efforts taken by states/UTs under various heads and Volume II of the report consists of state-wise reports.

Having enlisted the efforts undertaken by various stakeholders, it is useful to understand how this impacted prison populations, and whether indeed there was success in reducing prison populations and reduce overcrowding. This analysis is provided in the next chapter.

(2)

IMPACT OF DECONGESTION EFFORTS ON PRISON OCCUPANCY

It is crucial to determine whether the efforts undertaken by the HPCs, UTRCs, high courts and the respective state governments actually resulted in the decongestion of prison population. This chapter analyses the change in overall population between the first two quarters of 2020 (January, 2020 to March 2020 and April 2020 to June 2020) using the population data from the Prison Statistics India 2019 (for the total population in prison on 31 December, 2019) and the responses received on total population between 1 April 2020 and 30 June 2020.

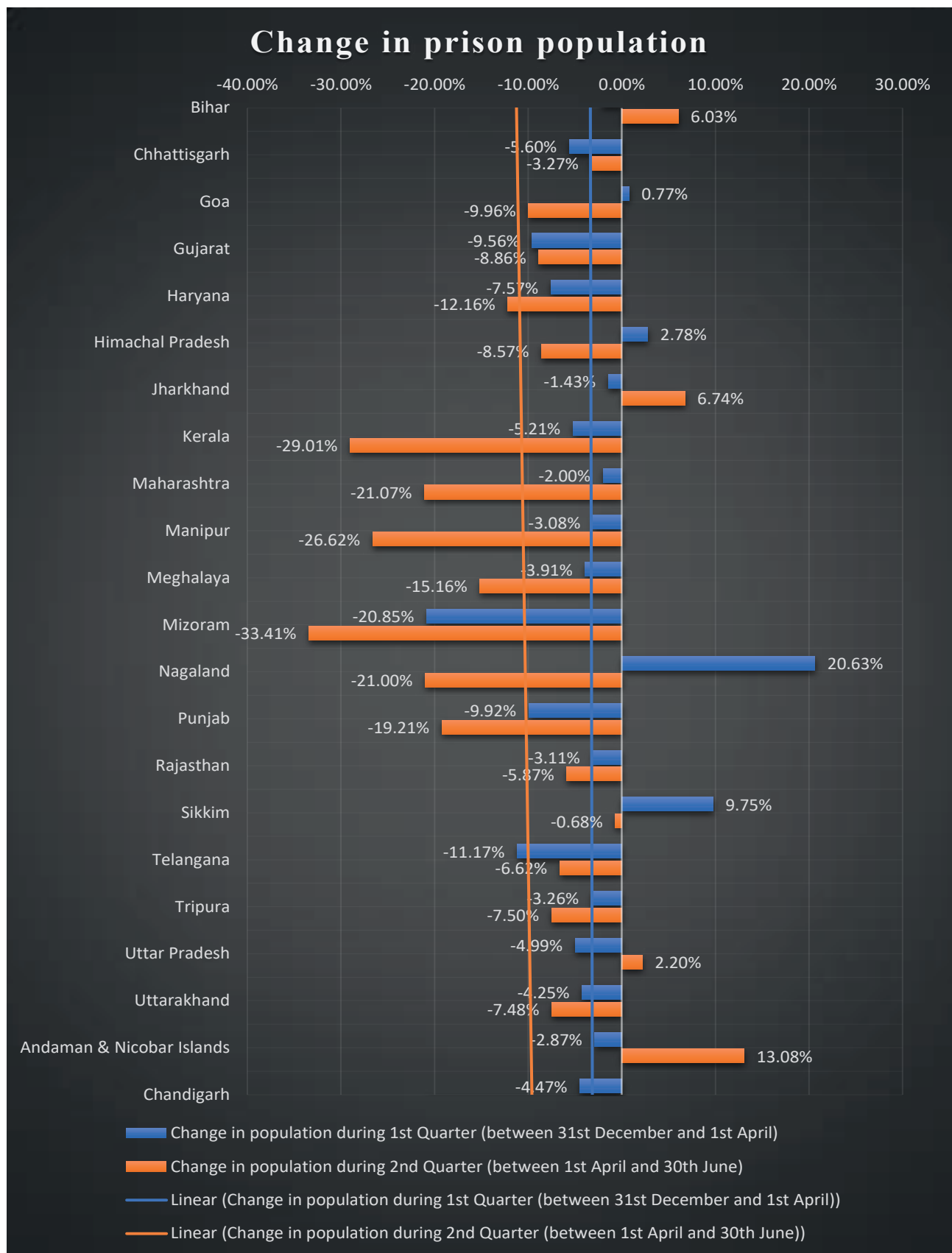
Apart from releasing the HPC determined categories of prisoners, some states⁵⁴ also resorted to transfer of prisoners from overcrowded prisons to others. The Supreme Court passed a direction in this regard on 23 March 2020, stating, “*the transfer of prisoners from one prison to another for routine reasons must not be resorted except for decongestion to ensure social distancing and medical assistance to an ill prisoner.*”

In Chhattisgarh and Gujarat, the HPC left it open for the ADG Prison to take a call on shifting of the prisoners from one prison to another to avoid congestion in a particular jail and to maintain social distancing. In Chhattisgarh, DG Prisons was directed to do it proportionately as per the jail manual so that the strength of the overcrowded jails may be reduced to a bearable figure. In Bihar, the prison department transferred 14903 prisoners which amounted to transfer of more than 35% of their prison population. Transfers in large numbers from one prison to another impacts family ties of prisoners as families may find it difficult to travel or communicate and may not be suitable as a long-term solution.

⁵⁴ Chhattisgarh, Gujarat, Haryana, Karnataka.

A. Impact on prison population

Graph 1: Change in prison population during the first two quarters of 2020



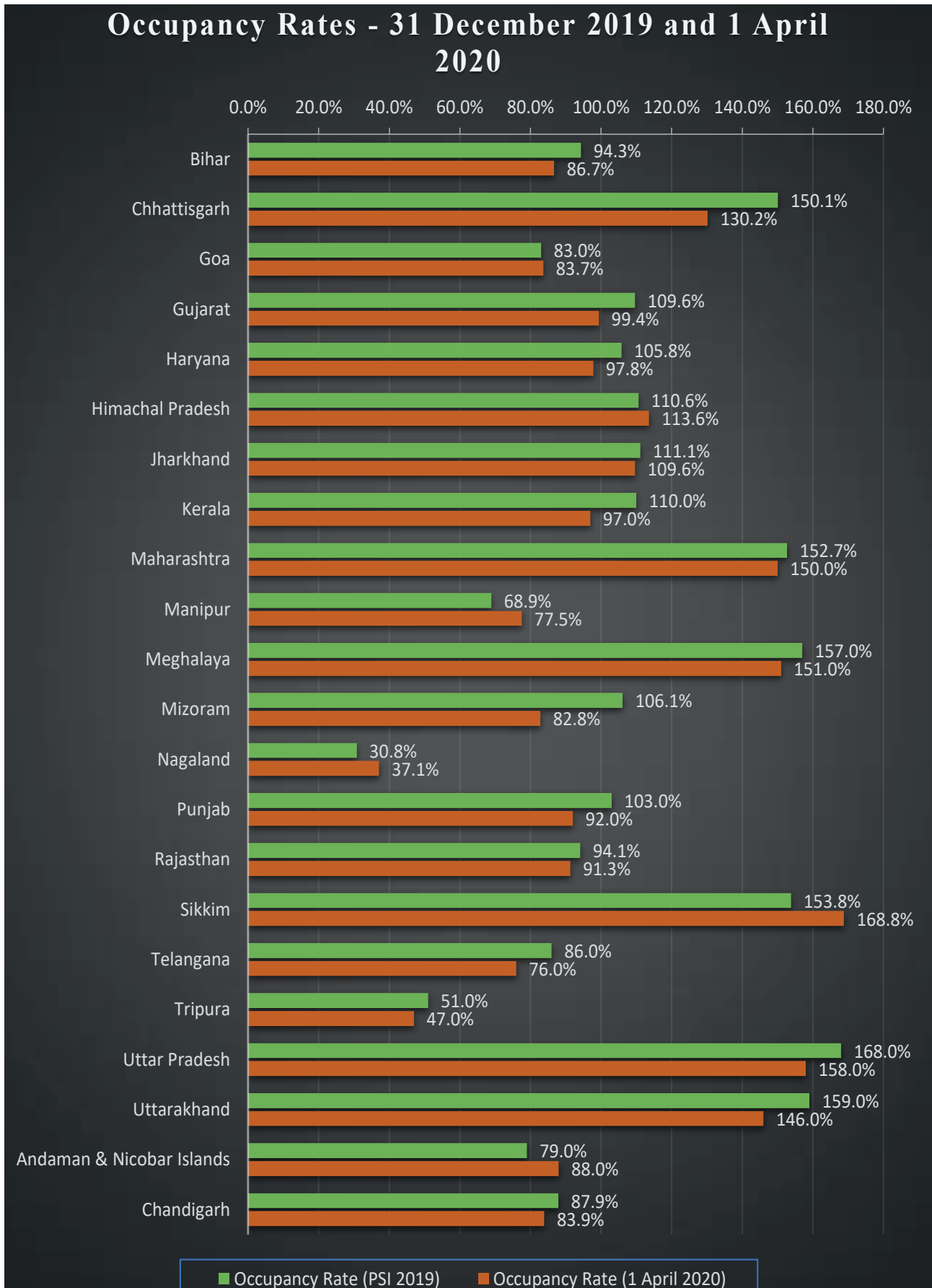
- ⇒ In the first quarter, i.e. between 31 December, 2019 and 1 April, 2020, data reveals that all but four states (Goa, Himachal Pradesh, Nagaland and Sikkim) had a decrease in their total prison population. The highest increase was in Nagaland with a 20.63% rise in the prison population. In contrast, Mizoram saw the greatest drop in their prison population with a fall of nearly 20.9%. The average percentage reduction in prison population stood at 3.25%. While this could be due to various factors, it could be partially due to the fact that many states may have taken decongestion measures before the Supreme Court orders. The analysis of available data also reveals that the HPC was set up in most states within a week of the Supreme Court order which may have resulted in the HPC giving directions regarding release of prisoners between 24 and 31 March.
- ⇒ In the second quarter between 1 April, 2020 and 30 June, 2020, there was an average fall in the prison population by 10.42%. Eight states had managed to reduce their prison population much more than the national average. These were Haryana (12.16%), Kerala (29.01%), Maharashtra (21.07%), Manipur (26.62%), Meghalaya (15.16%), Mizoram (33.41%), Nagaland (21.00%), and Punjab (19.21%). However, during this period, the population of inmates in Bihar (6.03%), Jharkhand (6.74%), Uttar Pradesh (2.2%) and Andaman & Nicobar Islands (13.08%) had increased.
- ⇒ Overall, from January to June, 2020 there was an overall decrease in prison population by 13.67%. Interestingly the reduction was higher in the second quarter, indicative of the efforts by HPCs to decongest prisons.

B. Impact on occupancy rates in Prison

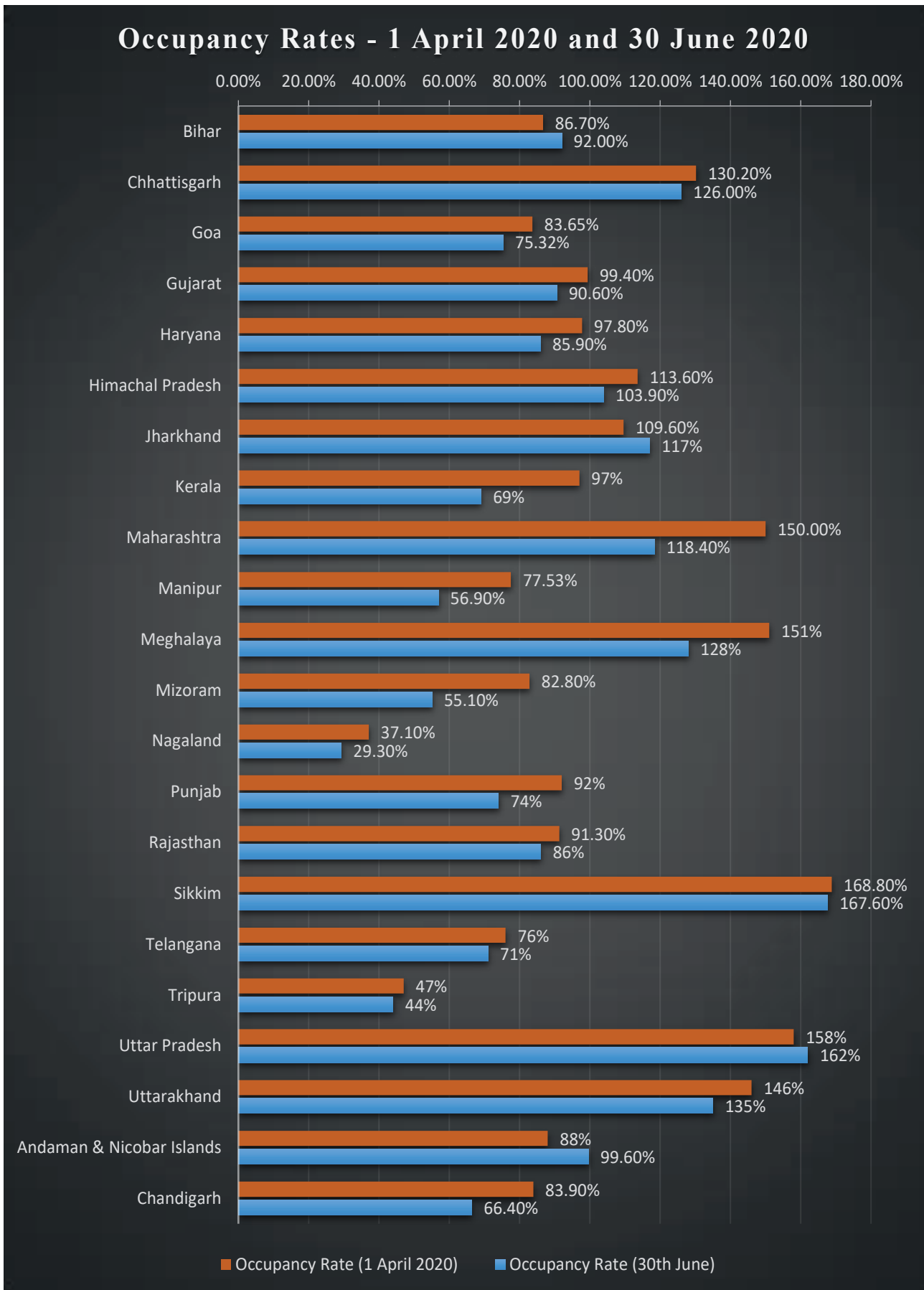
Graph 2 below provides for a comparison of the occupancy rates between 31 December, 2019 and 1 April, 2020. It shows that only five states had successfully managed to curb overcrowding by 1 April. These were the states of Gujarat, Haryana, Kerala, Mizoram and Punjab.

Followed by this, is Graph 3 which provides for the difference in occupancy rates between 1 April, 2020 and 30 June, 2020, showing the impact of the functioning of the HPC in each state/UT.

Graph 2: Comparison of Occupancy Rates on 31 December, 2019 and 1 April, 2020



Graph 3: Comparison of Occupancy Rates on 1 April, 2020 and 30 June, 2020



- ⇒ While the overall occupancy rate (of 20 states and two UTs we received data from) on 31 December, 2019 stood at 107.8%, it had come down to 103.1% by 1 April, 2020. **Between 1 April and 30 June, 2020, the overall occupancy had further come down to 93.3%.**
- ⇒ While the occupancy rates of most states have remained below 100% during the period, the prisons of eight states (Chhattisgarh, Himachal Pradesh, Jharkhand, Maharashtra, Meghalaya, Sikkim, Uttar Pradesh and Uttarakhand) continued to be overcrowded as on 30 June, 2020.
- ⇒ A closer look at the prison-wise occupancies reveals a different picture. **Annexure III** provides for the same as received from 19 states and two UTs. 160 out of 608 prisons were found to be overcrowded which amounts to 27% of the prisons of these states/UTs. Among them, 49 prisons had an occupancy rate between 150% and 200%; 27 prisons had between 200% and 250% occupancy; 12 prisons had an occupancy rate between 250% and 300%; 11 prisons with occupancy rates between 300% and 400%; and one prison with more than 400% occupancy. **Twenty seven percent of overcrowded prisons have the potential not only to turn into hotspots of COVID-19, but also have the potential to tarnish the image of the country globally.**
- ⇒ In Bihar, while the overall occupancy rate (92%) indicate that there is no overcrowding at the state level, 25 out of 59 prisons had more than 100% occupancy as on 30 June, 2020. This essentially means that Bihar's 42% prisons were overcrowded despite the decongestion efforts. Similarly, in Gujarat, 10 out of 28 prisons were congested with the state-level occupancy at 90.6%. Haryana had seven of 19 prisons with state average of 86%. Kerala, with the lowest state average of 68.8% occupancy, had 18 of 55 prisons overpopulated. In Rajasthan, while the overall occupancy stood at 86%, on 30 June, 2020, there were 49 prisons that had a population larger than its capacity. This demonstrates why the **state-wise occupancy rate might hide significant information regarding the actual condition inside prisons and calls for constant monitoring of the prison-wise occupancy rate** so that timely steps can be taken to reduce the occupancy much below the 100% mark.

C. Inflow and Outflow in Prisons

In order to keep a check on prison populations, and keep them within sanctioned capacity, it is vital to ensure a decrease in inflow as well as an increase in outflow of prisoners. The data indicates that the HPCs made efforts to increase the outflow of prisoners, while not much was done to decrease the inflow, i.e. to reduce new admissions to prisons. In terms of the latter, the Supreme Court and later many HPCs⁵⁵ had reiterated that the directions issued by the Supreme Court in the case of *Arnesh Kumar vs State of Bihar*⁵⁶ must be scrupulously followed by the police and judicial officers. However, there were reports across the country of large number of arrests having taken place during these times for lockdown violations and related incidents.

In order to understand the inflow and outflow in prisons during April to June, 2020 information was sought from states on admissions and releases during this period. However, only six states/union territories viz. Bihar, Mizoram, Nagaland, Punjab, Sikkim and Chandigarh provided this information. Table 3 below tabulates the information on

⁵⁵ Andhra Pradesh, Chhattisgarh, Haryana, Chandigarh, Odisha, Punjab and Tripura.

⁵⁶ (2014) 8 SCC 273.

admissions and releases during the three months of the study. The primary findings from the analysis of this information are enumerated below.

Table 3: Data from States that provided information on Admissions, Releases and Transfers in States

State/UT	APRIL			MAY			JUNE		
	Total number of Admissions	Total number of Releases	Total number of Transfers from one prison to another	Total number of Admissions	Total number of Releases	Total number of Transfers from one prison to another	Total number of Admissions	Total number of Releases	Total number of Transfers from one prison to another
Bihar	6125	4623	2719	8588	8209	2316	12479	12011	9058
Mizoram	156	184	0	166	171	4	232	296	0
Nagaland	33	64	Nil	58	Nil	Nil	70	Nil	Nil
Punjab	2639	4130	816	2832	2945	922	4838	2605	2046
Sikkim	27	21	0	34	28	0	20	28	0
Chandigarh	32	157	0	54	112	0	92	113	0

- ⇒ In **Bihar**, over the three months immediately following the national lockdown, there has been a large increase in figures for both admissions and releases, with admissions exceeding releases in all three months. There was also a large number of transfers (9058) that took place in June, ostensibly to regulate overcrowding in individual prisons.
- ⇒ In **Mizoram**, while the admissions and releases have increased, the total releases in the state exceeded the total admissions in all three months.
- ⇒ While the total releases (64) in **Nagaland** stood at almost double of the admissions (33) in April, the following months saw no releases even as admissions rose from 58 in May to 70 in June.
- ⇒ The state of **Punjab** saw a significant number of releases in April (4130), which was about 56% more than the admissions in April (2639). In May, the admissions (2832) were only slightly less than the releases (2945). However, in June, the admissions (4838) were roughly the double of the total releases (2605) in the state.
- ⇒ In **Sikkim**, the total admissions in April were 27 and it went down to 20 in June. In the same period, the monthly release figures went from 21 in April to 28 in both May and June.
- ⇒ In case of **Chandigarh**, there were a high number of releases (157) in April that later came down to 112 and 113 in May and June, respectively. During this period, the admissions steadily rose from 32 in April to 54 in May and 92 in June.

Table 4: Comparison of Admissions and Releases in PSI 2019 and April-June 2020

S.No.	State/UT	Quarterly Admissions as per PSI 2019	Total Admissions between April to June 2020	Quarterly Releases as per PSI 2019	Total Releases between April to June 2020
1	Bihar	49063	27192	47398	24843
2	Mizoram	1561	554	1543	651
3	Nagaland	517	161	512	64
4	Punjab	20792	10309	18834	9680
5	Sikkim	126	81	122	77
6	Chandigarh	640	178	697	382

The comparison of the admissions and release data for April to June 2020 with the PSI 2019 data reveals some interesting facts. In **Bihar**, the PSI 2019 data showed that admissions over a quarter were more than the releases. The admissions were about 103.5% of the releases. Between April to June, the admissions were about 109.5% of the releases. **Mizoram** saw a considerable fall in admissions and releases during the pandemic with admissions and releases coming down to a third of the quarterly figures from PSI 2019. However, in Mizoram, the releases during the pandemic exceeded the figure for admissions by about 17.5%. In the case of **Nagaland**, between April and June 2020, the admissions came down to less than a third of the quarterly admissions in PSI 2019. Sadly, the releases came down by a larger margin to only an eighth of the quarterly releases in PSI 2019. In **Punjab**, the admissions and releases both fell to almost a half of that of the quarterly figures from PSI 2019. However, the admissions between April and June exceeded the releases by 6.5%. **Sikkim** saw a marginal decline in the admissions and releases between April and June 2020. However, there were four admissions more than there were releases. Chandigarh saw a reduction in admission to almost a quarter and the releases reduced to more than a half of the quarterly figures from PSI 2019.

This data reveals that the admissions in all six states between 1 April, 2020 and 30 June, 2020 have been much less than the average quarterly admissions based on the annual figures provided in PSI 2019. As per the information received, the highest drop in admissions was reported in Chandigarh with 72.2%, followed by Nagaland (68.9%), Mizoram (64.5%), Punjab (50.4%), Bihar (44.5%) and Sikkim (35.7%). While the reduction could be on account of reduced crime rates due to the lockdown and restrictions, one does wonder that amid the lockdown restrictions, what the offences were under which the arrests were made. One would hope that it was not only for lockdown violations.

While the admissions reduced, the releases too dropped drastically, which negatively impacted efforts to reduce prison populations. The release of undertrials was most affected in Nagaland with 87.5% decrease. Mizoram (58%), Punjab (49%), Bihar (47.5%), Chandigarh (45%) and Sikkim (37%) followed the trend. The primary reason for drop in releases could be the closing down of the district courts leading to non-filing of regular bail applications and eventual non-release of undertrials. Unfortunately, none of the HPCs considered the admissions data, which could have led to measures being undertaken to check admissions, and prevent unnecessary arrests. Even in terms of releases, had the HPC considered the comparative data, it could have initiated measures for filing of regular bail and streamlined court procedures. This would have furthered the decongestion efforts undertaken.

It is evident from the aforementioned analysis that the decongestion efforts have led to releases from prisons. One wonders how these releases were effectuated and what the role of the HPCs and UTRCs to effectuate the releases was. This is vital to understand, not only to develop a deeper insight into how judiciary, prisons and legal services institutions responded to the crisis, but also to be able to design future interventions for sustained decongestion measures to address the issue of overcrowding in prisons. The functioning of the HPCs and UTRCs as well as efforts of the state prison departments towards effectuating releases is documenting in subsequent chapters.

(3)

FUNCTIONING OF THE HIGH POWERED COMMITTEES

The High Powered Committees, a hitherto unknown entity, were directed to be constituted by the Supreme Court as a response to the pandemic. This chapter discusses their constitution, mandate and compliance by states. It also provides an analysis of the categories it considered for release, as well as those excluded for release.

I. Constitution of High Powered Committee

On 23 March, 2020, the Supreme Court of India, in ‘Re- Contagion of Covid 19 Virus in Prisons’ directed that,
“...each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Authority, (ii) the Principal Secretary (Home/Prison), (iii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate.”

⇒ As per the information received from 28 states/UTs, the HPCs were formed in all with the Chairperson and the members as mandated in the court’s order. Additionally, 18 states/UTs also had additional invitees which most often included the Member Secretary and other representatives of the SLSA, senior prison officers at the prison headquarters, representatives of the police and prosecution department, among others. Many states were prompt in forming the HPCs as is evident from the information provided by 13 states, which had formed HPCs by 1 April, 2020.

Table 5 below provides the State/UT-wise information on the formation and membership of HPC and the number of meetings that were held from 1 April to 30 June.

Table 5: State-wise information on the constitution of the HPC

S. No.	Name of the State/UT	Date on which HPC formed	Members of the HPC	Other invitees
1.	Andhra Pradesh	N/P	1. The Executive Chairperson, Andhra Pradesh SLSA - Chairman 2. The Principal Secretary (Home), Government of Andhra Pradesh - Member 3. The Director General prisons, Andhra Pradesh - Member	Executive Chairman, High Court Legal Services Committee
2.	Bihar	24 March 2020	1. The Executive Chairperson, Bihar State Legal Services Authority - Chairman 2. The Additional Chief Secretary (Home), Government of Bihar - Member 3. The Inspector General, Bihar Prisons and Correctional Services - Member	-

3.	Chhattisgarh	N/P	1. The Executive Chairperson, Chhattisgarh State Legal Services Authority - Chairman 2. The Additional Chief Secretary (and also having charge of Department of Home & Prison), Government of Chhattisgarh - Member 3. The Additional Director General (Prison), Jail Headquarters - Member	-
4.	Goa	N/P	1. The Chairperson, Goa State Legal Services Authority - Chairman 2. The Principal Secretary (Home)/Chief Secretary, Government of Goa - Member 3. The Inspector General of Prisons - Member	-
5.	Gujarat	24 March 2020	1. The Executive Chairperson, Gujarat State Legal Services Authority - Chairman 2. The Additional Chief Secretary, Government of Gujarat- Member 3. The Additional Director General of Police, Prison and Correctional Administration, Gujarat State - Member	Public Prosecutor
6.	Haryana	N/P	1. The Executive Chairperson, Haryana SLSA - Chairman 2. The Additional Chief Secretary, Government of Haryana, Home Department - Member 3. The Director General of Prisons, Haryana - Member	Member Secretary, Haryana SLSA
7.	Himachal Pradesh	N/P	1. The Executive Chairperson, Himachal State Legal Services Authority - Chairman 2. The Additional Chief Secretary (Home), Government of Himachal Pradesh - Member 3. The Director General of Police, Himachal Pradesh - Member	Member Secretary, Himachal Pradesh SLSA
8.	Jharkhand	N/P	N/P	-
9.	Karnataka	N/P	1. The Executive Chairperson, Karnataka SLSA - Chairman 2. The Principal Secretary (PCAS), Government of Karnataka - Member 3. The Director General (Prisons & Correctional Services), Karnataka - Member	Additional Chief Secretary to Government (Home & Prison), Government of Karnataka; ADGP (Law & Order); Registrar General, High Court of Karnataka; Director ICPS, Bangalore; Director of Prosecution; Deputy Inspector General (Prisons & Correctional Services); Member Secretary, Karnataka SLSA; Deputy Secretary, Karnataka SLSA
10.	Kerala	25.03.2020	1. The Executive Chairperson, Kerala SLSA - Chairman 2. The Additional Chief Secretary (Home & Vigilance), Government of Kerala - Member 3. The Director General of Prisons, Kerala - Member	-
11.	Maharashtra	24.03.2020	1. The Executive Chairperson, Maharashtra State Legal Services Authority - Chairman 2. The Additional Chief Secretary (A&S) Home, Government of Maharashtra - Member 3. The Director General Prisons, Maharashtra - Member	Advocate-General was consulted telephonically.

12.	Manipur	N/P	1. The Executive Chairman, Manipur SLSA - Chairman 2. The Chief Secretary (Home), Government of Manipur - Member 3. The ADGP (Prisons), Manipur - Member	Member Secretary, SLSA; Special Secretary (Home), Govt of Manipur; Additional Member Secretary, SLSA; Secretary, Imphal West DLSA; Deputy Secretary (Home), Govt of Manipur; Deputy Member Secretary, SLSA
13.	Meghalaya	27.03.2020	1. The Executive Chairman, Meghalaya SLSA - Chairman 2. The Commissioner & Secretary to the Government of Meghalaya, Prisons Department - Member 3. The IG (Prisons), Meghalaya - Member	Chairman, High Court Legal Services Committee Secretary, Home Police Department, Secretary, Health & Family Welfare Department, Director of Social Welfare,
14.	Mizoram	26.03.2020	1. The Executive Chairman, Mizoram SLSA - Chairman 2. The Secretary to the Government of Mizoram, Home Department - Member 3. The IG (Prisons), Mizoram - Member	Member Secretary, Mizoram SLSA - Member, AIGP (Legal); DIG (Armed Branch); Joint Secretary to the Govt. of Mizoram, General Administration Department
15.	Nagaland	30.03.2020	1. The Executive Chairperson, Nagaland SLSA - Chairman 2. The Principal Secretary, Government of Nagaland - Member 3. The Additional Director of Police (Prisons), Nagaland - Member	Public Prosecutor
16.	Odisha	26.03.2020	1. The Executive Chairperson, Odisha SLSA - Chairman 2. The Principal Secretary, Home Department, Government of Odisha - Member 3. The Director General of Police, Odisha - Member	Member Secretary, Odisha SLSA
17.	Punjab	N/P	1. The Executive Chairperson, Punjab SLSA - Chairman 2. The Principal Secretary, Government of Punjab, Jail Department - Member 3. The Additional Director General of Police, Prison, Punjab - Member	Member Secretary, Punjab SLSA; Additional Chief Secretary to Government of Punjab
18.	Rajasthan	N/P	N/P	-
19.	Sikkim	30.03.2020	1. The Executive Chairperson, Sikkim State Legal Services Authority - Chairman 2. The Chief Secretary, Government of Sikkim - Member	- The Senior Superintendent of Police, District Prison, Namchi - Member and The Additional Secretary (Confidential), Home Department - Member
20.	Telangana	1.04.2020	1. The Executive Chairperson, Telangana SLSA - Chairman 2. The Principal Secretary (Home Department), Government of Telangana - Member 3. The Director General of Prisons and Correctional Services, Telangana - Member	Secretary to Government (Law Department), Telangana Secretariat, Public Prosecutor for the State of Telangana I.G. Prisons, Telangana

21.	Tripura	27.03.2020	1. The Executive Chairperson, Tripura SLSA - Chairman 2. The Principal Secretary, Home (Jail), Government of Tripura - Member 3. The Inspector General Prisons, Government of Tripura - Member	Chief Superintendent of Homes, Directorate of Social Welfare and Social Education
22.	Uttar Pradesh	N/P	1. The Executive Chairperson, UP SLSA - Chairman 2. The Additional Chief Secretary Home & Jails, Government of U.P. - Member 3. The Director General of Police, Prisons, Uttar Pradesh - Member	Principal Secretary, Women & Child Development, Government of Uttar Pradesh (as Special Guest)
23.	Uttarakhand	N/P	1. The Executive Chairperson, Uttarakhand State Legal Services Authority - Chairman 2. The Principal Secretary (Home/Prison), Government of Uttarakhand - Member 3. The Director General of Prison, Uttarakhand - Member	-
24.	West Bengal	N/P	1. The Executive Chairperson, West Bengal SLSA - Chairman 2. The Secretary, Department of Correctional Administration, Government of West Bengal - Member 3. The Additional Director General and Inspector General of Correctional Services, West Bengal - Member	-
25.	Andaman & Nicobar Islands	N/P	1. The Executive Chairperson, Andaman & Nicobar Islands SLSA - Chairman 2. The Principal Secretary (Home), Andaman & Nicobar Islands - Member 3. The Inspector General, Prison Department - Member	Coordinated by - Member Secretary, Andaman & Nicobar Islands SLSA
26.	Chandigarh	N/P	1. The Executive Chairman, SLSA, U.T., Chandigarh - Chairman 2. The Principal Secretary Home Department, U.T., Chandigarh - Member 3. The IG (Prisons), U.T. Chandigarh - Member	Member Secretary, SLSA UT, Chandigarh; Secretary, DLSA, UT, Chandigarh
27.	Delhi	26.03.2020	1. The Executive Chairperson, Delhi SLSA - Chairman 2. The Principal Secretary (Home) / Additional Chief Secretary, Government of NCT of Delhi - Member 3. The Director General (Prisons), Delhi - Member	Member Secretary, Delhi SLSA
28.	Jammu & Kashmir	29.03.2020	1. The Executive Chairperson, Jammu & Kashmir SLSA - Chairman 2. The Principal Secretary to Government, Home Department, Govt of UT of J&K - Member 3. The Director General of Police (Prisons), J&K - Member	Member Secretary, J&K SLSA

II. Periodicity of HPC Meetings

With regard to the periodicity of the meetings, no direction was passed by the court.

⇒ With the variance from one to 15, the average number of meetings held among the 24 states/UTs⁵⁷ was three. The HPC in Odisha held the maximum (15) meetings, followed by Haryana HPC with 7 meetings and Delhi HPC with 6 meetings during the three month period. Table 6 below provides the total number of HPC meetings held and the corresponding change in prison population from April to June 2020.

⁵⁷ 4 States did not provide the number of meetings held by HPCs.

Table 6: State-wise list of number of HPC meetings held and the change in prison population between April and June 2020

S.No	State	Number of HPC Meetings Held	Change in prison population between April to June
1	Nagaland	1	-21.00%
2	Meghalaya	1	-15.16%
3	Himachal Pradesh	1	-8.57%
4	Tripura	1	-7.50%
5	Telangana	1	-6.62%
6	Sikkim	1	-0.68%
7	Mizoram	2	-33.41%
8	Maharashtra	2	-21.07%
9	Goa	2	-9.96%
10	Uttarakhand	2	-7.48%
11	Andaman & Nicobar Islands	2	+13.08%
12	Andhra Pradesh	2	N/P
13	Chandigarh	3	-20.85
14	Manipur	3	-26.62%
15	Punjab	3	-19.21%
16	Gujarat	3	-8.86%
17	Chhattisgarh	3	-3.27%
18	Uttar Pradesh	3	+2.20%
19	West Bengal	3	N/P
20	Jammu & Kashmir	3	N/P
21	Karnataka	4	N/P
22	Delhi	6	N/P
23	Haryana	7	-12.16%
24	Odisha	15	N/P
25	Kerala	N/P	-29.01%
26	Rajasthan	N/P	-5.87%
27	Bihar	N/P	+6.03%
28	Jharkhand	N/P	+6.74%

⇒ While the Supreme Court required the HPCs to monitor the decongestion efforts in prisons, many HPCs were content with conducting just one meeting between 1 April and 30 June, 2020. These included the states of Himachal Pradesh, Meghalaya, Nagaland, Sikkim, Telangana, and Tripura. Nevertheless, these states saw a reduction in the overall prison population during this period, with the highest drop in Nagaland and Meghalaya at 21% and 15.16% respectively. The lowest decline among these states was that of Sikkim which saw a fall in prison

population by 0.68%. Sikkim also had one of the highest occupancy rates which was at 168.80% on 1 April, 2020 and only came down to 167.60% by 30 June, 2020.

- ⇒ From the data available, Haryana which had seven HPC meetings only saw a drop in overall prison population by 12.16%. However, across the prisons in Haryana, the average occupancy rate stood at 97.8% on 1 April, 2020 and the decongestion efforts brought down the occupancy to 85.90% by 30 June, 2020. The highest drop in population occurred in Mizoram. Here, the HPC had held two meetings and the inmate population decreased by 33.41%, and the occupancy went from 82.80% to 55.10% during this period. Further, states/UTs like Uttar Pradesh and Andaman and Nicobar Island that witnessed three and two HPC meetings respectively, saw a rise in their prison population by 2.20% and 13.08%, respectively.
- ⇒ This analysis, thus, indicates that there is not much to infer in terms of a correlation between the number of meetings held by the HPCs and the releases in prisons. However, a higher number of meetings did ensure regular monitoring of prisons, and effective measures to curb the spread of the virus.

III. Categories of Prisoners Identified and Excluded from Consideration

In order to determine which class of prisoners were to be considered for release on parole or an interim bail, the Supreme Court suggested that, “*the State/Union Territory could consider the release of prisoners who have been convicted or are undertrial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum. It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.*”

Out of the 28 states/UTs, 24 provided the minutes of the HPC.⁵⁸ It was explicitly made clear in the Supreme Court order that the category of prisoners [(i) who have been convicted or are undertrial for offences for which the maximum prescribed imprisonment is seven years or less, with or without fine; and (ii) those convicted for a lesser number of years than the maximum], were only suggestive. The Supreme Court left it on the discretion of the HPCs to determine the categories of cases for different class of prisoners that could be released in their respective states.

An analysis of the available minutes presents an interesting insight into the various categories HPCs decided upon. An assessment indicates that there were some categories decided as the primary category. On this, certain other criteria (like period of detention; number of pending cases; court authorised to conduct trial, etc.) were added to determine the final category of prisoners to be considered for release. The sections below provide a detailed analysis of the criteria considered by HPCs across various states/UTs.

Example: A final category determined was ‘accused of offences with maximum sentence of seven years or less and who are granted bail by the competent criminal court but not released due to inability to furnish bond or execute surety’. In this case, the primary category is undertrials accused of offences with maximum sentence of seven years or less. The additional criteria added to this, are those prisoners who have been granted bail by the court but not released due to inability to furnish surety.

⁵⁸ Bihar, Jharkhand, Kerala and Rajasthan did not provide the minutes of the HPC meetings.

A. Categories of Undertrial Prisoners

Table 7 below provides the various categories of undertrial prisoners that were identified by the state HPCs for consideration of release. They have been divided as primary and additional categories for ease of understanding. However, it must be noted that such a distinction is not provided in any HPC meeting minutes, but is done as part of this analysis.

As seen in the table below many primary criteria and the additional criterion overlap with each other. In some HPC minutes, like that of Himachal Pradesh, Delhi and Chandigarh, it was difficult to understand the distinction between the two and all categories have been considered as primary.

The information highlights some crucial findings -

- ⇒ The HPCs of seven states/UTs⁵⁹ restricted their determination of categories only to those who are ‘undertrial for offences for which prescribed punishment is up to seven years or less, with or without fine’, as suggested by the Supreme Court.
- ⇒ The highest number of categories were determined by Delhi (18 categories), followed by Punjab (15 categories) and West Bengal (10 categories). Initiating the process with few categories, the HPCs of these states expanded the categories over a period of time making the effort to understand the mechanics of identifying the categories which would make an impact on the ground situation and result in decongestion of prisons. The state-wise compilation of the specific categories determined by each HPC is provided in **Annexure V**.

⁵⁹ Goa, Odisha, Telangana, Tripura, Uttar Pradesh, Uttarakhand and Andaman and Nicobar Islands.

TABLE 7: List of Primary and Additional Criterion in determining Undertrial Prisoner Cases for consideration of release

S.No.	Primary Criteria for Undertrial Cases	States where it could be considered as primary criteria	Additional Criterion
1.	Who are accused of offences with maximum sentence of 7 yrs or less with or without fine	Andhra Pradesh Goa Maharashtra Meghalaya Mizoram Odisha Sikkim Telangana Uttar Pradesh Uttarakhand West Bengal Andaman & Nicobar Islands	<ol style="list-style-type: none"> 1) Case triable by Magistrate of First class or Second class and languishing in jail for a period of three months or more⁶⁰ and must be a resident of the state (Chhattisgarh) 2) Case is triable by the Judicial Magistrate (Gujarat) 3) Who are granted bail by the competent criminal court but not released due to inability to furnish bond or execute surety (Gujarat) 4) Who are of unsound mind (Gujarat, Karnataka) 5) Those with only one undertrial case pending (Haryana, Nagaland, Chandigarh, Jammu & Kashmir) 6) Those with two undertrial cases pending, in which maximum prescribed punishment in both cases is 7 years or less (Haryana, Punjab) 7) Those who are in judicial custody awaiting filing of challan and not concerned in any other case (Haryana) 8) First time offenders + case is triable by Magistrate + in custody for last three months or more + should be the resident of state (Himachal Pradesh) 9) First time offender and are facing charges for punishment of less than 7 years (Karnataka) 10) More than one case and on bail in all cases except for the one being considered (Meghalaya, Nagaland, Delhi) 11) Who have been arrested for crimes where the maximum prescribed punishment is 3, 5 and 7 years. (Tripura) 12) Having not more than two cases pending in offences punishable for a period of up to 7 years (West Bengal) 13) Those having 2 or more trial cases pending (Chandigarh) 14) In custody for 15 days or more (Delhi)

⁶⁰ Changed to 3 weeks or more for male undertrial prisoner and 2 weeks or more for female undertrial prisoner; removed the cut-off date for completion of 3 weeks for male convict prisoners and 2 weeks for female convict prisoners.

2.	7 years or more punishment	Maharashtra	
3.	Up to 10 years punishment	West Bengal	1) Suffering from chronic diseases and pre-existing conditions - Chronic Diabetes, HIV, Serious neurological issues (not simple depression), Chronic lung disease, Severe Asthma, Serious Heart condition, Pregnant women (Punjab)
4.	First time offenders	Himachal Pradesh Chandigarh Delhi	2) In custody for the last three months or more (Sikkim)
5.	S. 436A (CrPC)	Andhra Pradesh West Bengal Jammu & Kashmir	
6.	Granted Bail but could not furnish surety	Karnataka Meghalaya	3) For those in prison for heinous crimes, if bail has been granted but could not furnish the bond (Manipur) 4) For less serious offences, if they had been in prison for more than the statutory period of 4 months (Manipur)
7.	Chapter VIII, Security for Keeping the Peace and for Good Behaviour (CrPC)	Gujarat Karnataka Jammu & Kashmir (detained under S. 107, 108, 109 and 151) Punjab (in custody under S.107 or S.151) West Bengal (detained under S.110)	
8.	S.125 CrPC	Karnataka (failed to honour the order of S.125 or in other matrimonial proceedings may be in jail) Jammu & Kashmir (detained for non-payment of maintenance ordered u/s 488 ⁶¹ /125)	

⁶¹ under Code of Criminal Procedure, 1989, earlier applicable in Jammu & Kashmir.

9.	Ill Health	<p>Mizoram (and/or old, with special preference to those with respiratory problems, high blood pressure and diabetes as they are more vulnerable to the effects of the COVID-19 virus)</p> <p>Delhi (suffering from HIV, Cancer, Chronic Kidney Dysfunction (UTP requiring Dialysis), Hepatitis B or C, Asthma, and Tuberculosis and were:</p> <ol style="list-style-type: none"> in custody for 3 months or more, facing trial in a case which prescribes a maximum sentence of 7 years or less in custody for a period of 6 months or more, facing trial in a case which prescribes a maximum sentence of 10 years or less in custody for a period of 6 months or more, facing trial in a case which prescribes punishment of 10 years up to life imprisonment and were not involved in multiple cases) 	
10.	Old Age	<p>Mizoram (with special preference to those with respiratory problems, high blood pressure and diabetes)</p> <p>Punjab (65 years and above and have up to two undertrial cases pending, in which the maximum prescribed punishment in both cases is 10 years or less)</p> <p>Delhi (more than 60 years of age and were in custody for 6 months or more, facing trial in a case which prescribes a maximum sentence of 10 years or less)</p> <p>Delhi (male undertrials above 65 years of age and female undertrials above 60 years of age facing trial in a case except the ones excluded and are in jail for more than 6 months with no involvement in any other case)</p> <p>Jammu & Kashmir (prisoners with advanced age, suffering from any illness may be examined on case to case basis)</p> <p>West Bengal (Female inmates aged 60 years or more)</p>	
11.	Less than 60 years of age	<p>Delhi (in custody for one year or more, facing trial in a case which prescribes a maximum sentence of 10 years or less)</p>	
12.	Resident of the State	<p>Himachal Pradesh</p>	

13.	S.326 & 307 IPC	Punjab (which are not of serious nature)	
14.	NDPS Act	Punjab (arrested for small quantity violations, later relaxed for all undertrials other than those under custody in commercial quantity cases)	
15.	Hurt (IPC)	Punjab (S.324, 325 IPC)	
16.	Cruelty by Husband or Relatives of Husband (IPC)	Punjab Delhi (who were related as spouse of the deceased, facing trial for a case under S.498A and S.304B IPC and were in jail for more than 2 years with no involvement in any other case) Delhi (who were related as father-in-law, mother-in-law, brothers-in-law, sisters-in-law of the deceased, facing trial for offence under S.498A and S.304B IPC and were in jail for more than one year with no involvement in any other case)	
17.	Criminal breach of Trust & Cheating (IPC)	Punjab (S.406 and S.420) West Bengal (S.406, S.418, S.419 and S.420)	
18.	Excise Act	Punjab	
19.	S.354 IPC (Assault or criminal force to woman with intent to outrage her modesty)	Punjab (except those where the victim was below 15 years of age or any section of POCSO Act had been applied)	
20.	Offences affecting the human body (IPC)	Punjab (u/s 307 IPC and 304 IPC, except those where a fire-arm had been used by the accused, involved an attempt on life of a govt servant while on duty, cases associated with criminal gangs, extortion, terrorist or organised crime, where the injured victim is still in hospital) Delhi (facing trial for offence under S.304 IPC and were in jail for more than one year with no involvement in any other case) Delhi (facing trial in a case under S.307 or S.308 IPC and were in jail for more than 6 months with no involvement in any other case)	

21.	Theft (IPC)	Punjab (cases where either only S.379 has been imposed or in case of other sections which have a maximum prescribed punishment up to 7 years) Punjab (S.380 and S.457 to be considered on a case-to-case basis, where the accused is not a habitual offender and the amount involved is not very high) Delhi (in jail for more than 15 days)	
22.	Robbery and Dacoity (IPC)	West Bengal (S.399 and 402)	
23.	S.25/27 Arms Act	West Bengal	
24.	Case is triable by Magistrate	Himachal Pradesh Chandigarh Delhi	
25.	Accused is in custody for last three months or more	Himachal Pradesh Sikkim Chandigarh Delhi ⁶²	
26.	S.302 IPC	Delhi (in jail for more than two years with no involvement in any other case)	
27.	Compoundable Offences	Jammu & Kashmir	
28.	Civil case	Jammu & Kashmir (detained under the Code of Civil Procedure for not obeying the decree/order of the court)	

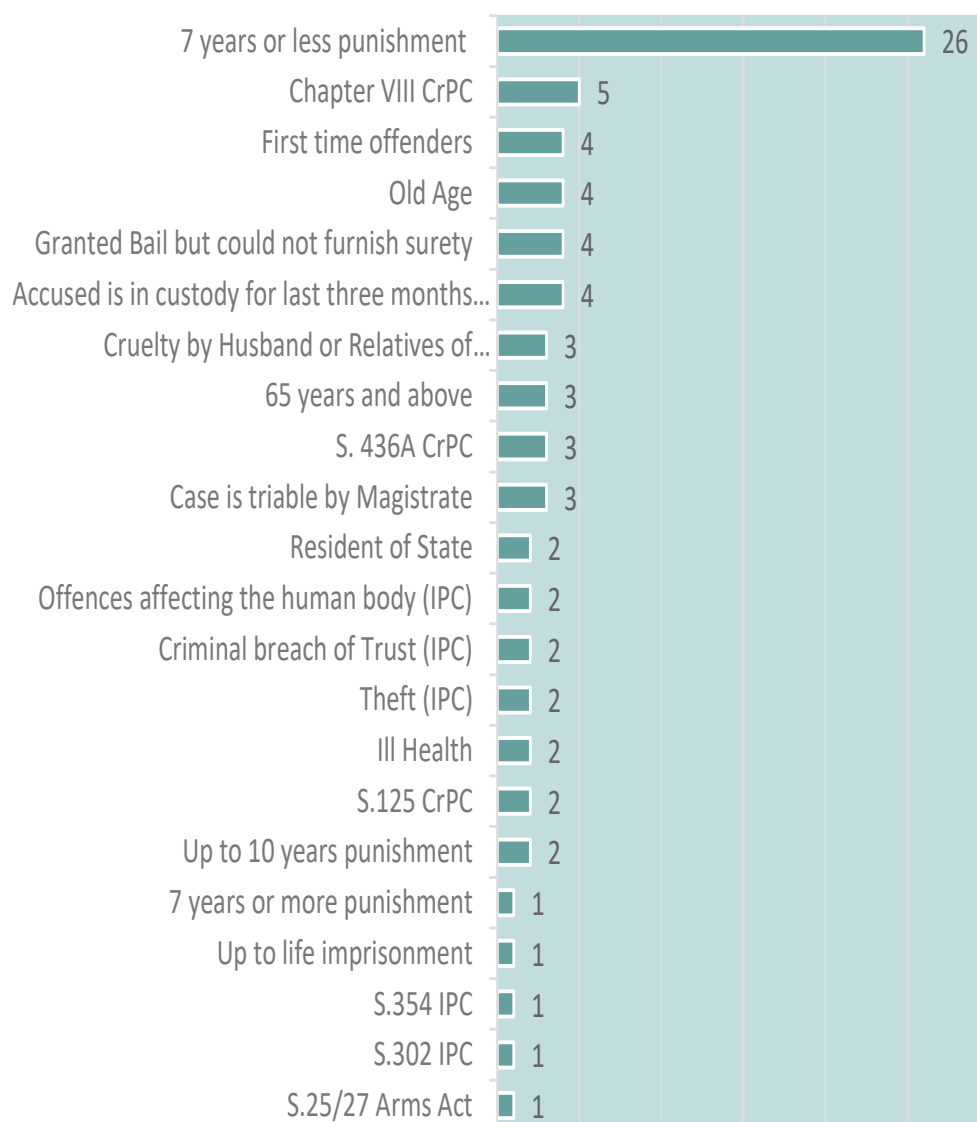
- ⇒ The graph below highlights that the most determined category by the HPCs was the category suggested by the Supreme Court, i.e. undertrials detained for offences for which prescribed punishment is up to seven years or less, with or without fine. It finds mention in the HPC minutes of 26 states/UTs.
- ⇒ Other determined categories were: prisoners detained under Chapter VIII (S.107, 108, 109, 110 and 151) of the CrPC; first time offenders; aged prisoners, undertrials eligible under S.436A; those who have been granted bail but couldn't furnish sureties.
- ⇒ While this is the health crisis disproportionately impacting persons with old age, it is disappointing to note that only five state HPCs (Mizoram, Punjab, West Bengal, Delhi and Jammu & Kashmir) considered cases of senior citizens for release. Punjab considered '65 years and above' as the parameter and Delhi considered 65 years for male undertrials and 60 years for women prisoners. This must be seen in the light of Prison Statistics India 2019 according to which 13.2% of Indian prison population belong to the age-group '50 years and above'.⁶³

⁶² In case of male inmates, it was reduced to one month or more in subsequent HPC meeting dated 28 March 2020, and in case of women, if she had been in custody for a period of 15 days or more.

⁶³ NCRB does not provide further break-up of figures of more than 50 years old prisoners.

- ⇒ No other HPC, other than Mizoram, Punjab and Delhi, 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.
- ⇒ Punjab HPC specifically mentioned pregnant women as the category for release. Delhi HPC directed the DG Prisons to ensure that adequate medical assistance is provided to pregnant prisoners. In Haryana, about 11 pregnant undertrials were released on interim bail based on the individual requests made to the HPC.

Graph 4: Number of States that recommended each Category of Undertrials



B. Categories of Convict Prisoners

Table 8 below provides the list of categories of convicts that were identified by the state HPCs for consideration of release. They have also been divided as primary and additional criterion as explained in the earlier section.

- ⇒ Under the category of convicts, the HPCs of Goa and Andaman & Nicobar Islands did not go beyond the Supreme Court suggested category to determine any further criteria for release of convicts in their state/UT. Three states⁶⁴ did not determine any category and considered release of convicts on case-to-case basis.
- ⇒ The HPCs of Haryana (9), Delhi (7), Odisha (6) and Punjab (6) identified the highest number of criteria for release of convicts.

⁶⁴ Manipur, Tripura and West Bengal.

TABLE 8: List of Primary and Additional Criterion in determining Convicts Cases for release

S. No.	Primary Criteria for Convict Cases	States where it could be considered as primary criteria	Additional Criterion
	Sentenced to imprisonment up to 7 years or less with or without fine	Andhra Pradesh Himachal Pradesh Maharashtra Telangana Uttar Pradesh Uttarakhand West Bengal	<ul style="list-style-type: none"> • Case triable by Magistrate of First class or Second class and languishing in jail for a period of three months or more⁶⁵ and must be a resident of the state (Chhattisgarh) • Who have no pending trial cases may be considered for expeditious parole (Haryana) • Those sentenced in one case for 7 years or less, with or without fine, and having one or more undertrial cases, if the prisoner has availed last one parole peacefully and should be on bail in undertrial case/s (Haryana) • They are also convicted in multiple cases. However, they have already undergone/acquitted or sentenced for fine only, in all other matters and undergoing sentence in last case with no other undertrial case (Haryana) • Based on the decision of the District Level Committee (Karnataka) • Sentenced for 5 years or more but less than 7 years and were left with 4 months to complete the sentence could be considered for 4 months special remission of sentence. (Meghalaya, Delhi) • Sentenced for 3 years or more but less than 5 years and were left with only 3 months to complete the sentence could be considered for 3 months special remission of sentence. (Meghalaya, Delhi) • Sentenced for 1 year or more but less than 3 years and were left with only 2 months to complete their sentence could be considered for 2 months special remission of sentence. (Meghalaya, Delhi) • And an appeal has been preferred by the convict (Mizoram) • Have no pending undertrial cases (Odisha, Punjab) • Have been sentenced in one case for 7 years or less, with or without fine, and having one or more undertrial cases, and have availed last one parole peacefully and should be on bail in undertrial case(s) (Odisha) • Having up to two undertrial cases, and is on bail in undertrial cases, and has availed the last parole peacefully (Punjab) • Where the prisoners has been convicted with less than seven years, even when the maximum prescribed punishment is more than seven years (Uttarakhand) • Who have been sentenced to imprisonment for three years with or without fine and the conviction has been upheld by the Appellate Court but revision against the judgment by Appellate Court is pending before the Hon'ble High Court (Jammu & Kashmir)

⁶⁵ Changed to 3 weeks or more for male undertrial prisoner and 2 weeks or more for female undertrial prisoner; removed the cut-off date for completion of 3 weeks for male convict prisoners and 2 weeks for female convict prisoners.

Sentenced to imprisonment more than 7 years		<ul style="list-style-type: none"> • More than 7 years and less than 14 years based on the decision of the HPC (Karnataka) • Maximum sentence is above 7 years and if convict has returned to prison on time on last 2 releases on parole/furlough (Maharashtra)
Sentenced up to 10 years		<ul style="list-style-type: none"> • Sentenced for 10 years and had already completed 9.5 years including regular remission could be considered for 6 months special remission of sentence by the Home department (Meghalaya, Delhi) • Sentenced for 7 years or more, but less than 10 years and were left with only five months to complete the sentence could be considered for 5 months special remission of sentence (Meghalaya, Delhi) • Remission of sentence for convicts whose sentence are up to 10 years and whose cases can be considered for remission of sentences (Mizoram) • Who has not been given a sentence of more than 10 years under the NDPS Act, i.e. where the seized contraband does not involve commercial quantity (Mizoram) • Sentenced up to 10 years and suffering from chronic diseases and pre-existing conditions - Chronic Diabetes, HIV, Serious neurological issues (not simple depression), Chronic lung disease, Severe Asthma, Serious Heart condition, Pregnant women (Punjab)
Life convicts who have completed 14 years of actual imprisonment	West Bengal	
Extension of parole or furlough for convicts already on parole	Goa ⁶⁶ Gujarat Haryana Karnataka Odisha Uttar Pradesh Chandigarh	<ul style="list-style-type: none"> • Convict has the option of returning to the prison early with the approval of the concerned Superintendent of Jail (Punjab)
Those who have undergone their substantive sentence		<ul style="list-style-type: none"> • Those who have already spent the maximum sentence imposed by the trial Court so that they may be released forthwith (Andhra Pradesh) • Those who have undergone their substantive sentences and undergoing sentence for non-payment of fine and are not involved in any other case (Haryana) • Those who have already undergone/completed sentence for a period of 10 years and above in jails in Odisha (Odisha) • Those who have completed their substantive sentence (inclusive of regular and special remission granted) (Delhi)

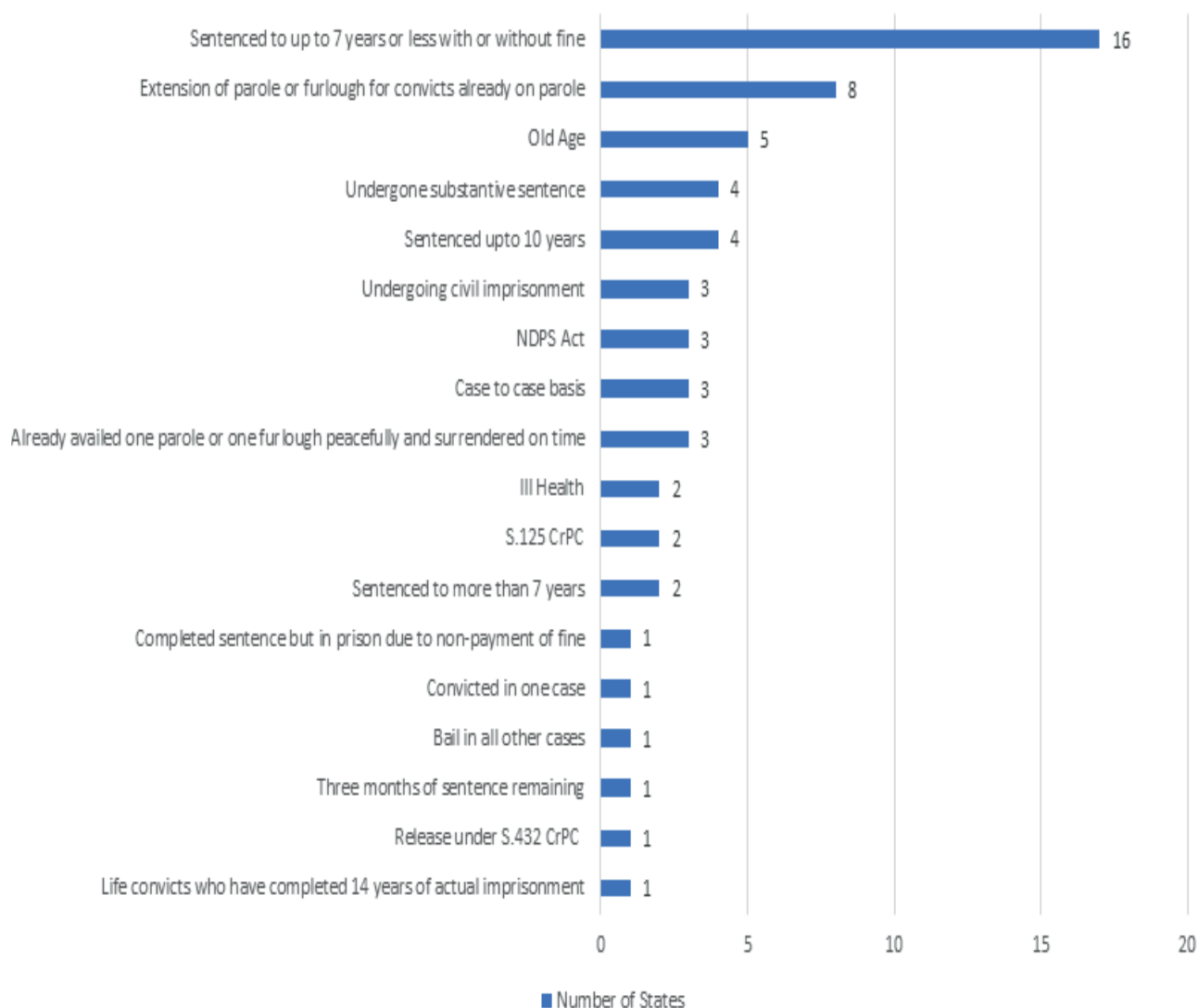
⁶⁶ to be co-terminus to the lockdown.

Those who have failed to honour the order of maintenance passed u/s 125 of the CrPC or in other matrimonial proceedings to be released with or without condition/s	Gujarat	<ul style="list-style-type: none"> Those who are detained in the prison in family court matters wherein person is in custody for non-payment of maintenance u/s 125 Cr.P.C. either in pending case or in execution (Haryana)
Those who have already availed one parole or one furlough peacefully and surrendered on time	Uttar Pradesh	<ul style="list-style-type: none"> To be granted fresh one-time special parole on the same set of sureties if sureties give their consent for fresh parole (Haryana) Convict prisoners of simple offences or prisoners falling under the category of hard-core prisoners for single offence whose 1st Parole/furlough case was sanctioned by the sanctioning authority after completing the requisite conditions and their parole/furlough has been granted by the competent authority but they could not furnish the surety/security to the District Magistrate concerned in the prescribed time as mentioned in the Temporary Release Warrant (Haryana) May be granted fresh eight-week Special Parole on the same set of sureties if sureties give their consent for special parole and in case new surety is required, then without holding fresh enquiry (Chandigarh)
Old Age		<ul style="list-style-type: none"> Who are above the age of 65 years may be granted special parole (Haryana) Who are above the age of 65 years (except those involved in multiple cases or convicted under NDPS Act or POCSO Act or for rape and sexual offences or acid attack or those who are foreign nationals) (Odisha) Those of 70 years of age or more and vulnerable to the possibility of contracting COVID-19 infection (Odisha) Those aged 65 years and above - <ul style="list-style-type: none"> Having no pending undertrial cases and sentenced up to 10 years, with or without fine Sentenced in one case up to 10 years, with or without fine, and having up to two undertrial cases, and is on bail in the undertrial cases and should have availed the last parole peacefully (Punjab) Those of age 60 years and above and not within the excluded category (West Bengal) Prisoners with advanced age, suffering from any illness may be examined on case to case basis (Jammu & Kashmir)
Release under S.432 of CrPC (suspension or remission of sentence)	Himachal Pradesh	

	Case to case basis	Manipur Tripura West Bengal	
	NDPS Act		<ul style="list-style-type: none"> • Sentenced under Section 27 of the NDPS Act and extension of their special parole for those who are already on Parole or Furlough (Mizoram) • Who have been sentenced to 3 years or less⁶⁷ - relaxed further for convicts who had been convicted for up to 5 years, with or without fine, who do not have any other case pending against them, and if they had completed at least 75% of the total sentence (Punjab) • Those convicted with less than seven years of imprisonment with or without fine, under the NDPS Act, 1985 (parameters for release of convicts on parole relaxed on 9 April 2020) (Uttarakhand)
	Ill Health		<ul style="list-style-type: none"> • And/or who are old in age, with special preference to those with respiratory problems, high blood pressure and diabetes as they are more vulnerable to the effects of the COVID-19 virus. (Mizoram) • Who have medical conditions (Sikkim)
	Only three months of their sentence remaining	Sikkim	
	Bail in all other cases		<ul style="list-style-type: none"> • After verification by the office of concerned DM (Chandigarh)
	Convicted in only one case		<ul style="list-style-type: none"> • Have spent more than 10 years (eight years in case of women) in jail (Jammu & Kashmir)
	completed their sentence but are still in prison due to non-payment of fine	Jammu & Kashmir	
	Undergoing civil imprisonment	Delhi	<ul style="list-style-type: none"> • Imprisoned for flouting or disobedience of the order passed by the Civil Courts (Gujarat) • Undergoing civil imprisonments in connection with disobeying the orders of Civil Courts shall also be considered for release (Karnataka)

⁶⁷ Bihar, Jharkhand, Kerala and Rajasthan did not provide the minutes of the HPC meetings.

Graph 5: Number of States that recommended each Category of Convicts



- ⇒ As expected, majority of the HPCs, 16 states/UTs recommended the category of convicts sentenced to imprisonment up to seven years, with or without fine. The second most common category was of convicts who are already on parole/furlough and the HPC recommended extending the period further.
- ⇒ Among the vulnerable groups, the age bracket to be considered old differed from ‘above 60 years’ in West Bengal, to ‘above 65 years’ in Punjab and 70+ years in Odisha.

A. Categories of Cases which were Excluded from Consideration by HPCs

Table 9: State-wise information on the categories of prisoners excluded from consideration

S. No.	Name of the State/UT	Categories of cases Excluded for Consideration of Release
1	Andhra Pradesh	A. Second-time (Repeat) Offenders B. S.376 of IPC C. POCSO Act
2	Bihar	N/P
3	Chhattisgarh	A. Offences relating to counterfeit coin and govt. stamps under Chapter XII of IPC, B. Offences of cheating punishable under Chapter XVII of IPC, C. Offences of Forgery punishable under Chapter XVIII of IPC, D. Offences under Chit Fund Act, 1982, E. Sections 354, 354A, 354B, 354C, 354D of IPC, F. Offences under POCSO Act
4	Goa	A. Serious economic offences / bank scams, B. Offences under Special Acts like Prevention of Money Laundering Act, Narcotic Drugs and Psychotropic Substances Act, and Unlawful Activities (Prevention) Act which provide for additional restrictions for grant of bail.
5	Gujarat	A. Offences for which punishment provided is 7 years or more B. Laws dealing with terrorism C. Narcotics Drugs and Psychotropic Substances Act D. Prevention of Money Laundering Act E. Unlawful Activities (Prevention) Act F. Any or all offences against women and children G. Gujarat Control of Organised Crime Act H. Any offences against the national security I. All offences being investigated by the National Investigation Agency J. Economic offence and K. Financial fraud with Bank, NBFC, public at large L. Inmate who has been previously convicted by the court of competent jurisdiction in another offence/s and same is yet not set aside by the Higher Court M. UTP and/or convict who is facing another trial for other offences shall not be considered.
6	Haryana	A. Involved in multiple cases or convicted for intermediate or large quantity recovery under NDPS Act B. U/s 379-B IPC C. Under POCSO Act D. For offence of rape E. For offence of acid attack F. Foreign nationals G. Convicted for Terror related cases, cases under Anti-National Activities and Unlawful Activities (Prevention) Act etc.
7	Himachal Pradesh	A. POCSO Act B. Crimes relating to sexual offences committed against the women C. Rioting and waging war against the State D. Crimes relating to counterfeit currency E. Crimes against children relating to kidnapping F. Crimes relating to anti-corruption matters G. Crimes relating to commercial and economic offences H. Crimes relating to Gangsters Act I. Crimes under NDPS Act relating to recovery of commercial quantity and less than commercial quantity but more than small quantity

8	Jharkhand	N/P
9	Karnataka	<ul style="list-style-type: none"> A. Offences for which the punishment provided is seven years or more B. Any law dealing with terrorism C. NDPS Act D. Money Laundering Act E. Unlawful Activities (Prevention) Act F. Any or all offence against women and children G. Coca Act H. Any offences against national security I. All offences being investigated by NIA J. Economic offences K. Financial fraud with banks, NBFC, public at large L. Inmate who had been previously convicted by the court of the competent jurisdiction in other offence and the same was not set aside by the High Court M. An undertrial facing another trial for other offences
10	Kerala	N/P
11	Maharashtra	<ul style="list-style-type: none"> A. Serious economic offences/ Bank Frauds and Major Financial Scams B. Offences under Special Acts (other than IPC) like MCOC, PMLA, MPID, NDPS, TADA, POTA, UAPA, Explosives Substances Act, Anti Hijacking Act, NDPS (Other than personal consumption), POCSO etc. (which provide for additional restrictions on grant of bail in addition to those under CrPC) C. Foreign nationals D. Prisoners having their place of residence out of the State of Maharashtra (This category was removed from the excluded category after the HPC meeting dated 11 May 2020. Such prisoners falling in the eligible categories would be considered only after the lockdown period is over and public transportation is available.) <p>(This category was removed from the excluded category after the HPC meeting dated 11 May 2020. Such prisoners falling in the eligible categories would be considered only after the lockdown period is over and public transportation is available.)</p> <p>Additional excluded categories among those who have been charged/ convicted for the offences punishable for 7 years or more:</p> <ul style="list-style-type: none"> A. Indian Penal Code (IPC) - Chapter VI - Offences against State - IPC 121 to 130 B. IPC - 303 C. IPC - 364(A), 366, 366(A), 366(B), 367 to 374 D. IPC - 376(a) to (e) E. IPC - 396 F. IPC - 489 (a) to (e)
12	Manipur	N/P
13	Meghalaya	<ul style="list-style-type: none"> A. For intermediary or commercial quantity recovery under the NDPS Act B. Sections 4 and 6 of POCSO Act C. Sections 376, 376A, 376B, 376D, 376E and Acid Attack D. Prevention of Corruption Act/PMLA E. Cases investigated by CBI/ED/Special Cell and terror related cases under Anti National Activities and Unlawful Activities (Prevention) Act F. Foreign Nationals G. Have criminal antecedents
14	Mizoram	<ul style="list-style-type: none"> A. Convicted under the POCSO Act or for rape under IPC. B. Convicted for crimes relating to waging war against the Country, Arms Act, Counterfeit currency, dacoity, terrorist crimes, kidnapping for ransom. C. Any other class of convicts for whom guidelines have been made by the State Government, barring remission of sentence.

15	Nagaland	<ul style="list-style-type: none"> A. Who have been in custody for a period less than 1 month (15 days for women) B. Who are foreign nationals C. NDPS Act D. Sections 4 and 6 of POCSO Act E. Sections 376, 376A, 376B, 376C, 376D and 376F and acid attack F. Prevention of Corruption Act or Prevention of Money Laundering Act G. Cases investigated by CBI/ED/NIA/Special Cell Police and Terror related cases, cases under Anti-National Activities and UAPA H. NSA detainees
16	Odisha	<ul style="list-style-type: none"> A. NDPS Act B. POCSO Act C. Acid attack, rape and sexual offences D. Rioting and waging war against the State E. Crimes relating to counterfeit currency F. Crimes against children relating to kidnapping G. Crimes relating to commercial and economic offences H. Habitual Offenders (Undertrials)
17	Punjab	<ul style="list-style-type: none"> A. POCSO Act B. S. 376 IPC C. S.379B IPC D. Acid attack cases E. UAPA F. Explosive Substances Act G. Foreign Nationals H. NDPS cases <ul style="list-style-type: none"> a. Undertrials - involved in commercial quantity violations and where additional sections like S. 307 of IPC, assault on public servants, intimidation to informers/witnesses have been imposed; those with more than 3 undertrial cases registered against them, those also accused for offences under S.302 IPC, S.307 IPC, Arms Act, kidnapping for ransom, assault on public servant or for intimidation of informers/witnesses in any of the cases registered against them; and if the undertrial was a foreign national b. Convicts - where conviction was for a period above 3 years
18	Rajasthan	N/P
19	Sikkim	<ul style="list-style-type: none"> A. Sikkim Anti Drugs Act B. NDPS Act C. POCSO Act D. Prevention of Corruption Act E. Prevention of Money Laundering Act F. Sections 376, 376A to 376E of the Indian Penal Code G. Foreign nationals H. Undertrial prisoners facing trial under Prevention of Corruption Act, the Prevention of Money Laundering Act and Anti-National activities
20	Telangana	<ul style="list-style-type: none"> A. Against women, children B. Robbery C. Theft D. NDPS Act E. POCSO Act F. UAPA, 1967 G. Prevention of Money Laundering Act
21	Tripura	<ul style="list-style-type: none"> A. Foreign Nationals cannot be considered for parole under the Prisoners (Tripura) Act, 1979.

22	Uttar Pradesh	Undertrials A. Terrorist activities, organised crime and detrimental to national interest B. Foreign Nationals Convicts A. Those from other states B. Foreign Nationals
23	Uttarakhand	A. Cases relating to POCSO B. Cases relating to sexual offences committed against the women C. Offences relating to rioting and waging war against the State D. The crimes relating to counterfeit currency E. Crimes against children relating to kidnapping F. Crimes relating to anti-corruption matters G. Crimes relating to commercial and economic offences H. Crimes relating to Gangsters Act I. Crimes under NDPS Act (relating to the recovery of commercial quantity and relating to habitual offenders i.e. who have committed the offence more than once) J. Those from Nepal and other far flung States/UTs (to be considered after the situation is normalized in all states) K. Habitual offenders relating to any offence
24	West Bengal	A. POCSO Act B. Sexual offences committed against women C. Crimes relating to rioting and waging war against the State D. Crimes relating to counterfeit currency E. Crimes against children relating to kidnapping F. Crimes relating to anti-corruption matters G. Crimes relating to commercial and economic offences H. Crimes relating to Gangsters Act I. NDPS Act, crimes relating to the recovery of commercial quantity and less than commercial quantity but more than small quantity J. Foreigners Act K. Those having residence outside the State of West Bengal L. Those suffering from cold, cough, fever, HIV, etc M. Crimes under S.304B and S.306 of IPC
26	Andaman & Nicobar Islands	N/P
27	Chandigarh	Undertrials: A. Who are foreign nationals B. Who are suffering from cold, cough, fever, HIV +ve and otherwise those who can cause infection, if released. However, they may be considered for interim bail in the future on the basis of their medical reports by the UTRC. C. Under the NDPS Act (for immediate or commercial quantity recovery of narcotic or psychotropic substance) D. Under S. 379-B IPC E. Under POCSO Act F. For the offence of rape G. Under Section 326-A and 326-B IPC H. Under offences punishable with imprisonment for more than 7 years Convicts: A. Who are Foreign Nationals B. Who are confirmed/suspected/under observation for corona virus (COVID-19) or otherwise those who can cause infection, if released. However, they may be considered for parole in the future on the basis of their medical reports by the UTRC. C. Who have violated the parole conditions and have been re-arrested during last six months. D. Who have been sentenced for offence of Rape with Murder, offences punishable under POCSO Act 2012, acid attack, and under Section 379-B of IPC.

28	Delhi	A. Intermediary/large quantity recovery under NDPS Act B. S.4 and S.6 of POCSO Act C. S.376, S.376A, S.376B, S.376C, S.376D, S.376E and Acid Attack D. PC Act/PMLA E. Cases investigated by CBI/ED/NIA/Special Cell of Delhi Police and Terror related cases, cases under Anti-National Activities and UAPA, etc. F. Foreign Nationals G. Undertrials who were now in custody for an offence committed by them during the period of interim bail granted to them on the basis of criteria adopted by the HPC in earlier meetings (added on 20 June 2020)
29	Jammu & Kashmir	A. NDPS (for intermediate or large quantity recovery) B. Section 379B of IPC C. POCSO Act D. Crimes against woman E. Acid attack F. Foreign nationals G. Militancy related cases (convicts)

- ⇒ In the case of undertrials, the HPC identified categories for exclusion from consideration of release in 15 states/UTs. However, seven states/UTs - Goa, Nagaland, Sikkim, Telangana, Tripura, Uttarakhand and Andaman & Nicobar Island - did not identify any categories for exclusion.
- ⇒ With regard to convicts, exclusionary categories were recognised in 25 states/UTs. In nine states/UTs these categories were not recognised. These included Goa, Gujarat, Himachal Pradesh, Manipur, Nagaland, Telangana, Tripura, Andaman & Nicobar Island and Delhi. Only **six states**⁶⁸ did not include crimes under the NDPS Act as a category for exclusion.
- ⇒ The Graph below shows the number of states which excluded a particular category from release. The top five categories of cases which were excluded, even for a consideration for release are cases involving crime against women (19 states/UTs)⁶⁹; crime against children (19 states/UTs)⁷⁰; offence under Narcotic Drugs and Psychotropic Substances Act (17 states/UTs)⁷¹; foreign nationals (13 states/UTs)⁷² and; offence under Unlawful Activities (Prevention) Act (10 states/UTs)⁷³.
- ⇒ Other excluded categories could be further sub-divided. One category include offences against national security or against the state or terrorism cases or those which are being investigated by the NIA, CBI, ED, special police cells, etc. Another category is related to economic offences like financial frauds, offence relating to counterfeit currency; offences under Prevention of Money Laundering Act, Prevention of Corruption Act, etc. Some states also excluded prisoners based on number of pending trials; period of detention; belonging to other states and; those who violated conditions during parole or interim bail. Other excluded categories include serious offences under IPC, special laws and state local laws.

⁶⁸ Andhra Pradesh, Chhattisgarh, Mizoram, Tripura, Uttar Pradesh, and West Bengal.

⁶⁹ Andhra Pradesh, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Sikkim, Telangana, Uttarakhand, West Bengal, Chandigarh, Delhi, Jammu & Kashmir.

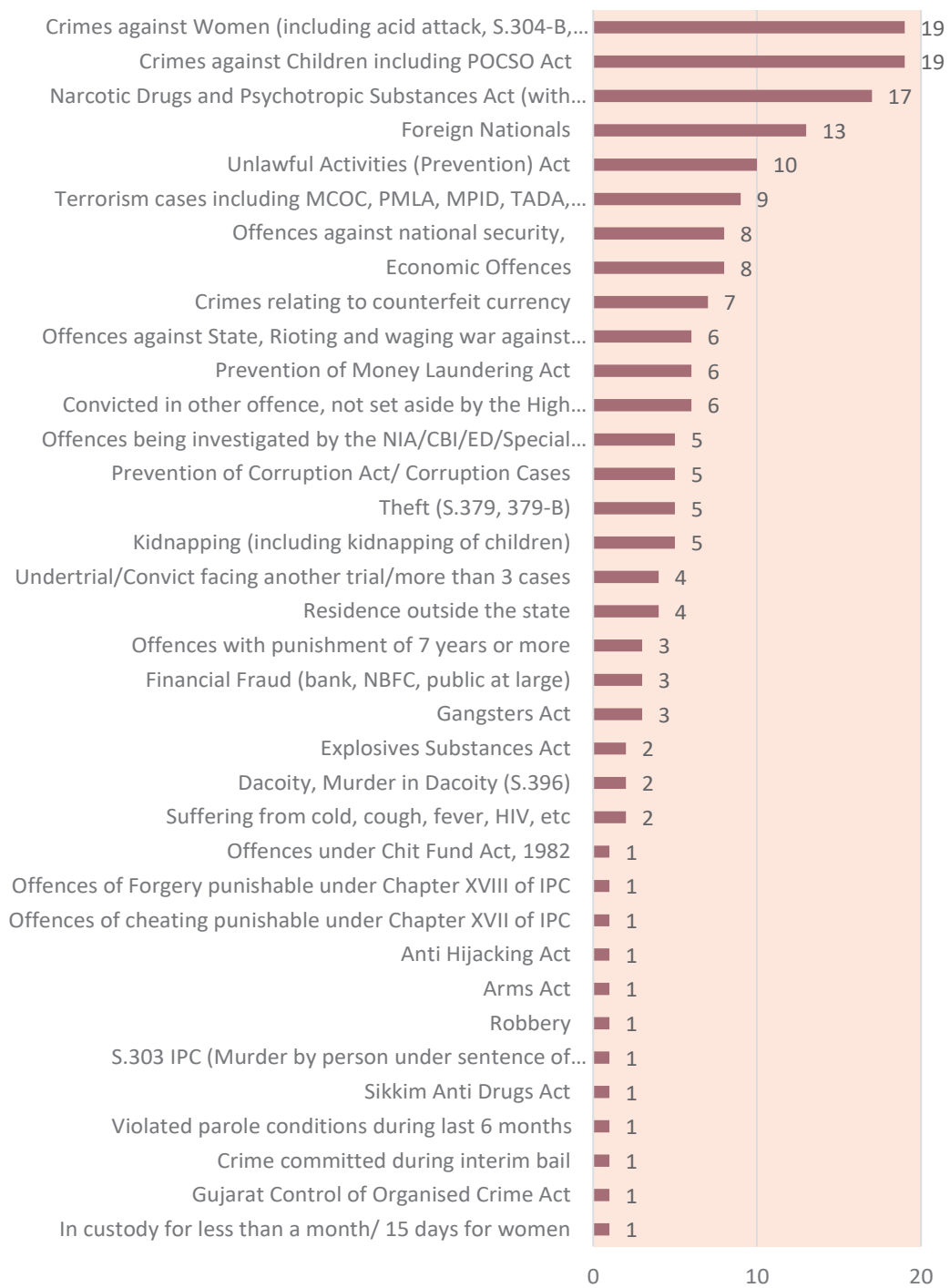
⁷⁰ *Ibid.*

⁷¹ Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Meghalaya, Nagaland, Odisha, Punjab, Sikkim, Telangana, Uttarakhand, West Bengal, Chandigarh, Delhi, Jammu & Kashmir.

⁷² Haryana, Maharashtra, Meghalaya, Nagaland, Punjab, Sikkim, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Chandigarh, Delhi, Jammu & Kashmir.

⁷³ Goa, Gujarat, Haryana, Karnataka, Maharashtra, Meghalaya, Nagaland, Punjab, Telangana, Delhi.

Graph 6: Number of States that excluded each Category of Prisoners



(4)

STATES' DECONGESTION EFFORTS

A. Prison population and occupancy rates in India

India ranks 5th on the list of countries with highest prison population⁷⁴ and constitutes 4.22% of the world's total prison population. From 2015 to 2018, the world prison population increased by 3.7%. Between 2015 and 2019, the prison population in India increased by 14.1% against an increase of 10.1% in the prison capacity.⁷⁵

According to Prison Statistics India 2019 (PSI 2019), there were 478600 prisoners in 1350 prisons of the country out of which 330487 were undertrial prisoners as on 31 December, 2019. While the prison population has grown over the past five years, a closer look reveals that 69.1% of these are undertrials and their numbers have only been surging since 2015; from 282076 in 2015 to 330487 in 2019. This amounts to a 17.2% rise in the population of undertrials who are incarcerated while waiting for the conclusion of their trial.

India stands at 16th position among 217 countries in terms of proportion of undertrial prisoners and is at the edge of crossing the 70% UTP ratio⁷⁶ mark which was last recorded in 2001 (70.4%). Manipur had the worst undertrial prisoners-to-prison population ratio (UTP ratio) of 86.5%, followed by Meghalaya (84.2), Jammu & Kashmir (83.4%) and Delhi (82%). Lowest UTP ratio was in Arunachal Pradesh at 42.9% followed by Tripura (51.5%), Madhya Pradesh (54.2%) and Chhattisgarh (54.3%).⁷⁷ In the last five years, Andhra Pradesh and Nagaland are only two states that reduced their prison population. In 13 states/UTs, prison population increased by more than 20% from 2015 to 2019. Highest increase in prison population was recorded in Sikkim (59.4%) and Jammu Kashmir (57.6%).⁷⁸

Overcrowding is pervasive across the globe with 119 of 206 countries having an overcrowded prison system.⁷⁹ In India, as per PSI 2019, the overall national prison occupancy rate stood at 118.5% at the end of 2019, being highest in the last five years. Among the types of prisons, district prisons and central prisons were overcrowded with an occupancy rate of 129.7% and 123.9%, respectively. Among the states/UTs, Delhi has the highest prison overcrowding with an occupancy rate of 174.9%. Eight states/UTs, namely Delhi (174.9%), Uttar Pradesh (167.9%), Uttarakhand (159%), Meghalaya (157.4%), Madhya Pradesh (155.3%), Sikkim (153.8%), Maharashtra (152.7%) and Chhattisgarh (150.1%) have an occupancy rate of above 150%.⁸⁰

⁷⁴ Highest to Lowest - Prison Population Total, World Prison Brief - https://www.prisonstudies.org/highest-to-lowest/prison-population-total?field_region_taxonomy_tid=All (last accessed on 10 October, 2020).

⁷⁵ CHRI's analysis of Prison Statistics India 2019, Ten Things You Should Know About Indian Prisons - This analysis does not include Andaman and Nicobar Islands, Pondicherry, Lakshadweep, Dadra & Nagar Haveli and Daman & Diu because of their dynamic and comparatively very small prison population.

⁷⁶ UTP ratio is the proportion of undertrial prisoners out of total prison population.

⁷⁷ CHRI's analysis of Prison Statistics India 2019, Ten Things You Should Know About Indian Prisons

⁷⁸ *Ibid.*

⁷⁹ https://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=All (last accessed on 19 October 2020).

⁸⁰ CHRI's analysis of Prison Statistics India 2019, Ten Things You Should Know About Indian Prisons

Temporary Prisons

As a precautionary measure, several countries, including Singapore, worked to reduce the risk of contagion of COVID-19 inside prisons by setting up temporary prisons to keep new inmates in quarantine for 14 days.⁸¹ From the data we received, only **seven states** and **one UT** had set up temporary prisons during this period. These included Bihar (3), Goa (1), Kerala (55), Maharashtra (36), Manipur (1), Meghalaya (1), Uttarakhand (5) and Chandigarh (1). However, in the case of Bihar, it was stated that admissions were not taking place in these temporary prisons. Ten states, including Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Nagaland, Rajasthan, Sikkim, Telangana and Tripura, responded stating that they had not set up any temporary prisons. In absence of such temporary prisons where admissions of new inmates were taking place in the main prison building, there was an increased threat of exposure to COVID-19 with each new prisoner.

B. Process of Decongestion of Prisons

Determining the categories for release by the HPC was only the first step of the process to initiate decongestion of prisons. A number of directions were issued to district-level functionaries to ensure that the process of release of prisoners is streamlined. The onus of implementing the directions of the HPC in the respective states was on legal services institutions, prisons, district administration and police authorities and required significant synchronised effort among the various functionaries.

In order to determine the categories for release of prisoners, detailed, and in some states periodic, reports were filed by the head of the prison department to the HPC.⁸² The idea must be to understand the demographics of prisons in the state and then brainstorm around the possible categories of prisoners that could be released. Some HPCs reconsidered its criteria in subsequent meetings and relaxed earlier conditions with regard to time spent in jail or consideration of prisoners from outside the state. In many states, the HPCs were convened on the request of the prison department or state government to address certain urgent matters which is indicative of positive coordinated energy at the senior level.

Ground Rules: A few HPCs also laid down some ground rules, like the **Meghalaya** HPC specified that undertrials languishing in judicial custody pending investigation shall not be deprived of right of statutory bail, irrespective of the nature of the offence and punishment and the recommended criterion should not be understood as eclipsing the statutory bail. In **Uttar Pradesh**, the HPC clarified that undertrial prisoner for decongestion purpose would include both type of prisoners whose warrants are prepared under S.167 and S.309 of

⁸¹ Dhany Osman, Measures taken at Singapore prisons to protect staff, inmates from COVID-19, Yahoo Singapore News - <https://sg.news.yahoo.com/measures-taken-at-singapore-prisons-to-protect-staff-inmates-from-covid-19-062726203.html> (last accessed on 12 November 2020).

⁸² In **Chhattisgarh**, periodic compiled reports of prison accommodation and population of all jails was submitted by prison headquarters and perused by the HPC. In **Maharashtra**, a report was submitted by ADG and IG Prisons and Correctional Services to the HPC with number of prisoners released, in process of release and recommendations for further release and estimated numbers. In **Manipur**, prison authorities placed before the HPC detailed lists of prisoners-categories, offences committed/alleged to have been committed and the period for which they have been confined in the prisons. In **Mizoram**, the HPC looked into the prison-wise occupancy rate of all the 10 prisons and found 3 of them overcrowded. In **Punjab**, a detailed agenda note was presented by the ADGP, Prisons, for consideration by the HPC in its first meeting. In **Tripura**, a detailed survey was carried out by the Inspector General of Prisons and data was submitted for consideration of the HPC. In **West Bengal**, the Joint Secretary, Department of Correctional Services and ADG & IG, Correctional Services furnished information regarding number of undertrials and convicts which was considered by the HPC.

CrPC. The **Gujarat** HPC set out that the categories of cases recommended by the HPC were inclusive and not an exhaustive document and the discretion of the competent criminal court, as a rule, was advised. The **Delhi** HPC made clear that these recommendations did not affect the rights of other undertrials who were not covered under these categories, from invoking the jurisdiction of concerned courts for grant of regular/interim bail. Those were to be considered by the concerned court on filing of applications on merits, in accordance to the law.

Here is a summary of key efforts undertaken by the states at various levels. It encompasses the expanse of action taken.

I. Identification of Eligible Prisoners for Release:

In order to implement the main directions of the HPC, the crucial step was to identify the prisoners who were eligible as per the criterion set out by the HPC. It must be noted, and has been dealt with in detail in the previous chapter, that very few categories were straight forward and multiple criterion were involved like maximum prescribed punishment, identifying appropriate authority/court to conduct trial, status of trial, whether bail has been granted by the court, number of pending cases, period of detention, status of case, gender and so on.

Most of the HPCs directed the SLSA with its district-level functionaries to identify the eligible prisoners under the criteria determined by the HPC. As a good practice, lawyers visiting jails and PLVs used digital means to coordinate with jail authorities to actively identify the eligible undertrial prisoners in **Himachal Pradesh**. However, in some states, this task was assigned to superintendents of prisons. For example, in **Gujarat**, prison authorities were instructed to identify inmates who are eligible to move applications for temporary bail. It must be noted that the only document that is available with the prison authorities is the court warrant which does not specify the required information. They would be able to inform if the prisoner is old or sick or infirm⁸³. But in the absence of any training/orientation for ascertaining the legal eligibility of prisoners, it would have been a difficult task for prison authorities to untie the knots and ensure that not a single person was missed out from consideration for release.

II. Drafting and Filing Applications

In many states⁸⁴, the HPC directed the SLSA/DLSAs⁸⁵/TLSCs to depute panel lawyers to draft and file bail applications and prison authorities were directed to provide all assistance in facilitating the drafting of bail applications, taking signature of inmate on *vakalatnama*, etc. In **Andhra Pradesh**, the HPC directed the SLSA to encourage the Panel Lawyers/Paralegal volunteers to be in touch with the concerned Jail Superintendents/jailors. While in **Gujarat** and **Uttar Pradesh**⁸⁶, the secretaries of

⁸³ For example, in Mizoram, the HPC directed the IG Prisons to identify inmates who are of ill health and/or who are old in age and immediately take steps regarding parole of such persons and make a report.

⁸⁴ Chandigarh, Chhattisgarh, Karnataka, Maharashtra, Mizoram, Odisha, Uttarakhand.

⁸⁵ In Odisha, all DLSAs were directed to ensure that all prisoners are given proper legal advice and timely legal aid through Jail Legal Aid Clinics to prevent convicts from staying in prisons following the lapse of their sentence. In Uttarakhand too, the applications for parole and interim bail be moved through the jail authorities with the help of DLSAs to the Government of Uttarakhand or Courts concerned.

⁸⁶ The UP HPC directed that passes were to be issued to the Judges/Magistrates and Panel Lawyers visiting jails to effectuate release of undertrials.

DLSAs deputed only those panel lawyers who were willing to visit jail, **Sikkim**⁸⁷ and **Mizoram**⁸⁸ HPCs made it compulsory for panel lawyers to visit prisons and assist the inmates in filing temporary bail applications. In **Himachal Pradesh** and **Maharashtra's Beed district**, the bail applications were filed online/through e-mail to prevent crowds from gathering in courts or government offices and to comply with the social distancing norm of the Centre.

In **Gujarat**, the project officers of the SLSA prepared the draft of temporary bail application containing all necessary details viz. full name of the inmate, jail details, offence details, incarceration period along with the date of arrest etc. In **West Bengal**, the secretary, DLSA had to draft the interim bail application and standard personal bond proforma and send the same to the panel advocates/PLVs for required action. In **Odisha**, all DLSA chairpersons were asked to contact the undertrial prisoners who could not be released as they were unable to furnish bond and surety through Jail Legal Aid Clinics and facilitate in filing of bail bonds and production of surety of such UTPs in the respective courts or provide legal assistance as required.

Manipur completely skipped the stage of filing separate bail applications of eligible prisoners. The HPC directed that its resolution with the list of undertrials was to be treated as bail application for the prisoners mentioned in the list. Chairpersons of the DLSAs were directed to ensure that the remand advocates/legal aid counsels attached in each court shall provide all necessary legal aid and assistance to the recommended persons in case their services are required.

Only **Gujarat**⁸⁹ and **Karnataka**⁹⁰ HPCs specified the honorarium to be paid to the panel lawyer for filing temporary bail applications and undertaking legal formalities.

III. Considering interim bail applications

Different modus operandi was adopted by the states in considering the interim bail applications of the eligible undertrials. Some resorted to routine method whereby the HPC recommended that bail applications were filed before the concerned judicial magistrate having the jurisdiction to try that case. For example, in **Sikkim**, the HPC advised the empanelled counsel and in **Himachal Pradesh**, they deputed the bail and remand counsel to assist the concerned court in hearing these applications. Another adopted process was to ensure special sitting of remand magistrates to dispose of all applications for interim bail within seven days and report compliance to SLSA by email, as done in **West Bengal**.

In **Karnataka**, the HPC directed to form a District Level Committee consisting of the District Judge, Commissioner of Police Superintendent of Police, Jail Superintendent

⁸⁷ All Panel Advocates appointed to represent Undertrials or Convicts were directed to visit prisons to personally meet the prisoner, and to take instructions from them. The concerned Panel Advocate has to compulsorily submit a Certificate of jail visits certified by the concerned Jailor at the time of claiming his/her legal aid bill for the legal aid case. In the absence of such Certificate, bills for legal aid is not entertained by Sikkim SLSA. If bail is granted by the Ld. Court the Jail Visiting Lawyer will call the family members of the undertrial prisoner or accused Person and assist in arranging for surety.

⁸⁸ HPC directed that the SLSA shall issue instructions to the DLSAs to conduct jail visits and /to provide legal aid wherever necessary.

⁸⁹ The panel lawyer filling the temporary bail application and filing it before the Duty Judicial Magistrate to be paid Rs. 500/- per inmate, Rs. 1000/- for hearing of the single temporary bail application, and Rs. 500/- for undertaking the legal formalities for the release of an inmate from jail.

⁹⁰ The panel advocate filing such bail applications were to be paid Rs. 1500 for single temporary bail application for undertaking the legal formalities for release of inmate from the jail by Karnataka SLSA/DLSA.

and Public Prosecutor of respective Districts who would collate the details of the undertrials and evaluate on a case-to-case basis. Then, all temporary bail applications were to be proceeded before learned ADJs and it was to be decided in Home Office with bare minimum staff and number of Panel Advocates as decided by the Secretary, DLSA.

But the most common of all the approaches was to direct a judicial magistrate to visit prison for considering the bail applications and furnishing/accepting adequate bail bonds. This approach was adopted by **Andhra Pradesh, Chhattisgarh⁹¹, Goa, Gujarat⁹², Punjab⁹³ and Uttar Pradesh**. It was probably done to save time as the Odisha HPC directed the District & Sessions Judge, Cuttack to instruct the concerned officer to decide bail petitions in a “war footing manner” as per the directions of the Supreme Court and in pursuance of the HPC directions. In **Haryana**, the already appointed visiting judges of the jails (DSJ/ADJ/CJM) either considered the bail applications at the jails itself or alternatively by devising a mechanism of routing the bail applications through the DLSA to the courts convened especially for this purpose. The HPC directed the Secretary, DLSA, in **Chandigarh** to hold Special Jail Lok Adalat relating to petty offences within one week (of the first HPC meeting) in Model Jail for disposal of such cases by taking lenient view and thereafter, every fortnight, if required.

Uttarakhand and **Chandigarh** preferred the online mode. In Uttarakhand⁹⁴, the district judges were asked to make necessary arrangements for online hearing of the bail applications filed by the beneficiary prisoners. In Chandigarh, the proceedings for grant of interim bail were conducted before the Duty Magistrate through video-conferencing.

With regards to setting some guidelines for considering the bail applications in these difficult times, **Mizoram** HPC recommended that special preference should be given to prisoners having respiratory problems, high blood pressure and diabetes since they are more vulnerable to the complications of the virus infection. **Maharashtra** HPC suggested that a relaxed approach needs to be adopted with regard to the release of prisoners in view of the directions and spirit of the order of the Supreme Court. The nature of offence, the severity of offence and the possibility of prisoner committing offence in case of temporary release or likelihood of his/her absconding shall be considered as important tests to decline such requests for temporary release. The decision of temporary release of prisoners was to be taken and implemented

⁹¹ The Duty Magistrate is to satisfy himself/herself as to whether the criteria laid down by the HPC has been complied with or not.

⁹² In Gujarat, the duty Magistrate/s was directed to visit jail along with the bare minimum staff and the number of panel advocates as may be decided by the Secretaries of DLSA (depending on the number of bail applications).

⁹³ The deputed judicial officers were to hold camp courts at the jail premises for as many days as is necessary to decide the bail applications.

⁹⁴ The matter relating to the acceptance of bonds and the disposal of bail applications pending in different courts was referred to the High Court with suggestions - A) The District Judges of all districts may be requested to nominate one Judicial Magistrate or to authorize Remand Magistrate for disposal of all the bail applications to accept the sureties and bonds online through video-conferencing, by using Skype, Zoom, Whatsapp, video calling technology from the chambers of the advocates at the residential office of the Magistrate concerned, without violating the policy of social distancing. B) The District Judges to hear the pending bail applications or to nominate any Additional District Judge to hear the pending bail applications through video conferencing or other video calling technologies; C) If the bail is granted, the bail order may be communicated online to the Remand Magistrate, who in his turn can accept the bonds online, issue the release order and communicate the same to the concerned jailor online.

as expeditiously as possible within a maximum period of one week from the date of filing of an application by the prisoner. **Sikkim** HPC directed that bail be granted only after consideration of whether the accused was a habitual offender, whether he was a resident of Sikkim, and whether there were high chances of the accused absconding.

Uttar Pradesh HPC also deliberated regarding cases where bail applications of eligible prisoners have already been rejected by Sessions Court and pending before High Court.⁹⁵

It needs to be highlighted that no HPC passed any direction regarding the presence of the undertrial's lawyer while considering the bail application in prison or through online modes.

IV. Consent of Prisoners and Conditions of Release

Many HPCs, like **Jammu & Kashmir, Manipur, Mizoram**⁹⁶, specifically directed not to release any person without his or her consent. It is evident from instances where the ADG Prisons informed the West Bengal HPC that though 17 inmates were ordered to be released on temporary bail or parole or furlough, they refused to get out of the jail saying that jail was more safe than any other place outside for them.

While the concerned magistrate/judge was allowed to impose conditions which they thought may be fit and appropriate, as per facts and circumstances of each case, some specific conditions were also directed to be imposed in some states by the HPC:

- i. The undertrials were to make an undertaking that they would quarantine for 14 days at their home under the surveillance of a doctor with the help of the police and violation of this condition would lead to cancellation of bail and such person would be taken back into custody. **(Andhra Pradesh)**
- ii. Undertrials shall report to the concerned police station within whose jurisdiction they are residing once in every 30 days. **(Gujarat, Karnataka, Maharashtra)**
- iii. The prisoner is not to commit any similar offence while out on bail; the prisoner should not interfere with the investigation of the case; the prisoner should not tamper with the evidence or threaten the witnesses⁹⁷; the guidelines issued by the state government to control the spread of the virus should be adhered to by the released prisoners. **(Mizoram)**
- iv. The undertrial had to furnish his complete current address in the personal bond and to the Correctional Home authority; not to leave the address provided during the period of interim bail; to surrender before the court on expiry of the period of interim bail; and to be accessible to the officer in charge of the local police station throughout this period. **(West Bengal)**

⁹⁵ The list was provided by Government Advocate (Allahabad High Court and its Lucknow Bench) to DG Prisons who transmitted it to the concerned Jail Superintendent and a copy to the concerned District Judge. Following this, these undertrials can be released on Interim Bail by Sessions Judge/Additional Sessions Judge on furnishing personal bond with the undertaking that he/she shall surrender before the Court after expiry of the interim bail period. In case interim bail is granted, the Superintendent of concerned jail shall furnish the information to the DG Prisons and a copy of that is to be sent to the Government Advocate, concerned District Judge as well as the High Court.

⁹⁶ PLVs and the jail visiting lawyers were to visit the jails immediately, to take the consent of prisoners.

⁹⁷ Nagaland HPC too directed that if any inmate who is released, threatens, induces any witness or any person acquainted with the facts of the case or to the victim of the case, he shall be taken into custody immediately.

- v. Undertrials/convicts under the NDPS cases had to execute bond, in addition to other formalities under section 107/110 CrPC to the effect that he/she will not do any wrongful act, commit any offence and maintain good behaviour during the period of his/her interim bail; and that he/she would remain strictly confined to his/her home during the period of interim bail and would not leave his/her house under any circumstances other than to obtain de-addiction treatment or attend to medical emergency. This condition was to be specified in the interim bail order/parole conditions. **(Punjab)**
- vi. Under no circumstances, a prisoner is to be released without proper medical screening and if any symptoms are shown he/she has to be kept in quarantine instead. (Almost all HPCs)

As a good practice, many HPCs released prisoners on personal bonds without sureties, such as in West Bengal and Uttarakhand. While in **West Bengal** the HPC recognized that the undertrials might have difficulty in furnishing sureties, in **Uttarakhand** it was done in order to implement the social distancing policy of the government. In **Uttar Pradesh**, interim bail was granted on furnishing personal bond with the undertaking written on the personal bond itself that he/she shall surrender before the court after expiry of the interim bail period. **Manipur** only allowed personal bonds for who were in prison due to non-furnishing of surety bonds. In **Chhattisgarh**, the magistrate issued interim bails on submission of the prisoner's personal bond to the satisfaction of the concerned Jail Superintendent. While **Punjab**⁹⁸ allowed for bail to be granted either on execution of a bail bond or on the personal bond by the undertrial, **Maharashtra** adopted the routine method whereby undertrials may be released on interim bail on personal bond of such amount as may be determined.

V. Release of Convicts

As rightly articulated by the Punjab HPC, the primary objective was to grant liberal parole as per the criteria while keeping sufficient safeguards. Most HPCs directed the concerned state governments and the prison administrations to release convicts on parole or furlough as per the act and rules. As such, some states had to amend the existing rules to expand the eligibility and time-period of emergency/regular parole. The **Delhi** HPC recommended the government of NCT of Delhi to incorporate the provision of emergency parole in the Delhi Prison Rules.⁹⁹ **Haryana** HPC directed the state government to notify/issue executive order expeditiously for a one-time relaxation of the rule that the application for parole may be processed within the first year after the conviction of the prisoner.¹⁰⁰ In **Mizoram**, the HPC directed the state to consider grant of parole for at least two months, and not 30 days in general, keeping in view the eligibility criteria required for release of convict on parole and furlough and to amend its rules. A provision for extension of period of special parole, from time to time, if emergent situation on account of spread of COVID-19 pandemic persists was added by the **Rajasthan** government.¹⁰¹

⁹⁸ The Judicial Officer could also consider the execution of bail bond through online/electronic means. A valid passport could also be taken on record.

⁹⁹ The amendment was issued by the Government of NCT of Delhi vide notification no. F18/191/2015/HG/1428-1438 dated 27 March 2020.

¹⁰⁰ The HPC directed the SLSA to forward the applications relating to parole/furlough for cases that are pending in other states to the concerned SLSA.

¹⁰¹ The Rajasthan Prisoners Release on Parole (Amendment) Rules, 2020 and the Rajasthan Prisoners Release on Parole (Amendment) Rules, 2020, were notified.

Many states opted for remission of sentence as provided for in their prison rules to provide benefit to as many convicts as possible. In **Haryana**, **Odisha**, **Punjab** and **Chandigarh** the chairperson of the respective HPC asked the heads of the department and Superintendents of prison who have power to grant additional remission of two months and remission of one month, respectively, to exercise their power for eligible prisoners and release them accordingly. In **Meghalaya** and **Delhi**¹⁰², the HPC suggested that convicts who have served almost entire sentence and were left with few months or days for completion could be considered for remission of sentence by the government. In **Himachal Pradesh**¹⁰³, **Mizoram**¹⁰⁴ and **Sikkim**¹⁰⁵ remission of sentence for convicts was included within the determined categories of release.

Additionally, the option of bail (suspension of sentence) was also considered for convicts.¹⁰⁶ In **Gujarat**, those convicted by the Chief Judicial Magistrate/Judicial Magistrate or Court of Sessions and directed to undergo imprisonment for less than seven years may prefer an application for temporary bail for the period of two months before the Court of Sessions and High Court, respectively. In **Manipur**, prisoners who are sentenced for a period of seven years or less, with or without fine and an appeal has been preferred by the convict, the HPC recommended that the court should also consider suspension of the sentence and release of the convict on bail till final disposal of the appeal.

In regard to consideration of parole applications, different procedures were followed. It included referring the cases to the Parole Committee (**Tripura**); deputing an empowered Executive Magistrate at all jails to be available every day till all such cases were dealt with and would process all the surety bonds at the jail premises itself (**Punjab**); delegating the powers of granting parole in certain cases to the superintendent of the concerned prison (**Punjab**); referring the cases to the newly constituted district-level committee (**Karnataka**); delegating the power to grant parole to DG Prisons by the state government (**Uttarakhand**).

Some good practices were observed. Keeping in mind the physical distancing directive, in **Himachal Pradesh**, **Goa** and **Gujarat**, all parole/furlough applications were expedited by adopting digital modes/ video conference/online procedure. In **Haryana**, the HPC directed the executive magistrate to record in writing the confirmation of the consent of sureties obtained through WhatsApp or SMS or mobile in cases where convict has successfully availed regular parole. In **Punjab**, for cases pending outside the state, a copy of the HPC proceedings were to be forwarded by the jail superintendent to the concerned district magistrate for ensuring early decision in pending cases.

The Supreme Court had directed on 7 April, 2020 that prisoners “*shall also be given an option for staying in temporary shelter homes during the period of lockdown.*” While most of the states excluded parole to convicts belonging to other states in view of the lockdown, **Goa** was the only state to give such prisoners the option of staying at shelter homes arranged by the civil administration.

¹⁰² Special remission was granted to convicts sentenced up to 10 years and who had completed their substantive sentence (inclusive of regular and special remission granted).tt

¹⁰³ Release of convicts under S.432 of CrPC (suspension or remission of sentence).

¹⁰⁴ The HPC recommended for convicts whose sentence is up to 10 years and whose cases can be considered for remission of sentences as per rules.

¹⁰⁵ Convicts were released on remission in two special cases by the HPC - (i) case of remission where the convict's sentence was ending in a week's time; (ii) case of three months civil imprisonment.

¹⁰⁶ Manipur.

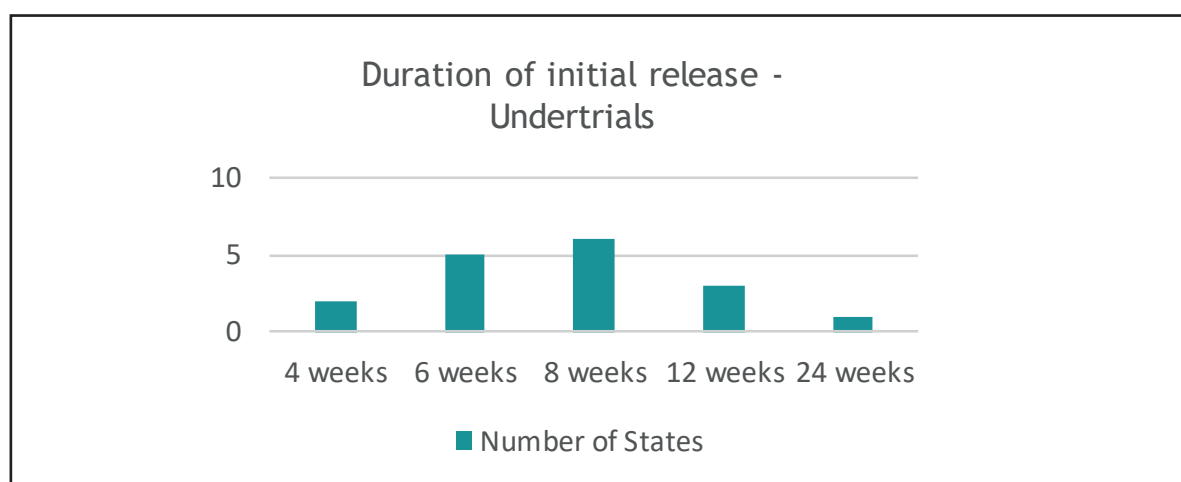
Many HPCs specified the **time limit** within which the parole applications must be processed that ranged from two days to ten days:

- all (pending and new) cases of parole liberally and sympathetically on an urgent basis within three days of receipt of request and latest within six days (**Chandigarh**);
- within three days of receipt of the directions and latest within six days (**Haryana**);
- jurisdictional police to forward the report to the superintendent of jail within four days and consider it within 10 days of the date of receipt of the application (**Karnataka**);
- pending parole applications before the district magistrate to be processed within a period of two days without fail and all new cases within four days of receipt (**Punjab**);
- within three days as per the norms set by the HPC (**Uttar Pradesh**);
- within seven days (**West Bengal**).

VI. Period of Release¹⁰⁷

Table 10 below provides for the period of release as determined by the state HPCs. While Bihar, Jharkhand, Kerala, Rajasthan and Andaman & Nicobar Islands did not share the minutes of the HPC meetings, the HPCs in Goa, Nagaland and Sikkim did not provide any direction regarding the period of release. Therefore, they have not been included in the table. Further, it was not specified anywhere in the HPC minutes whether this release would be counted as part of the sentence or deducted from the total sentence.

Graph 7: Duration of Initial Release - Undertrials



Duration of initial release for undertrials: While different HPCs have stipulated these periods in terms of days/weeks/months, for the purposes of analysis, each month is considered to constitute four weeks/30 days.

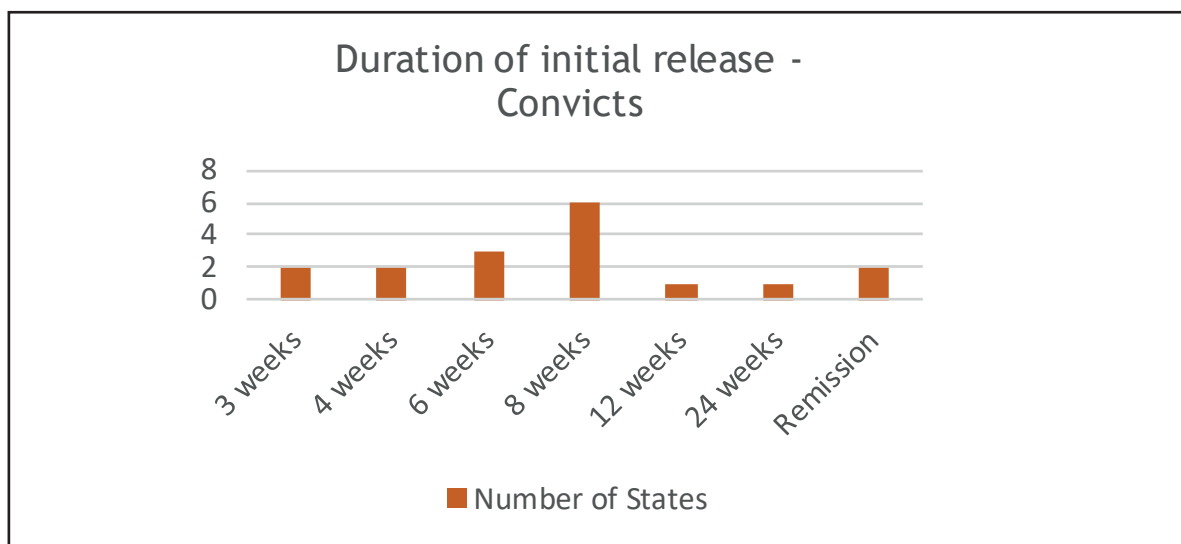
Andhra Pradesh and Chhattisgarh initially released the undertrial prisoners for four weeks. Himachal Pradesh, Manipur and West Bengal released them initially for 12 weeks (three months), whereas Uttarakhand released undertrials for six months.

¹⁰⁷ Since many states have extended the lockdown beyond the period of this study, this section covers the period of release initially stipulated and as the period extended based on the HPC meetings held on or before 30th June.

Four states and two UTs¹⁰⁸ chose to initially release the undertrials for a period of eight weeks. Four states and one UT¹⁰⁹ released them for a period of six weeks.

Duration of initial release for convicts: The initial period of the release was stipulated by the HPCs of 17 states. Meghalaya and Mizoram chose to release convict prisoners on remission.

Graph 8: Duration of Initial Release - Convicts



Uttarakhand released convicts for a duration of six months and West Bengal for three months. Odisha and Chhattisgarh only provided special parole for 21 days. Two states released convicts for four weeks¹¹⁰, three states released them for six weeks¹¹¹ and three states and three UTs¹¹² for a duration of eight weeks.

Extension of period of release: While 10 states¹¹³ and three UTs¹¹⁴ provided an initial period of release for both undertrials and convicts, only nine of them further extended the time-period for both categories. Andhra Pradesh and Karnataka did not extend the period of interim bail or parole; Gujarat only extended the period for undertrials and Uttar Pradesh only extended the period of parole for convicts. Manipur only stipulated an initial period of release of three months for undertrial prisoners. Mizoram and Telangana specified a period of release only for convict prisoners.

Maharashtra and Punjab HPCs chose to specify that the extension would continue till the notification was withdrawn in a subsequent meeting. The Haryana HPC had extended the period four times during the period between 1 April, 2020 and

¹⁰⁸ Gujarat, Karnataka (it also added that the period would continue till the time the State Government withdraws the notification under the Epidemic Act), Tripura, Uttar Pradesh, Chandigarh and Jammu & Kashmir.

¹⁰⁹ Haryana, Maharashtra, Meghalaya, Punjab and Delhi.

¹¹⁰ Andhra Pradesh and Telangana.

¹¹¹ Haryana, Maharashtra and Punjab.

¹¹² Gujarat, Karnataka (it also added that the period would continue till the time the State Government withdraws the notification under the Epidemic Act), Uttar Pradesh, Chandigarh, Delhi and Jammu & Kashmir.

¹¹³ Andhra Pradesh, Chhattisgarh, Gujarat, Haryana, Karnataka, Maharashtra, Punjab, Uttar Pradesh, Uttarakhand, West Bengal.

¹¹⁴ Chandigarh, Delhi and Jammu & Kashmir.

30 June, 2020. In the last two times, the date of expiry of their bail/parole was stipulated in a tiered fashion so as to limit the number of prisoners returning to prison in a particular period.

Table 10 - Period of Release for Undertrials and Convicts

State	Undertrials		Convicts	
	Initial Period of release	Extended period of release	Initial Period of release	Extended period of release
Andhra Pradesh	One month	N/P	One month	N/P
Chhattisgarh	Interim Bail up to 30 th April 2020	30 June 2020	21 st April 2020	30 June 2020
Gujarat	2 months	30 days	2 months	N/P
Haryana	45 days on interim bail	3 weeks, 6 weeks, tiered (5,4,3) - 22 May, tiered (10, 8, 6, 5, 4) - 15 June	Parole for 6 weeks	3 weeks, 6 weeks, tiered (5,4,3) - 22 May, tiered (10, 8, 6, 5, 4) - 15 June
Himachal Pradesh	3 months	N/P	Maximum release as per rules and procedure; Suspension/ Remission of sentences	
Karnataka	2 months or till such time as State Govt withdraws the notification whichever is earlier	N/P	2 months or till such time as State Govt withdraws the notification whichever is earlier	N/P
Maharashtra	45 days or withdrew of state notification whichever is earlier	In blocks of 30 days or withdrew of government notification	45 days or withdrew of state notification whichever is earlier	In blocks of 30 days or withdrew of government notification
Manipur	3 months	N/P	N/P	N/P
Meghalaya	45 days	N/P	Remission	N/P
Mizoram	N/P	N/P	Remission of sentence granted, no convict released on bail	N/P
Odisha	N/P	N/P	Special Parole Leave for 21 days	till 3 May (for those in red zone - 17 May)

Punjab	6 weeks	6 weeks, extended till notification under Epidemic Diseases Act, 1897 is in force	6 weeks	6 weeks, extended till notification under Epidemic Diseases Act, 1897 is in force
Telangana	N/P	N/P	30 Days	N/P
Tripura	For period decided by the Judicial Magistrate, but HPC wanted for minimum 60 days	N/P	N/P	Parole to be extended by renewal
Uttar Pradesh	Interim bail for 8 weeks	N/P	Special Parole for 8 weeks	8 weeks
Uttarakhand	6 months	N/P	6 months	N/P
West Bengal	3 Months	2 Months	3 Months	2 Months
Chandigarh	60 days on interim bail	End of August/ mid-September	8 weeks special parole	End of August/ mid-September
Delhi	45 days	45 days from the date their respective interim bails were expiring	8 weeks (45 days for civil imprisonment)	8 weeks from the date their emergency parole was expiring
Jammu & Kashmir	60 days interim bail	60 days	Special Parole for 8 weeks	4-8 weeks

VII. Safe transit of prisoners

The Supreme Court, by order dated 7 April, 2020, passed another direction that *“Union of India shall ensure that all the prisoners having been released by the States/Union Territories are not left stranded and they are provided transportation to reach their homes or given the option to stay in temporary shelter homes for the period of lockdown. For this purpose, the Union of India may issue appropriate directions under the Disaster Management Act, 2005 or any other law for the time being in force. We further direct that the States/Union Territories shall ensure through Directors General of Police to provide safe transit to the prisoners who have been released so that they may reach their homes.”*

Accordingly, in **Himachal Pradesh**¹¹⁵, **Maharashtra**¹¹⁶, **Mizoram**¹¹⁷, **Odisha**, **Uttarakhand**¹¹⁸ and **West Bengal**, the HPCs directed the respective District Magistrate and Superintendent of Police to make arrangements for transmission of prisoners from the prisons to their respective places. In **Meghalaya**, IG Prisons was asked to coordinate with the Nodal Officer of the Meghalaya Police to ensure safe transportation of the released convicts/undertrials from jail to their homes within the district. In the event that the released convict/undertrial was a resident

¹¹⁵ The concerned District Magistrate to ensure that the travel pass is provided to the released prisoners.

¹¹⁶ Buldana, Bhandara and Jalgaon districts.

¹¹⁷ The Deputy Commissioners and Superintendants of Police shall also inform the Local Level Task Force to ensure that the released prisoners safely reach their residence.

¹¹⁸ The HPC granted 6 to 10 days from the date of filing the personal bond to the transmission of such prisoners on their release from jails to their respective places and also to coordinate with the other state and their District Administration, whose prisoners are going to be released on interim bail and parole for transmission of such prisoners to their respective places and vice versa.

of another district or state, the IG Prisons was to coordinate with the concerned SSP of the district/State where the released inmate resides, so as to enable the prisoner to reach home after he/she is released. In **Nagaland**, panel lawyers and PLVs coordinated with the local authorities and administration for arranging movement permit to stranded UTPs. The **Uttar Pradesh** prisons worked with UP State Road Transport Corporation to provide sufficient number of sanitised buses for transportation of released prisoners to send them to their places of residence. In **Gujarat**, with the co-ordination of NGOs and district administration, ration kits were provided to inmates who were going home, at the time of their release.

VIII. Under Trial Review Committees

The HPCs of **Chhattisgarh, Haryana, Karnataka, Manipur, Nagaland, Odisha¹¹⁹, Punjab, Sikkim¹²⁰, Uttar Pradesh, Uttarakhand¹²¹ and West Bengal** reiterated the directions of the Supreme Court and directed that the UTRCs must meet every week and take such decisions in consultation with the concerned authority. Some HPCs tasked the UTRCs additionally. In **Goa, Gujarat and Odisha**, the HPC directed the UTRCs to urgently consider the cases of undertrial prisoners as per the criterion and recommend to the appropriate court for their release on interim bail.

It is unexpected that in **Mizoram**, the HPC directed the SLSA to re-issue the notifications constituting UTRCs. As per the minutes of the HPC meetings, the state government issued a notification vide Order No. B. 13021/101/2020-DMR/Pt-III dated 2 May, 2020 which resulted in no meeting of the UTRC being held during this period due to the pandemic. This is a clear violation of the orders of the Supreme Court passed in '*Re-Inhuman Conditions in 1382 Prisons*' and '*In Re: Contagion of Covid-19 Virus in Prisons*'.

Recommendation was made to conduct the UTRC meetings using electronic means or video conferencing or Whatsapp video call or telephone in **Chhattisgarh, Gujarat, Odisha and Uttarakhand**.

Manipur HPC directed the UTRCs that action taken was to be reported to the concerned authority. In **Goa**, action taken by the UTRC was taken on record during the HPC meetings. In **Gujarat**, the HPC requested the Member Secretary, SLSA, to compile the data on the UTRC meetings and on persons released on temporary bail to be submitted to the HPC. In **Odisha**, all DLSAs provided regular updates on the action taken, which was collated by the SLSA and submitted to the HPC.¹²² A detailed enquiry into the functioning of the UTRCs during this period is provided in the next chapter.

IX. Awareness Programmes and Efforts to curb Prison Unrest

The HPCs of **Haryana, Punjab and Karnataka** advised the chairperson of the DLSA and the concerned District & Sessions Judge to visit the jails periodically¹²³ and

¹¹⁹ The UTRC was instructed to meet every week, preferably on Wednesday.

¹²⁰ To take up cases of undertrial prisoners falling in the categories stipulated and to follow the Standard Operating Procedure suggested by NALSA as per the direction of the Supreme Court in *Re-Inhuman Conditions in 1382 Prisons*.

¹²¹ The HPC directed that 36 prisoners who were suffering from cold, cough, fever, HIV etc., may not be considered for release. However, they may be considered by the UTRCs later on the basis of the health conditions.

¹²² It included - (i) Number of UTRC meetings conducted per district; (ii) Number of undertrials identified for release and actually released on interim bail; (iii) Number of Convicted prisoners released on parole/ other grounds; (iv) Number of prisoners found to be affected by COVID-19 virus; (v) Number of prisoners found to be suffering from other diseases; (vi) Number of prisoners provided with immediate medical facilities.

¹²³ every alternate day in Haryana and at least twice a week in Karnataka.

interact with the prisoners (after taking all precautions) so that the prisoners could air their concerns and order could be maintained. The Haryana HPC was of the view that communication by the judicial officers in person (or even over the PA system) will have a positive impact on prisoners.

In **Manipur**¹²⁴, **Nagaland**, **Karnataka**¹²⁵, **Odisha** and **Uttar Pradesh**, regular awareness programmes were held in prisons to sensitise prisoners about the advantage of maintaining safe distance amongst themselves and inform them about the “Do’s and Don’ts” about the prevention of transmission of COVID-19. Apart from spreading awareness about the pandemic and its prevention, many states realised that it is most crucial to inform the prisoners at every step to address their apprehensions, concerns in order to avoid any disorder in prisons in these unprecedented times. In **Himachal Pradesh**, jail visiting lawyers and PLVs informed the undertrial prisoners and convicts about the various rights, including release on parole, furlough, premature release, plea bargaining and NALSA’s SOP on UTRCs. The HPCs of **Haryana**, **Odisha** and **Chandigarh** directed the prison authorities to maintain order in prisons by undertaking counselling and by informing jail inmates of steps being taken to prevent infectious disease due to coronavirus.

X. Medical Facilities

By order dated 23 March, 2020, the Supreme Court directed that, “*prison specific readiness and response plans must be developed in consultation with medical experts. “Interim guidance on Scaling-up COVID-19 Outbreak in Readiness and Response Operations in camps and camp like settings” jointly developed by the International Federation of Red Cross and Red Crescent (IFRC), International Organisation for Migration (IOM), United Nations High Commissioner for Refugees (UNHCR) and World Health Organisation (WHO), published by Inter-Agency Standing Committee of United Nations on 17 March, 2020 may be taken into consideration for similar circumstances.*” Only the HPCs of Karnataka¹²⁶, Odisha¹²⁷ and Punjab¹²⁸ made specific recommendation in this regard.

Additionally, a number of steps were undertaken by the HPCs to ensure that medical facilities in prisons are improved. This includes -

- The HPCs of **Haryana**¹²⁹ and **Karnataka**¹³⁰ directed the state government to fill up the sanctioned vacant posts of all the medical officers and paramedical staff.
- In **Karnataka**, the state administration was asked to ensure that in prisons where there was no medical officer available, a doctor was to be deputed from the respective district to visit the prison at least once a day for conducting routine medical check-ups of inmates. Similarly, in **Mizoram**, the HPC directed to take steps to designate one medical doctor from each district hospitals to visit the other district jails atleast thrice a week to check the inmates till a regular

¹²⁴ The HPC directed that “Public Address System” could be installed in the Jail Campus.

¹²⁵ Awareness programmes were conducted by the Department of Health and Family Welfare in the Prisons.

¹²⁶ The Prison Department constituted a “COVID-19 Special Response Team” consisting of the Jail Superintendent/Chief Warden or Head of the Prison, Second person in command of the respective Jail and Government Doctor/representative of District Health Officer. These teams were taking steps in their respective prisons for ensuring monitoring of all the inmates for preventing the spread of corona virus.

¹²⁷ The HPC directed the Principal Secretary, Home Department and DG Prisons to take steps for prison-specific readiness and response plans in consultation with medical experts.

¹²⁸ The jail Superintendents were instructed to draft prison specific ‘Readiness and Response Plans’ and a ‘COVID-19 Special Task Force’ was also set up at each prison to deal with any emergent situation. The HPC desired that the plans be prepared and rehearsed with all stakeholders.

¹²⁹ The Haryana HPC also directed to depute one Medical Officer each and other para medical staff for examination and treatment of prisoners at Special Jails, Karnal, Hisar and Rewari.

¹³⁰ Karnataka HPC minutes provided that immediate steps needs to be taken for appointment of sanctioned medical staff in 9 central prisons, 21 district prisons and 15 taluka/ revenue prisons.

doctor was posted in the other jails. In **Nagaland**, the HPC recommended for immediately attaching a doctor on regular basis for attending to the health issues of prisoners in the two jails (Central Jail at Dimapur and District Jail Dimapur) owing to high prison population.

- In **Haryana and Chandigarh**, the HPC directed to establish prisoner wards in the COVID-19 dedicated hospitals and every COVID positive prisoner be admitted and treated in these wards.
- **The Karnataka, Nagaland, Odisha** HPCs directed to ensure that immediate steps be taken for identifying nodal medical institutions for shifting of prison inmates in case of any possibility of COVID-19.
- In **Punjab**, the HPC directed the Department of Health and Family Welfare to take all necessary steps to provide sufficient medical infrastructure to ensure proper treatment of prisoners at the COVID Care Facilities created in prisons.
- The **Uttarakhand** HPC, not only ensured proper health check-ups of prisoners before their release on parole or interim bail but also directed to make the necessary arrangements regarding the medical examination of such prisoners/ undertrials after a week following their transmission from the jail to the respective places. The jail authorities were directed to provide the full address and the contact details of the prisoners to the concerned Chief Medical Officers.
- In **West Bengal**, the ADG and IG of correctional services was asked to ensure proper health and hygiene conditions inside prisons as per standard protocol laid down by the WHO, the relevant guidelines set by the Health Ministry of the Government of India and the Government of West Bengal. They were also directed to submit fortnightly compliance report to the SLSA.
- As regards the vulnerable groups in prisons:
 - i. The **Haryana** HPC directed that such prisoners (women including children accompanying women, senior citizens or other such prisoners) who have been held to be vulnerable by jail medical officer, are to be given healthy, nutritious diet that is enriched with Vitamin C to increase their immunity.
 - ii. the **Maharashtra** HPC passed directions for the isolation of prisoners above 60 years and/or those prisoners with underlying medical conditions which puts them at higher risk for severe illnesses from COVID-19. Unfortunately there were no guidelines passed for regulating the ‘isolation’ which may have led to severe restrictions on prisoners’ rights during their period in isolation.
 - iii. The **Odisha** HPC directed to provide proper medical facilities to all those prisoners who need medical assistance and to coordinate with medical authorities to provide proper care and medical assistance to the prisoners and to ensure the health and safety of the UTPs who are old and sick and more vulnerable to viral infections.
- As regards safety of prison staff:
 - i. In **Haryana and Odisha**, the HPCs directed to provide necessary articles/equipment required for screening of staff and prisoners for symptoms of COVID-19 and to provide PPE kits, masks, sanitisers, aprons, gloves, soap etc. to protect the staff and prisoners from COVID-19.
 - ii. In **Punjab**, the ADGP was holding regular meetings with the staff to keep them alert and motivated.

XI. Monitoring Teams

The Supreme Court also directed, “A monitoring team must be set up at the state level to ensure that the directives issued with regard to prison and remand homes are being complied with scrupulously.”

In the absence of any guidelines in regard to its composition, the states responded differently. The **Uttar Pradesh** HPC constituted a Monitoring Team at state level, comprising 1) the Special Secretary, Prisons Department, Government of Uttar Pradesh, 2) O.S.D. Uttar Pradesh SLSA, 3) A.I.G. Prison Head Quarters, Uttar Pradesh. In **Haryana, Odisha and Chandigarh**, the State Level monitoring team comprised DG/IG Prisons; Member Secretary, SLSA; and Principal/ Additional Secretary Home. In Haryana, monitoring teams were directed to submit for consideration of the HPC, the list and number of cases of those falling in categories outside those mentioned but in view of the monitoring committee they are entitled to get the benefit of parole/interim bail.

Some states also set up district-level monitoring teams. Like in **Punjab**, the State Level Monitoring Team under the ADGP (Prisons) and District Level Monitoring Teams under Divisional Commissioners were constituted and they were regularly reviewing the progress. The Odisha and Chandigarh HPCs directed the UTRCs for the same. The district monitoring committee in Haryana also comprised the same members as that of UTRC except for Superintendent of Police.¹³¹ The composition of the UTRC was best suited for the purpose and would have precluded multiplicity of oversight bodies at the district level.

XII. Reporting to HPC

A number of HPCs were vigilant in ensuring that the directions issued by them and the Supreme Court were complied with and for this purpose, they regularly monitored the conditions in prisons as well as working of the various functionaries in the state. Here are some examples of the same:

- The **Gujarat** HPC requested all principal district and sessions judges to compile the data of the inmates who were released on temporary bail in a format¹³² and forward it to the Member Secretary, Gujarat SLSA, who was to compile the details forwarded by the UTRCs and persons released on temporary bail in two different tabular forms and submit the same to the HPC every week.
- In **Haryana**¹³³, **Manipur**¹³⁴ and **Uttar Pradesh**, the monitoring teams were asked to report to the HPC. Additionally, in Manipur, all the concerned authorities were directed to submit an action taken report to the chairman of the HPC.
- The **Mizoram** SLSA was directed to obtain the reports from all the district courts with regard to the bail orders issued in pursuance to the HPC minutes.
- In **Gujarat and Uttarakhand**, the ADG Prison was instructed to furnish the information like a) Health condition of the convicts/undertrials mentioned in the list; b) If any convict/undertrial is suffering from fever, cold or coughing; c) If any person from the family or relative of convicts/undertrials came to jail to meet; d) List of persons who came to meet convicts/undertrials during the last 14 days.
- The **Odisha** HPC called for a report from Principal Secretary, Health, Government of Odisha regarding assistance to the police department and DG Prisons for compliance of the guidelines.

¹³¹ The Monitoring team at the District Level would consist of 1) the Chairman, DLSA & D&SJ, 2) Deputy Commissioner, 3) Sect. DLSA, and 4) Superintendent Jail.

¹³² depicting the details viz. full name of the inmate, jail details, offence details, incarceration period along with the date of arrest.

¹³³ In Haryana, the Monitoring team at the District Level would consist of 1) the Chairman, DLSA & D&SJ, 2) Deputy Commissioner, 3) Sect. DLSA, and 4) Superintendent Jail. The State Level would consist of 1) DG Prisons, 2) Member Secretary, HALSA, and 3) Special Secretary Home/Prisons.

¹³⁴ State Level Monitoring Committee was directed to take stock of the matter every fortnight and place a report before the HPC.

- A compliance report was submitted by the **Tripura** prison directorate to the Member Secretary, Tripura SLSA in respect of the resolutions taken in the HPC meeting.

XIII. Communication with family

Even before the announcement of the national lockdown, some states had already issued directions to ban the entry of visitors in prisons. In order to substitute physical meetings, the prison departments were directed by the HPCs to allow prisoners to speak to their family/relatives on landline phones in Karnataka, Haryana, Manipur, Mizoram¹³⁵, Odisha and Chandigarh. Mobile communication was allowed by the HPCs of Manipur and Mizoram. The Haryana, Mizoram, Odisha¹³⁶, Punjab¹³⁷ and Chandigarh HPCs went a step further to enable communication through video conferencing.

While there were good practices like in Manipur, where the families of undertrials could not be contacted, efforts were made by PLVs to track their contact numbers or visit their family to inform about the grant of bail, in Uttar Pradesh interaction with prisoners was only allowed through telephonic calls, in case of emergency.

XIV. Directions to Police authorities

In **Andhra Pradesh**¹³⁸, **Chhattisgarh**, **Haryana**¹³⁹, **Chandigarh**, **Odisha**, **Punjab and Tripura**, directions were issued to all police officials and judicial officers to ensure strict compliance of the Supreme Court order in *Arnesh Kumar v. State of Bihar*¹⁴⁰ where the court laid down further conditions for the arrest of persons for offences punishable with imprisonment for a term of seven years or less, with or without fine. In **Andhra Pradesh and Haryana**, the Commissioner of Police or District Superintendent of Police was asked to monitor such cases.

The **Manipur** HPC directed the Director General of Police (DGP) to issue necessary directions to strictly comply with the provisions of CrPC relating to arrest and detention and of availing bail in bailable offences so as to avoid unnecessary arrests and detention.

The **Odisha** HPC directed the DG Police to instruct all the police stations of the state to ensure production of accused before the magistrate after ascertaining that the accused is not infected by the virus as far as practicable. It was interestingly challenged on practical grounds and later revised as it was not possible for local police to obtain COVID-19 report and produce the arrested persons before the magistrate within the statutory period of 24 hours. In places where COVID testing

¹³⁵ The HPC instructed the IGP to take steps to ensure that inmates can make calls at least once every week.

¹³⁶ Prisoners be allowed to talk to their family members through VC or jail telephone or e-mulakat. In jails where the infrastructure for e-Mulakat was not available, the jail authorities could consider video calling or web calling through electronic means. To increase the frequency of e-Mulakat and also to take steps so that the relatives can access e-Mulakat either from their house or through any other remote point facilitating e-Mulakat viz; Panchayat Office, Tahasil Headquarters, Block headquarters or Office of Chairman, Legal Services Committee etc, so that visitors did not have to come from remote areas for interview with their respective inmates in jail.

¹³⁷ The HPC asked the jail authorities to provide the facility of 'video mulaqaat' through WhatsApp video call with the registered visitors only, under the supervision and the presence of a responsible jail official.

¹³⁸ police was directed not to arrest the accused unnecessarily and that the magistrate do not authorise detention casually and mechanically, in such cases. Investigating officer were advised to avoid arresting first offenders booked for any offence punishable for imprisonment up to 7 years unless it is of utmost necessary for purpose of investigation.

¹³⁹ Investigating officer were advised to avoid arresting first offenders booked for any offence punishable for imprisonment up to 7 years unless it is of utmost necessary for purpose of investigation.

¹⁴⁰ (2014) 8 SCC 273.

of the arrested persons having suspected symptoms is not possible or reports take longer period, the arrested persons were directed to be first produced before the magistrate with masks and maintaining social distancing norms. Following this, they were to be remanded to quarantine wards inside district prisons.

Another interesting direction was passed by the **West Bengal** HPC. It instructed the officer in charge of the local police station or any officer assigned by him to make periodic surprise visits to the residence of the prisoners released on interim bail or parole. They were to take appropriate action in accordance with law if the prisoner was found absent.

XV. Encouraging the use of Video Conferencing

In the recent past, the e-committee of the Supreme Court and the high courts have been vehemently promoting the subordinate judiciary to adopt video-conferencing while conducting the usual course of work, especially as a technological solution to address some court related problems such as delay, lack of personnel to escort prisoners to court for their hearings, etc. Having a functional video conferencing set up became a necessity with the advent of the pandemic as the physical production of undertrial prisoners before the courts was stopped forthwith. The HPCs responded to streamline the use of video conferencing in view of the pandemic restrictions.

In **Mizoram**, the concerned District & Sessions Judges and the Registrar of the High Court was informed to take steps to ensure that video conferencing facility is made functional from all district jails to the concerned district courts at the earliest. The HPC asked for an action taken report within two weeks.

In **Odisha and Punjab**, the HPC directed to ensure that video conferencing facility was functional in all jails to facilitate the production of UTPs before courts by virtual means in the pandemic situation. In **Uttar Pradesh**, the HPC directed court production of prisoners only through video conferencing in extremely urgent cases.

It is necessary to highlight, however, that all state HPCs overlooked the practical challenges that emerged while using video conferencing like lack of adequate infrastructure, inability of the accused to participate in the trial, inability of the lawyer to seek instructions from the client, inability of the vulnerabilities of the accused from being detected by the judge, among other such issues. None of the HPCs issued guidelines or safeguards to be applied while using video conferencing in order to ensure that fair trial rights are not violated.

XVI. Other Good Practices Identified

Based on this analysis, certain good practices can be identified. These are provided below:-

- The HPC expanded the categories of cases to be considered for release to ensure decongestion in prisons which it realised as one of the most effective means for mitigating the spread of pandemic. (**Punjab, Delhi**)
- The Executive Chairman of SLSA consulted and took guidance of the Supreme Court Judge who has been nominated by the then Chairman of NALSA as the guardian to look after the implementation of the legal services programme in the state. (**Karnataka**)
- The Meghalaya HPC suggested the Secretary, Home Police Department, Government of Meghalaya that the home department could consider incorporating “emergency parole” along the lines of the Delhi Prison Rules that was amended on 23 March, 2020 to make way for the release of convicts on parole. It is to be

noted that the minutes of the Delhi HPC were available in the public domain which led to the exchange of the information which benefitted Meghalaya. **(Meghalaya)**.

- The entire process of decongestion was being monitored personally by chairman of the HPC by conducting weekly meetings on telephone/virtual means along with other members of the HPC. The HPC monitored the prison-wise population to ensure proper sanctioned capacity to strength ratio; availability of quarantine wards in all jails; in order to avoid the risk of COVID-19 infection in the prisons. **(Odisha)**
- The HPC asked the prison department to open requisite number of kitchens with facilities of adequate utensils, roti makers and other infrastructure so that each kitchen in a jail was only to cater to a maximum of 200 prisoners in accordance with the recommendations in the Mulla Committee Report, 1983. **(Odisha)**
- The prisons followed the policy of ‘Chasing the Virus’ under which 85% of staff was tested and random sampling of prisoners was done. It instituted a three-level testing system; before entering the special jails, after completion of 14 days’ quarantine period in special jails; following 14 days’ quarantine in regular jails. **(Punjab)**
- The HPC directed the state government to provide a sum of Rs. 100000 as the imprest fund to meet the emergency requirement of COVID-19 Special Task Force in each jail or remand homes, and an amount of Rs. 400000 for the central jails. The Principal Secretary, Home (Jails) is to communicate this to the concerned department and is to take all necessary initiatives to procure that fund at the earliest time. **(Tripura)**
- The number of parole granted and interim bail applications moved and decided in a day were to be communicated to the monitoring team on the next day and also displayed on the official website of the prison, i.e. igprisons-up@nic.in. **(Uttar Pradesh)**
- The chairman of the HPC decided to make visits to at least two Correctional Homes on 29 March, 2020, accompanied by the Member Secretary of the SLSA, to personally oversee the arrangements made by the Correctional Services to prevent the spread of the pandemic. **(West Bengal)**

(5)

FUNCTIONING OF UNDER TRIAL REVIEW COMMITTEES DURING THE PANDEMIC

After the outbreak of the pandemic, the Supreme Court in the *suo motu* writ petition (c) no. 1/2020, by order dated 23 March, 2020, directed that “*the Undertrial Review Committee contemplated by this Court In re Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700, shall meet every week and take such decision in consultation with the concerned authority as per the said judgment.*”¹⁴¹ This chapter presents an analysis of the functioning of the UTRCs between April and June, 2020, and assesses the compliance with the mandate to meet weekly and analyses minutes from five regions of the country to decipher the role of UTRCs in decongestion process.

A. Undertrial Review Committees and Their Mandate

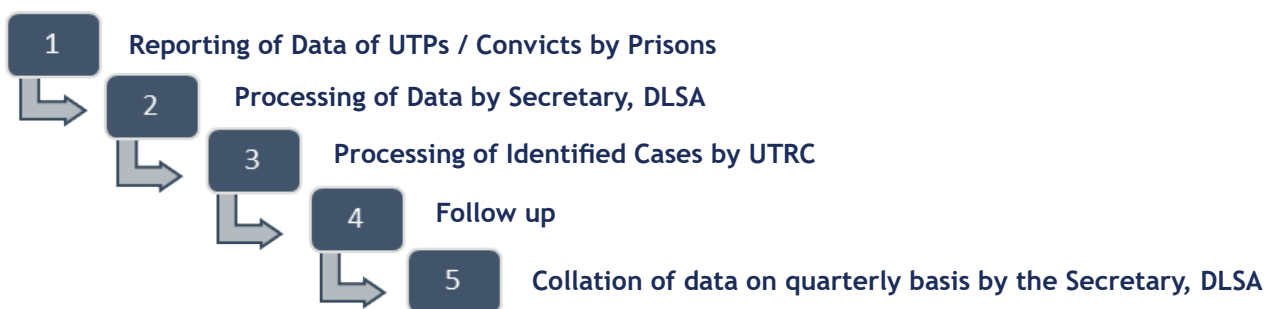
In 2013, the Supreme Court of India took upon itself a comprehensive nationwide review of prisoners’ situation in a writ petition aptly named “*Re- inhuman conditions in 1382 jails*”. Amid concerns about the high proportion of undertrial population, delays at courts, and consequent overcrowding, the court directed the National Legal Services Authority (NALSA), along with the Ministry of Home Affairs (MHA) in April 2015, to ensure that Under trial Review Committees (UTRCs) were set up in every district.

A UTRC is headed by the District & Sessions Judge; with District Magistrate; Superintendent of Police; Secretary, District Legal Services Authority; and Officer-in-charge of prisons in a district as members. With the aim to check unnecessary pre-trial detention and ensure fair trial rights of accused, the mandate of these review committees is to periodically review the cases of every prisoner awaiting trial¹⁴² and apply appropriate correctives to ensure no undertrial is held for unjustifiably long periods in detention or is simply lost in the files. With the setting up of UTRCs having a comprehensive mandate and engaging multiple stakeholders, a vital review mechanism was established.















Through several orders, Supreme Court expanded the categories of cases to be reviewed by the UTRC. Since 2015, efforts have also been undertaken by NALSAs to ensure the effective functioning of these committees, including the issuance of the Standard Operating Procedure (SOP) on UTRCs in December 2018. The SOP provides a step-wise procedure for UTRCs to streamline their work:

¹⁴¹ Originally, the UTRCs were directed to meet quarterly. From January 2019 to June 2019, the Supreme Court directed, by order dated 04 December 2018, that it “*will meet once in a month to review the cases of undertrial prisoners and submit a report to the State Legal Services Authority.*”

¹⁴² And in select cases convicts also.



UTRC'S MANDATED CATEGORIES OF CASES FOR REVIEW

 Undertrials covered under Section 436A Cr.P.C. [As per order of Supreme Court dated 24th April, 2015]	 Undertrials who are detained under Chapter VIII of the Cr.P.C. i.e. u/s 107, 108, 109 and 151 of Cr.P.C. [As per order of Supreme Court dated 06th May, 2016]
 Undertrials released on bail by the court, but have not been able to furnish sureties. [As per order of Supreme Court dated 24th April, 2015]	 Undertrials who are sick or infirm and require specialized medical treatment. [As per order of Supreme Court dated 06th May, 2016]
 Undertrials accused of compoundable offences. [As per order of Supreme Court dated 24th April, 2015]	 Undertrials women offenders [As per order of Supreme Court dated 06th May, 2016]
 Undertrials eligible under Section 436 of Cr.P.C. [As per order of Supreme Court dated 05th February, 2016]	 Undertrials who are of unsound mind and must be dealt with Chapter XXV of the Code. [As per order of Supreme Court dated 06th May, 2016]
 Undertrials who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 IPC or alleged to be an offence not more than 2 years imprisonment. [As per order of Supreme Court dated 05th February, 2016]	 Undertrials who are first time offenders between the ages 19 and 21 years and in custody for the offence punishable with less than 7 years of imprisonment and have suffered at least 1/4th of the maximum sentence possible. [According to the order of the Supreme Court dated 06 th May, 2016]
 Convicts who have undergone their sentence or are entitled to release because of remission granted to them. [As per order of Supreme Court dated 05th February, 2016]	 Undertrials who are imprisoned for offences which carry a maximum punishment of 2 years. [As per order of Supreme Court dated 06th May, 2016]
 Undertrials who become eligible to be released on bail u/s 167(2)(a)(i) & (ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days. [As per order of Supreme Court dated 06th May, 2016]	 Undertrials who are eligible for release under Section 437(6) of Cr.P.C, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case. [As per order of Supreme Court dated 06th May, 2016]

B. UTRC Functioning During Covid-19

This study tracks the functioning of UTRCs for the period of three months from April to June, 2020 in order to assess the compliance with the Supreme Court directive to hold weekly meetings and to understand the role of such a multi-stakeholder body at the time when coordination between the various stakeholders was needed the most at the district level.

The direction of holding weekly UTRC meetings by the court was probably aimed at ensuring a coordinated effort between the HPC at the state level and UTRC at the district level. However, it was not clearly mentioned as such in the order dated 23 March, 2020. With this view, this study also attempts to understand if any such correlation existed in the states/Union Territories and if UTRCs contributed in any way towards reducing overcrowding in prisons in these exceptional times.

Since the State Legal Services Authority (SLSA) is the nodal body at the state level which monitors the functioning of UTRCs, information was sought from them. Overall, the information was received from 19 SLSAs. However, some provided partial information.

The first section deals with the state/UT-wise information on the number of the UTRC meetings held. In this section, the information received from all SLSAs has been compiled to assess the national-level compliance. The second section examines the minutes of the UTRC meetings during the three-month period. For this section, one state is selected from each zone-Haryana (North); Gujarat (West); Andhra Pradesh (South); Odisha (East) and Manipur (North-east). Since the number of UTRC minutes provided varied, maximum two minutes per district were considered for analysis. As a result, it includes the analysis of total 32 UTRC minutes - Andhra Pradesh (4)¹⁴³; Gujarat (8)¹⁴⁴; Haryana (4)¹⁴⁵; Manipur (6)¹⁴⁶; and Odisha (10)¹⁴⁷ of 21 districts.

I. Periodicity of UTRC Meetings

Seventeen SLSAs provided information regarding the number of UTRC meetings held during April to June, 2020. These are Andhra Pradesh, Chandigarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha and Sikkim. However, only 11 SLSAs¹⁴⁸ provided month-wise and district-wise information. The analysis of the information provided reveals that:

⇒ While there are 284 districts under these 17 states/UTs from where information was received, the UTRCs were formed in 231 districts.¹⁴⁹

⇒ Of a possible 2772 mandated meetings, 2053 meetings were held.

Note: There were total 13 weeks in the period from 1 April to 30 June, 2020. Ideally, 13 meetings should have taken place in this period in each district. However, for the purpose of calculation, 12 meetings and above have been

¹⁴³ Andhra Pradesh SLSA provided one UTRC minutes each from East Godavari, Kurnool, Ongole and Vizianagaram.

¹⁴⁴ Gujarat SLSA provided total 44 minutes - Gandhinagar (9), Rajkot (13), Surat (8) and Kachch Bhuj (14).

¹⁴⁵ Haryana SLSA provided one UTRC minutes each from Panchkula, Kurukshetra, Jhajjar and Gurugram.

¹⁴⁶ Manipur SLSA provided total 6 minutes - Imphal East (2), Imphal West (2), Chandel (1) and Tamenglong (1).

¹⁴⁷ Odisha SLSA provided total 53 minutes - Cuttack (13), Ganjam (6), Koraput (9), Mayurbhanj (12) and Sambhalpur (13).

¹⁴⁸ Chandigarh, Haryana, Jammu & Kashmir, Jharkhand, Meghalaya and Mizoram did not provide district-wise and month-wise information on the number of UTRCs held.

¹⁴⁹ It is presumed that the information provided by SLSAs was complete and no district was left out.

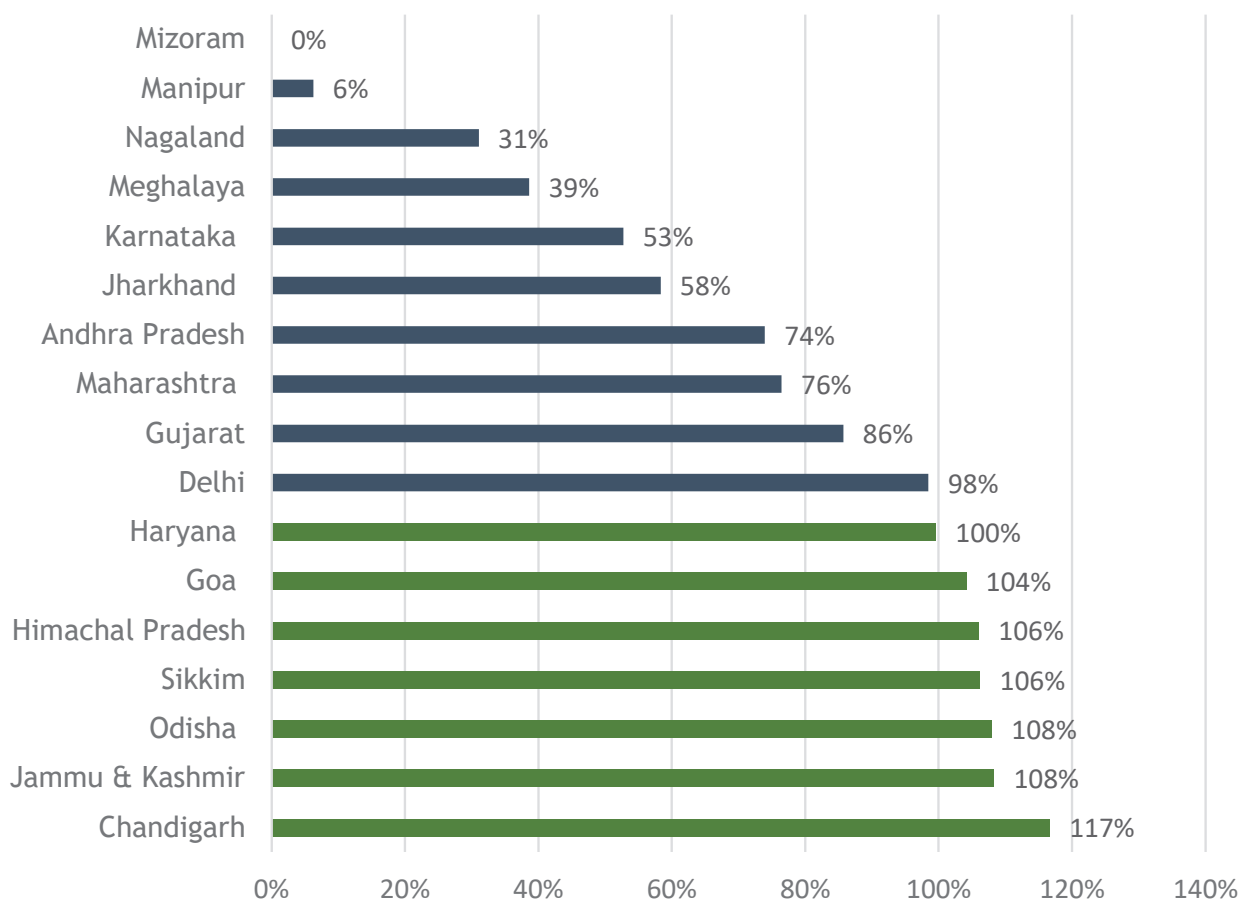
considered as compliance as there are 12 complete weeks (Monday to Friday). Some districts may have conducted their meetings in the previous half or later half of the first/last week of the month and it should not be disadvantaged against them.

The table below provides the state-wise number of actual vs mandated meetings:

Table 11: State-wise details of UTRCs

Sl.No.	Name of the State/ UT	Total Number of Districts	Number of Districts where UTRC formed	Number of Actual vis-à-vis Mandated Meetings
1	Andhra Pradesh	13	13	125/156
2	Chandigarh	1	1	14/12
3	Delhi	11	11	130/132
4	Goa	2	2	25/24
5	Gujarat	33	32	288/336
6	Haryana	22	22	263/264
7	Himachal Pradesh	12	11	140/132
8	Jammu & Kashmir	20	1	13/12
9	Jharkhand	24	2	14/24
10	Karnataka	30	30	190/360
11	Maharashtra	36	34	312/408
12	Manipur	16	8	6/96
13	Meghalaya	11	11	51/132
14	Mizoram	8	8	0/96
15	Nagaland	11	11	41/132
16	Odisha	30	30	390/360
17	Sikkim	4	4	51/48
TOTAL		284	231	2053/2772

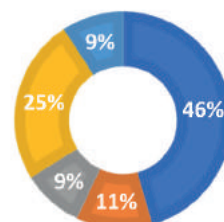
Graph 9: Percentage Compliance of States/UTs



⇒ In 11 states/UTs, which provided the district-wise and month-wise information (Andhra Pradesh, Delhi, Goa, Gujarat, Himachal Pradesh, Karnataka, Maharashtra, Manipur, Nagaland, Odisha and Sikkim), out of the total 198 districts, UTRCs are formed in 186 districts.¹⁵⁰

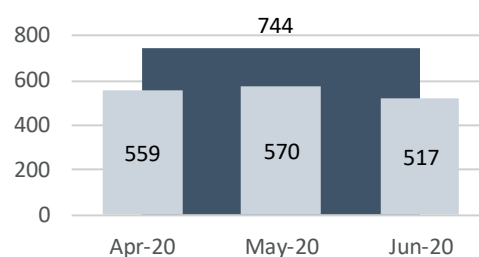
⇒ As seen in the graph above, the average figures are often misleading as those districts which have overperformed, covers up the non-compliance of underperforming districts. This becomes clear when the district-wise and month-wise analysis is done. Out of the 186 districts, 92 districts held more than 12 meetings in three months. However, month-wise information provides that only 85 districts fully complied with the direction of the Supreme Court, i.e. a district held at least four meetings in a month. This essentially means that **only 45.6% districts complied with the apex court's orders.**

⇒ 21 districts (11%) held weekly meetings in two months; 17 districts (9%) held weekly meetings in one month; 46 districts (24.7%) could not hold weekly meetings in any of the month and 17 districts (9%) held no meeting during the three months.



¹⁵⁰ In Gujarat, UTRCs are formed in 32 out of 33 districts; in Himachal Pradesh, UTRCs are formed in 11 out of 12 districts; in Maharashtra, UTRCs are formed in 34 out of 36 districts; and in Manipur, UTRCs are formed in 8 out of 16 districts. It is presumed that the information provided by SLSAs was complete and no district was left out.

⇒ As regards actual vs mandated meetings, ideally 744 meetings were to be held in any given month in these 11 states/UTs. The highest number of meetings were held in the month of May with 570 meetings, followed by April with 559 meetings and June with 517 meetings.



II. Analysis of the Minutes of UTRC Meetings

This section analyses the minutes of 32 UTRC meetings of 21 districts received from the SLSAs of Andhra Pradesh, Gujarat, Haryana, Manipur and Odisha. Some highlights are as follows:

⇒ **Mode of Conducting Meeting:** In regard to the place of meeting, no mandate has been prescribed by the NALSA SOP. Generally, it takes place at the office/ chambers of District & Sessions Judge, who is also the Chairperson of the UTRC. In light of the pandemic, most district functionaries relied on electronic mode to conduct the weekly meetings. Only in six out of 21 districts, physical meetings took place.¹⁵¹ The electronic means adopted by the majority of the districts to conduct UTRC meetings included telephone, video conferencing and even WhatsApp conference/video calling.

⇒ **Attendance of Members:** In 18 out of 21 districts, all five members attended the UTRC meetings; two districts did not specify information regarding presence/ absence of members¹⁵²; and in one district, the Superintendents of sub-jails were not present¹⁵³. As a good practice in some districts, officers in charge of all prisons located within the district¹⁵⁴ and all Superintendents of Police (rural, zonal)/ Commissioner of Police¹⁵⁵ also attended the UTRC meetings.

⇒ **Review of Mandated Categories:** Twelve out of 21 districts did not review all the mandated categories as ordered by the Supreme Court, also prescribed in the NALSA SOP. In the minutes of five districts, there was no mention of the mandated categories or the NALSA SOP.¹⁵⁶

Some good practices emerged. In Kurukshetra (Haryana), members of the UTRC interacted with jail inmates through video conferencing. In Koraput (Odisha), the UTRC discussed the special campaign for legal assistance to family members of the prisoners launched by NALSA dated 18 April, 2019. They also assured all cooperation of the panel lawyers and PLVs deputed to different jails in interacting with the jail inmates and obtaining necessary legal aid applications and ensure the campaign a success. The PLVs are already engaged to visit to the place of residence of the UTPs and submit their reports to the UTRC for consideration of the legal aid services to the family members as may be due.

The minutes raised some concerns as well. Like in Koraput (Odisha), the UTRC

¹⁵¹ Rajkot (Gujarat); Imphal East, Imphal West, Chandel, Tamenglong and Koraput (Manipur).

¹⁵² East Godavari and Vizianagaram (Andhra Pradesh).

¹⁵³ Mayurbhanj (Odisha).

¹⁵⁴ Kachch Bhuj (Gujarat); Koraput (Odisha)

¹⁵⁵ Kachch Bhuj, Rajkot (Gujarat); Cuttack, Gnjam (Odisha)

¹⁵⁶ East Godavari (Andhra Pradesh); Kurukshetra (Haryana); Cuttack, Ganjam and Sambalpur (Odisha)

directed the superintendent of prison to take steps to educate and sensitise the undertrials with regard to their right to bail. It should have been directed towards the DLSA which has the mandate to conduct legal awareness programmes.

⇒ **Directions/Recommendations Given by UTRC:** While some districts recorded detailed minutes like Gurugram (Haryana) and Koraput (Odisha), minutes from some districts were very basic and mechanical, for example in Imphal East (Manipur) and Kachch Bhuj (Gujarat). The detailed analysis of the minutes of UTRCs is given in the table below. It segregates the directions/recommendations of the UTRC as per its original mandate and the work it undertook during last three months owing to the COVID-19 situation:

Table 12: Details of functioning of UTRCs

Directions/ Recommendations as per UTRC Mandate	Directions/ Recommendations as per HPC Recommendations
1. Arrest of Accused Persons	
<i>Not part of UTRC mandate</i>	<ul style="list-style-type: none"> Directed police authorities to ensure meticulous compliance of the judgment in the case of Arnesch Kumar Versus State of Bihar, (2014) 8 SCC 273, including Railway Protection Force. (Gurugram, Haryana)
2. Identification of Cases for consideration by UTRC	
<ul style="list-style-type: none"> Directed Superintendents of prison to conduct a survey of all cases where UTPs have completed more than one half of the maximum sentence and to send their report to the concerned DLSAs immediately. (Koraput, Odisha) Meeting was conducted only to direct to prepare the category-wise list of undertrials as per the NALSA SOP. (Tamenglong, Manipur) 	<ul style="list-style-type: none"> Documented number of prisoners identified for recommendation of interim bail and parole by the Superintendents of all prisons and placed before the Committee. (Gurugram, Haryana; Ganjam, Koraput in Odisha)
3. Review of cases for release of prisoners	
<ul style="list-style-type: none"> Recommend the trial courts to examine the feasibility of dealing with UTPs as per the guidelines given by NALSA standard operating procedure for following categories of cases and the step taken be reported to the UTRC for taking up in the next meeting. (Imphal West, Chandel in Manipur) Category-wise and court-wise number of undertrials recommended. (Chandel, Manipur) 	<ul style="list-style-type: none"> All concerned courts, jail authorities, Secretary, DLSA and other stake holders to adhere and comply the directions of the Hon'ble Supreme Court Orders dt. 23.03.2020 vide in W.P.(C) No. 1/2020 in RE: Contagion of COVID 19 Virus in Prisons, writ petition in the respective High Courts and government orders. (Kurnool, Andhra Pradesh; Chandel, Manipur; Cuttack in Odisha) Reviewed those cases which are recommended by the HPC for consideration of release. (Cuttack, Koraput, Mayurbhanj in Odisha; Kurukshetra, Haryana)

Directions/ Recommendations as per UTRC Mandate	Directions/ Recommendations as per HPC Recommendations
4. Release of Undertrials	
<ul style="list-style-type: none"> ▪ Directed panel lawyers to file applications u/s 440 CrPC before appropriate court for indigent UTPs and recommend the trial court to explore the possibility for releasing the UTPs on personal bond for non-furnishing of sureties due to poverty by the UTPs. (Sambalpur, Odisha) 	<ul style="list-style-type: none"> ▪ Directed to notify the decision to the concerned courts for extending immediate steps for their early release on interim bail (Cuttack, Ganjam in Odisha) ▪ Directed trial courts to expedite the process of hearing of the bail petitions pending before them on merit, so that the rights and liberty of the UTPs are secured. (Koraput, Odisha) ▪ Directed a judicial officer to visit prison and accept the bail bonds in case of interim release to under trial prisoners (Ongole, Andhra Pradesh). ▪ Directed the Superintendent of prison to get the bail application filled up in the format provided to the jail authorities by the DLSA and to send it vide email to DLSA (Gandhinagar, Gujarat) ▪ Directed the Superintendent of prison to contact legal aid counsel concerned and to apprise needs of legal aid to undertrials (Kurnool, Andhra Pradesh) ▪ Directed panel lawyers and paralegal volunteers to: <ul style="list-style-type: none"> ○ be in touch with the Jail Superintendents/ Jailors concerned, to render assistance to Under Trail Prisoners/ Convicts in connection with the directions. (East Godavari, Andhra Pradesh) ○ to move appropriate applications in the cases, where legal aid is recommended and granted. (East Godavari, Ongole, Vizianagaram, Andhra Pradesh; Cuttack, Koraput, Sambalpur in Odisha) ○ visit the prison to take necessary steps to find out eligible candidates for interim release, including hygienic conditions, food and other facilities in the prison. (Ongole, Andhra Pradesh) ○ enquire about their willingness to release them on bail with conditions, as per the instructions of the Hon'ble Supreme Court of India. (East Godavari, Ongole, Andhra Pradesh) ○ file the requisite applications before learned Duty Magistrates for further extension of interim bail for the period set out in the directions of the High Powered Committee. (Gurugram, Haryana)
5. Production of Prisoners	
<p><i>Not part of UTRC mandate.</i></p>	<ul style="list-style-type: none"> ▪ Station House Officers/Investigating Officers were ensuring, that the arrested person was not produced in person before the court concerned and request was made to allow the production of accused either in open space or through video conferencing. (Gurugram, Haryana) ▪ directed SP Police to ensure production of accused before the Magistrate after ascertaining the accused is not infected by Corona virus. (Ganjam, Odisha) ▪ directed Superintendent of prison to take necessary steps to produce UTPs before the concerned Courts on the dates of hearing of the cases preferably through video conference (Ongole, Andhra Pradesh).

Directions/ Recommendations as per UTRC Mandate	Directions/ Recommendations as per HPC Recommendations
6. Release of Convicts	
<p><i>No UTRC recommended release of convicts who have been granted remission and could be released.</i></p>	<ul style="list-style-type: none"> ▪ District Magistrate to take immediate and appropriate steps to release the identified convicts on parole as per law. (Cuttack, Ganjam, Koraput, Mayurbhanj in Odisha) ▪ Superintendent of prison submitted list of convicts who have undergone/ completed sentence for a period of 10 years and above in jail and the times person has availed parole/ furlough. District Magistrate was requested to do the needful. (Mayurbhanj, Odisha)
7. Follow up and Release of Prisoners	
<p><i>No UTRC recorded any follow up or collation of data by the Secretary, DLSA and tracked the status of releases based on earlier UTRC recommendations.</i></p>	<ul style="list-style-type: none"> ▪ The status reports relating to the release of UTPs on interim bail were received from various courts. (Ganjam, Odisha) ▪ Tracked the releases of undertrials and convicts. (Rajkot, Surat, Gujarat; Imphal East, Imphal West, Manipur; Cuttack, Ganjam, Koraput, Mayurbhanj in Odisha) ▪ SP Police adopted adequate measures for safe transit of prisoners during lockdown. Police escort guards were utilised for the purpose. (Kurukshetra, Haryana) ▪ The direction of the SC in IA 48232/2020 passed on 07-04-2020 was discussed whereby DM cum collector and SP Police were apprised to ensure that all prisoners having being released by state/ UTs are not left stranded and they are provided transportation to reach their homes. (Koraput, Mayurbhanj, Sambalpur in Odisha) ▪ To ensure that policies and guidelines of the government regarding complete lockdown shall not be violated during the ongoing process of de-congestion. (Koraput, Odisha) ▪ They shall also be given the option to stay in temporary shelter homes for the period of lockdown. (Mayurbhanj, Odisha) ▪ Noted that UTPs released on interim bail have not faced any inconvenience to reach their home. (Ganjam, Odisha)
8. Prison Conditions	
<ul style="list-style-type: none"> ▪ To take suitable measures in view of the directions given by the Hon'ble Supreme Court of India in RD Upadhyay Vs State of A.P. and Ors, AIR 2006 SC 1946 (Kurnool, Andhra Pradesh) 	<ul style="list-style-type: none"> ▪ directed Superintendents of prisons to take all measures for maintaining strict hygiene and sanitation within the vicinity considering the present scenario of COVID-19 pandemic. (Ganjam, Mayurbhanj, Sambalpur in Odisha)

Directions/ Recommendations as per UTRC Mandate	Directions/ Recommendations as per HPC Recommendations
9. Medical Facilities	
<p><i>Not part of UTRC mandate.</i></p>	<ul style="list-style-type: none"> ▪ Fast tracking of COVID-19 test reports by health workers. (Gurugram, Haryana) ▪ District Magistrate to depute one Senior Medical Officer to look after the issues faced by jail authorities so that in future no inordinate delay was caused in conducting of covid test on under-trial prisoners or jail staff. (Gurugram, Haryana) ▪ Enquired whether quarantine ward is available in all the Jails of the District or not and recorded number of prisoners kept in quarantine ward. (Cuttack, Ganjam, Koraput in Odisha) ▪ Discussed hardships faced by prison personnel in managing entry of new inmates due to limited capacity of quarantine wards in prisons. (Ganjam, Odisha) ▪ Recorded information on number of prisoners suffering from other diseases and the direction to provide them with immediate medical facilities. (Cuttack, Ganjam, Koraput, Mayurbhanj in Odisha) ▪ Directed Superintendents of prisons to ensure proper health check up of the prisoners with the help of jail doctors and CDMO, if any prisoners is found to be sick with COVID-19. ▪ Advised Superintendents of prisons to work in the availing medical conditions of the inmates and notify any medical emergencies. (Ganjam, Odisha) ▪ Recorded information on persons who have tested positive for COVID-19. (Ganjam, Odisha) ▪ Directed the Collector and SP Police for shifting the undertrials to COVID Centre. (Ganjam, Odisha) ▪ Chief District Medical Officer (CDMO) was requested for taking necessary steps for the treatment of the UTPs. (Ganjam, Odisha) ▪ Directed Superintendent of prison to take steps for COVID-19 test of the undertrials who were remanded to prison and to keep them in isolation till the period suggested by CDMO. (Ganjam, Odisha) ▪ Directed Superintendent prison to not delay in shifting sick persons to a Nodal Medical Institution in case of any possible situation is seen. (Ganjam, Sambalpur in Odisha) ▪ Recorded number of prisoners who have been given medical tests/ treatment in the wake of COVID-19 as a measure of precaution. (Koraput, Odisha)
10. Temporary Prisons	
<p><i>Not part of UTRC mandate.</i></p>	<ul style="list-style-type: none"> ▪ Undertook implementation of the directions of the HPC pertaining to constituting of temporary jail for male prisoners and discussed the proposal for setting up a temporary prison. (Gurugram, Haryana) ▪ Decided to convert female ward to isolation ward to lodge hardcore criminals who can't be kept in temporary jail. Women prisoners to be transferred to Jhajjar prison. (Gurugram, Haryana)

III. Correlation between UTRCs and HPC

The state-level functionaries of the HPC needed assistance from district-level functionaries to ensure that the recommended categories of cases were identified, the bail/parole applications of the eligible prisoners were timely filed to courts/ appropriate authority and to ensure that all necessary measures were undertaken to control the spread of the virus in prison. It is clear from the table above that many UTRCs contributed to this process and focused on implementing the directions of the HPCs. It is impressive on one hand to know how the UTRC could assist the HPC in ensuring that the efforts of HPC transform towards decongestion of prisons at the district level. On the other hand, it is worrisome to see that majority UTRCs only focused on implementing the directions of the HPC and did not conduct usual course of work of reviewing the 14 categories of cases as prescribed in its mandate by the Supreme Court. Had this been undertaken meticulously, the number of actual releases may have been higher.

(6)

LESSONS LEARNT AND NEXT STEPS

While the pandemic has led to increased inequalities and vulnerabilities, it has succeeded to bring to fore the desperate situation of prisons in the country. Overcrowded, inadequately resourced and devoid of adequate healthcare facilities, prisons were considered high-risk for the spread of COVID-19. This prompted efforts to decongest prisons and the findings of this study reveal that many states have set high standards through coordinated efforts and have given us a peek into potential long-term solutions.

The need for coordinated functioning of the criminal justice actors – judicial officers, prison administrators, legal aid providers, district and police functionaries along with civil society – has often been highlighted. A coordinated approach ensures that a holistic and rights-based approach is taken to address some of the systemic challenges that prisons face.

The pandemic underscored the need to decongest prisons. The subsequent efforts and outcomes offer a number of lessons which can inform future action by stakeholders. These lessons and next steps are iterated below:-

1. Conduct regular decongestion exercises

Lessons Learnt: The most important lesson learnt is that decongestion of prisons is possible. The HPCs achieved in three months what had not been achieved in the last decade – a reduction in prison occupancy rates. Clearly, periodic review of cases, oversight by a state-level body (the HPC) and coordinated efforts by the judiciary, prison department and legal services departments achieved some success in their endeavour.

While there are good practices which reveal regular monitoring by the HPCs in some states, other HPCs took a restrictive approach and worked mechanically with the bare minimum efforts required. Though all the state HPCs complied, only few fulfilled the Supreme Court's mandate in its true spirit. In **Gujarat and Mizoram**, the SLSA compiled detailed reports on the number of temporary bails and information from the UTRCs and reported to the HPC every week. The entire process of decongestion was being monitored personally by the Chairman of **Odisha** HPC by conducting weekly meetings on telephone/virtual means along with other members of the HPC. The HPC monitored the prison-wise population to ensure proper sanctioned capacity to strength ratio; availability of quarantine wards in all jails to avoid the risk of COVID-19 infection in prisons. The analysis also indicates that HPCs were assisted by the UTRCs in the effort to decongest the prisons.

Next Steps: The Supreme Court may direct the HPCs to continue their functioning and to conduct quarterly reviews of prison-wise populations, prison occupancy rates and oversee the UTRC functioning.

The endeavour must be to devise strategies to ensure that every prison in the state has an occupancy within its sanctioned capacity. The process of decongestion must not be treated as a one-time exercise.

2. Focus on reducing in-flow of prisoners

Lessons Learnt: The primary mandate of the HPC was to focus on reducing the prison occupancy by - i) determining the categories and ensuring release of eligible prisoners; and ii) controlling the inflow of persons in prisons. While the first was complied with, the HPCs by and large failed to address the latter. In **Andhra Pradesh**¹⁵⁷, **Chhattisgarh**, **Haryana**¹⁵⁸, **Chandigarh**, **Odisha**, **Punjab** and **Tripura** directions were issued to all police officials and judicial officers to ensure strict compliance of the Supreme Court order in **Arnesh Kumar v. State of Bihar**¹⁵⁹ where the court laid down further conditions for the arrest of persons for offences punishable with imprisonment for a term of seven years or less, with or without fine. While directions were issued, not much initiatives were undertaken to seek periodic reports from the police department on the compliance of Section 41A, CrPC¹⁶⁰ and guidelines given in the said judgement. As a result, prison populations in four states/UTs¹⁶¹ had increased after three months even though prisoner releases had been effectuated by the HPCs.

Next Steps: The state home department and the police department should prioritise implementation of provisions that are directly linked to reducing the inflow of prisoners and also act as a check on unnecessary pre-trial detention. These measures include the effective implementation of sections 41 A, B, C and D of the Code of Criminal Procedure 1973 as well as strengthened pre-trial decision making by magistrates at the time of production and remand hearings.

3. Adopt alternatives to imprisonment to support efforts to decongest prisons

Lessons Learnt: None of the HPCs discussed any measures to consider alternatives to imprisonment as an additional measure to decongest prisons during the pandemic.

Next steps: Priority use of non-custodial measures in appropriate cases should be increased. This includes measures at all stages, including pretrial discharge, diversion, and other alternatives to pretrial detention.

¹⁵⁷ police was directed not to arrest the accused unnecessarily and that the magistrate do not authorise detention casually and mechanically, in such cases. Investigating officer were advised to avoid arresting first offenders booked for any offence punishable for imprisonment up to 7 years unless it is of utmost necessary for purpose of investigation.

¹⁵⁸ Investigating officer were advised to avoid arresting first offenders booked for any offence punishable for imprisonment up to 7 years unless it is of utmost necessary for purpose of investigation.

¹⁵⁹ (2014) 8 SCC 273.

¹⁶⁰ A Section inserted in the Criminal Procedure Code in 2010 by the legislature in an effort to prevent unnecessary arrests. Under this provision, if a person, to whom a notice of appearance has been issued under S. 41A of the CrPC and has complied and continues to comply with the notice, such person is not to be arrested for the offence referred to in the notice unless, the police officer records reasons for which such person ought to be arrested.

¹⁶¹ Bihar, Jharkhand, Uttar Pradesh, and Andaman and Nicobar Islands.

(e.g. release on bail or personal bond), use of alternative sentencing laws or conversion of prison sentences to non-custodial sentences, as well as early release, temporary release, parole, pardons, or furlough for sentenced prisoners. Monetary bail or fines, if used, must not disadvantage those living in poverty. Measures adopted as alternatives to detention and imprisonment should be taken forward without prejudice to the rights of victims.

The monitoring of non-custodial measures should be carried out by relevant means – such as telephone or in person (respecting norms regarding physical distancing) – and do not necessarily require, for example, the use of electronic monitoring bracelets which can be expensive and technologically burdensome.¹⁶²

Consultations of all concerned stakeholders – judiciary, concerned department for the implementation of probation and after care services, heads of prison departments, civil society, etc. – must be organised at the state and national levels to revive the almost defunct Probation of Offenders Act, 1958; to deliberate upon other alternatives to imprisonment; and to develop the action plan to implement the same.

4. Supreme Court should periodically monitor decongestion efforts by states

Lessons Learnt: The non-uniform functioning of the HPCs indicated the need for the Supreme Court to have regularly reviewed the functioning of the HPCs. While the court's timely cognizance of the issue may have mitigated and deferred the outbreak of COVID-19 in prisons, it did not oversee the implementation of its directions even when coronavirus cases were rising in prisons. In some other writ petitions, the court played an active role and sought compliance reports from states¹⁶³, but in this matter no report was sought from the states on the categories that have been identified, the number of people that have been released or reduction in prison population figures. In fact, the court has not had a proper hearing in the matter since 6 July, 2020. While hearing another petition, it also refused to issue general directions to release undertrial prisoners due to COVID-19, stating that it is an issue to be considered by the jurisdictional high courts.¹⁶⁴ Lack of monitoring on the part of Supreme Court made some HPCs lax in their approach.

¹⁶² Guidance Note, Ensuring Access to justice in the context of COVID-19, UNODC (19 May 2020) -https://www.unodc.org/documents/Advocacy-Section/Ensuring_Access_to_Justice_in_the_Context_of_COVID-191.pdf (last accessed on 27 October 2020).

¹⁶³ The Supreme Court by its order dated 11.06.2020, in suo motu writ petition (C) No.4/2020, 'In Re Contagion of Covid-19 Virus in Children Protection Homes' has circulated a questionnaire to State Governments efforts in order to monitor the situation of children homes across the country - "As we intend to seek information from the State Governments in relation to the care and protection of children in conflict with law, we are circulating a questionnaire which is to be communicated to the State Governments. The Juvenile Justices Committees of the High Courts shall also be supplied with the questionnaire which is annexed to this order. The Juvenile Justices Committees of the High Courts shall ensure that the State Governments provide the information that is sought for in the questionnaire before 30.6.2020."

¹⁶⁴ Writ Petition(s)(Civil) No(s). 486/2020, Jagdeep S. Chhokar vs Union of India, dated 05 June 2020.

Next Steps: The Supreme Court may call for reports from each state to understand the prison-wise population rates, the number of prisoners released on bail/parole, the number of prisoners who would be required to be re-admitted to prison, the predicted prison population rate etc. and direct states to formulate prison-specific plans for re-admission of prisoners. The plan would provide guidance to the HPCs and courts, on the implications of re-admission of prisoners. No such decision should be made, without due considerations of prison overcrowding.

Regular monitoring by the Supreme Court by seeking periodic reports from the HPCs on its functioning would have urged the HPCs to continue efforts. With impending re-admission of prisoners to prison, it is extremely important that the court continues to oversee the situation. As it is difficult to monitor the situation of every prison, the court should reiterate the need for judicial oversight and direct the states to ensure that the Board of Visitors¹⁶⁵ are set up for each prison and all provisions in regard to their functioning are scrupulously complied with. Through a directive for submission of periodic reports by the Board of Visitors, the HPCs and the Supreme Court can maintain close scrutiny of the situation.

5. Develop recovery plans to mitigate impact of the pandemic on judicial processes

Lessons Learnt: Reduced court operations have negatively impacted the provision of timely and fair hearings. It has contributed to increased case backlogs and has led to increased length of judicial and administrative proceedings. This will result in the prolonged detention of prisoners, thus increasing the prison population in the coming years.

Next Steps: The pandemic provides an opportunity to its functionaries to examine ways in which the justice system can become more efficient and agile with long-term impact that can last beyond the crisis period. This could include strengthening information, communication, and technology (ICT) infrastructures and supporting the digitalization of case management or prison population management systems to better identify and manage priority caseloads in the short and long-term.

¹⁶⁵ The Board of Visitors are a district level body that constitutes ex-officio area functionaries from the Judiciary, Police, Department of Medical and Health, Agriculture, Industries, Social Welfare, Employment, Education and Probation and law people nominated from local society - also known as Non-Official Visitors (NOVs). The board has the duty to meet periodically and assess the state of the prison, its inmates and the management. It has to then make recommendations and report to the administration and higher authority. The members have to, collectively or individually, make periodic visits to the prisons in their district and write up their observations in the prison register as well as report it back to the collective board. It is the duty of these visitors to ensure safer, secure and humane jails by satisfying themselves that prisons are being run and prisoners are being treated in accordance with standards laid down in the Prison Act and Rules and, in case of dissatisfaction, report to the appropriate authorities for action that may include various governmental departments and even the judiciary.

The high courts in consultation with judicial officers at all levels must develop practical and implementable strategies and recovery plans to strengthen policies, regulations and capacities of the justice sector to overcome the challenges posed by the pandemic. They must define priority areas to address increased pendency of cases, and prevent the prolonged detention of prisoners.

6. Ensure effective communication between lawyers and prisoners

Lessons Learnt: Communication between a lawyer and client is key for preparing a strong defense. Access to legal information, including the rights awareness as well as understanding of court procedures to realise those rights, is necessary. Prisoners need to be able to understand the charges against them in order to prepare their defence and apply for appropriate measures. As a good practice, in Himachal Pradesh, jail-visiting lawyers and PLVs informed the undertrial prisoners and convicts about the various rights, including release on parole, furlough, premature release, plea bargaining and NALSA's SOP on UTRCs. While many HPCs passed directions to ensure communication of prisoners with their families/relatives, **except for Delhi¹⁶⁶, none of the HPCs dealt with the pressing need of communication with lawyer.** Also, there was no mention of the defense counsels to be present in prison at the time of considering bail applications where the duty magistrates were appointed for the purpose.

Next Steps: The requirement of unhindered access to clients at all stages of proceedings, access to case files, adequate time and facilities to prepare their defence, as well as confidentiality of communication is vital to ensure that individuals can receive necessary legal support. Towards this, the prison departments should ensure that where physical visits are restricted, alternative means of communication are made available for lawyers to interact with their clients. It is imperative that the procedures for applying for client interaction/visits are communicated to lawyers.

Lawyers and their clients need to be enabled to use technology, including video conferencing facilities, and communicate via telephone or messenger apps, to adhere to physical distancing measures. For this purpose, bar councils, legal aid providers and prison department need to develop and notify communication processes.

¹⁶⁶ The Delhi HPC enquired about the issue and was informed that video conferencing with private lawyers was available from 6 July 2020. As per a July 6 Circular by the competent Jail Authority, video conference facility is available for all inmates/prisoners for the purpose of legal interview. - <https://www.barandbench.com/news/litigation/all-inmates-can-avail-video-conferencing-facility-delhi-hc-disposes-of-challenge-to-suspension-of-legal-interview-in-jails-due-to-covid19> (last accessed on 9 December 2020).

7. Ensure proactive disclosure and encourage sharing of good practices

Lessons Learnt: While many HPCs sought regular reports from concerned stakeholders, few provided updated information on the websites of prison departments and SLSAs. In **Uttar Pradesh**, the number of parole granted and interim bail applications moved and decided in a day were to be communicated to the monitoring team on the next day and also displayed on the official website of the prison.¹⁶⁷ The **Maharashtra** prison department proactively disclosed pertinent information regarding the release of prisoners, prison occupancy figures etc. Proactive disclosure of information can often encourage replication of good practices in other states. For instance, in Manipur, based on the minutes of the Delhi HPC, considerations were made for incorporating “emergency parole” to make way for the release of convicts on parole.

Next Steps: The current crisis necessitates an increased transparency on part of state bodies and full disclosure of all pertinent information on their websites. This information, if regularly updated, enables constant monitoring by oversight bodies. This would further decongestions efforts by the HPCs and UTRCs to ensure that prisoners’ families and lawyers are aware of the situation pertaining to the COVID-19 infections inside prisons on a regular basis.

The state prison departments must ensure that the following set of information¹⁶⁸ is proactively provided on their websites, as done by the Maharashtra Prison Department¹⁶⁹:

- 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;
- 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; and
- e. any other relevant information that is deemed fit.

Similarly, SLSAs must upload the minutes of the HPC meetings regularly.

¹⁶⁷ igprisons-up@nic.in

¹⁶⁸ 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.

¹⁶⁹ mahaprison.gov.in/PressRelease.html

8. Prepare reintegration plans for newly released prisoners/detainees

Lessons Learnt: Media reports have suggested that several prisoners were arrested for commission of crimes within a few weeks of their release¹⁷⁰. This highlighted the absence of reintegration plans for prisoners which may have led them to commit crimes as a means of securing livelihood. None of the HPCs considered formulating reintegration plans for prisoner releases.

Next Steps: It is important that reintegration measures are part of decongestion plans for the future. Facilitating cross-sectoral support for newly released prisoners to reintegrate them into communities is essential. Many released detainees will not have access to safe places or suitable homes for self-isolating or means to support themselves and may not have access to social services or community support.¹⁷¹

The prison authorities along with the Department of Social Justice and Empowerment, probation officers, welfare officers and civil society representatives must deliberate together to develop reintegration plans that provide comprehensive services and assistance to released prisoners.

9. Allocate additional budget for prisons and increase staff strength in prisons

Lessons Learnt: Responding to a crisis like COVID-19 meant diversion of funds meant for other routine activities towards implementation of precautionary measures and ensuring compliance with government regulations regarding the pandemic. An analysis of the minutes of the HPC meetings in different states revealed that only the state government of Tripura provided additional funds to meet the emergency requirements.¹⁷² The lack of adequate funds is further expounded by the vacancies in prison staff. Indian prisons are administered by 70% of the sanctioned staff. Efficient management of COVID-19 precautionary measures require adequate human resource to carry out the additional tasks of health awareness, prisoner management and transfers and entry-exit screening to name a few. Given that the prison staff is already overburdened with their regular tasks, the additional responsibility that a pandemic presents poses a risk to the health of the prisoners as well as the staff.¹⁷³

¹⁷⁰ Delhi: 47 inmates out on bail back in Tihar Jail (June 17, 2020) - <https://timesofindia.indiatimes.com/city/delhi/47-inmates-out-on-bail-back-in-tihar/articleshow/76413823.cms>

¹⁷¹ Guidance Note, Ensuring Access to justice in the context of COVID-19, UNODC (19 May 2020) - https://www.unodc.org/documents/Advocacy-Section/Ensuring_Access_to_Justice_in_the_Context_of_COVID-191.pdf (last accessed on 27 October 2020).

¹⁷² The Tripura HPC directed the State Government to provide a sum of Rs. 100000/- as the imprest fund to meet the emergency requirement of COVID-19 Special Task Force in each jails or remand homes, and an amount of Rs. 400000 for the Central Jails.

¹⁷³ Jail Mail: [Were Indian Prisons Equipped To Respond To The Pandemic? CHRI's Analysis of Prison Statistics India 2019, CHRI \(22 October 2020\)](https://www.humanrightsinitiative.org/download/1603288900JAIL%20MAIL%20WERE%20INDIAN%20PRISONS%20EQUIPPED%20TO%20RESPOND%20TO%20THE%20PANDEMIC.pdf) - <https://www.humanrightsinitiative.org/download/1603288900JAIL%20MAIL%20WERE%20INDIAN%20PRISONS%20EQUIPPED%20TO%20RESPOND%20TO%20THE%20PANDEMIC.pdf> (last accessed on 27 October 2020).

Next steps: The state government must allocate additional funds, on need basis, for prisons in view of the pandemic. The prison departments may also undertake a prison-wise assessment of staff vacancies and develop short-term and long-term plans to fill vacant posts through contractual or temporary hiring of staff.

Given the impact of COVID-19 on prisons across the country, the Ministry of Home Affairs must consider the re-introduction of the Modernization of Prisons Scheme¹⁷⁴. Apart from prompt construction of new prisons to ease overcrowding, the focus should be on improving the healthcare infrastructure; communication facilities, development and training of all staff; developing long-term plans to ensure minimum living standards for the prisoners as well as the staff; upgrading prison infrastructure and equipping prison administration to ensure that safety and security of prisoners and staff are protected at all times.

10. Prioritise healthcare facilities in prisons

Lessons Learnt: The pandemic drew attention to the inadequate healthcare facilities inside prisons. As per PSI 2019¹⁷⁵, less than two-thirds (1962) of the total sanctioned posts (3320) for medical staff had been filled as on 31 December, 2019.¹⁷⁶ Though there are 3320 sanctioned posts for medical staff, only 1205 posts are for Medical Officers and 443 of these posts were lying vacant. Only 11 states and two UTs had sanctioned posts for psychologists or psychiatrists in prisons. To address these concerns, many HPCs passed directions to fill up the sanctioned vacant posts of all the medical officers and paramedical staff and to ensure basic healthcare facilities not only for those who are infected, but also for prisoners in need of medical care. However, no permanent solutions were laid down in the form of guidelines/notifications.

¹⁷⁴ 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.

¹⁷⁵ Chapter 10, Prison Statistics of India 2019 Report, National Crime Records Bureau, p.201 - <https://ncrb.gov.in/sites/default/files/PSI-2019-27-08-2020.pdf> (last accessed on 12 December 2020).

¹⁷⁶ Table 11.3, Prison Statistics of India 2019 Report, National Crime Records Bureau - https://ncrb.gov.in/sites/default/files/psi_table_and_chapter_report/TABLE-11.3_2019.pdf (last accessed on 12 December 2020).

Next Steps: While it is important that efforts to decongest prisons continue, it is equally important to ensure that those who cannot be released have access to adequate healthcare.¹⁷⁷ Given that the after effects of the virus are varied, having long-term effects on health, some of which are still not known, it is imperative that state governments prioritise healthcare in prisons.

Similar to the readiness and response plans as directed by the Supreme Court, prison-specific long-term healthcare plans must be developed with the medical experts, police officials who are responsible to provide escorts for hospitals and other concerned stakeholders, keeping in mind the prison population and the model doctor - inmate ratio. Collaborations with local private doctors and phycologists may be formalised and needs of specialised care must be catered to.

11. Legal services institutions must prioritise legal awareness initiatives and strengthen functioning of prison legal aid clinics

Lessons Learnt: In Manipur¹⁷⁸, Nagaland, Karnataka¹⁷⁹, Odisha and Uttar Pradesh, regular awareness programmes were held in prisons to sensitise prisoners about the advantage of maintaining safe distance amongst themselves and inform them about the “Do’s and Don’ts” about the prevention of transmission of COVID-19. To address anxiety among prisoners, the HPCs of Haryana, Punjab and Karnataka advised the chairperson of DLSA and the concerned District & Sessions Judge to visit the jails periodically¹⁸⁰ and interact with the prisoners so that the prisoners could air their concerns and order can be maintained. The HPCs of Haryana, Odisha and Chandigarh also directed the prison authorities to maintain order in prisons by undertaking counselling.

Next steps: As the pandemic continues to impact the lives and livelihoods of millions of people, it is important to undertake measures to provide adequate legal assistance and advice to prisoners. The legal services institutions across the country, through the prison legal services clinics, should prioritise efforts to apprise prisoners of the progress in their cases, current court processes and ascertain current legal requirements etc.

Legal services camps may be conducted on a weekly basis for the next months inside prisons to apprise prisoners of the current court procedures, status of their cases and address their concerns.

¹⁷⁷ UN Secretary-General’s Policy Brief: COVID-19 and Human Rights - We are all in this together, April 2020 - https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf (last accessed on 27 October 2020).

¹⁷⁸ The HPC directed that “Public Address System” could be installed in the Jail Campus.

¹⁷⁹ Awareness programmes were conducted by the Department of Health and Family Welfare in the Prisons.

¹⁸⁰ every alternate day in Haryana and at least twice a week in Karnataka.

12. Develop long-term strategies for reforms in the functioning of the criminal justice system

Lessons Learnt: The pandemic has posed multiple challenges at all levels. At the same time, it has also taught many lessons which could be adopted in the long run, even after the crisis is over. It has helped to see police, judicial and prison reforms in a new light.

Next Steps: To make some temporary solutions permanent, research must be conducted covering different aspects of the functioning of the system during the pandemic in order to develop future reform strategies. These may include the assessment of releases on bail vis-à-vis cases of “bail jump” and change in crime rate; compliance of S.41A and guidelines issued in the *Arnesh Kumar* judgement; reintegration challenges faced by released prisoners, particularly women prisoners; challenges faced in using video conferencing facilities; assessment of fair trial rights violations during the pandemic and suggested recourse; etc.

ANNEXURES

ANNEXURE - I

Information Requested from the State Prison Departments

- 1) Minutes of all the meetings of the High Powered Committee held since its formation. – Kindly send soft copies of all minutes of meetings held between 23rd March to 30th June 2020.
- 2) State-level information on number of temporary prisons, total admissions, total releases, total transfers from 1st April to 30th June 2020.

Total Number of temporary prisons set up in the State/ UT	April			May			June		
	Total number of Admissions in the State/UT	Total number of Releases in the State/UT	Total number of Transfers from one prison to another	Total number of Admissions in the State/UT	Total number of Releases in the State/UT	Total number of Transfers from one prison to another	Total number of Admissions in the State/UT	Total number of Releases in the State/UT	Total number of Transfers from one prison to another

- 4) Prison-wise information on prison population from April to June 2020.

S. No.	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison			Prison Population as on 1st April 2020			Prison Population as on 1st May 2020			Prison Population as on 1st June 2020			Prison Population as on 30th June 2020		
		UTP	Convict	Other	UTP	Convict	Other	UTP	Convict	Other	UTP	Convict	Other	UTP	Convict	Other

- 6) Prison-wise and gender-wise information on prison population from April to June 2020.

S. No.	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison			Prison Population as on 1st April 2020			Prison Population as on 1st May 2020			Prison Population as on 1st June 2020			Prison Population as on 30th June 2020		
		M	F	Other	M	F	Other	M	F	Other	M	F	Other	M	F	Other

ANNEXURE - II

Information Requested from the State Legal Services Authority

- 1) Minutes of all the meetings of High Powered Committees held since its formation – **Kindly send soft copies of all minutes of meetings held between 23rd March to 30th June 2020.**
- 2) District-wise number of Under Trial Review Committees (UTRC) meetings held from 1st April to 30th June 2020.

Name of the District where UTRC is set up	Name and Type of Prisons covered by the UTRC	Total Number of UTRC meetings held in April 2020	Total Number of UTRC meetings held in May 2020	Total Number of UTRC meetings held in June 2020

- 4) Minutes of the meetings of the Under Trial Review Committee held from 1st April to 30th June 2020, of any five districts – **Preferably those districts where Central prisons are located or prisons have high population.**
- 5) A short note on good practices and efforts undertaken by the jail visiting lawyers and paralegal volunteers in effectuating release of prisoners – **Success stories of legal aid functionaries in regard to filing of bail applications or coordinating with prison authorities in release of prisoners or assisting the Undertrial Review Committee in release of prisoners or assisting the released prisoners or any other.**

ANNEXURE - III

State-wise and Prison-wise Occupancy Rates

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
Bihar	Adarsh Central Jail, BEUR	2360	4277	2925	181.23	123.94
	District Jail, PHULWARISHRIF	700	544	985	77.71	140.71
	Sub Jail, DANAPUR	87	105	42	120.69	48.28
	Sub Jail, PATNA CITY	37	31	72	83.78	194.59
	Sub Jail, BARH	173	329	187	190.17	108.09
	Sub Jail, MASAUHRI	253	153	274	60.47	108.30
	District Jail, BIHARSHARIF	739	724	797	97.97	107.85
	Sub Jail, HILSA	410	230	205	56.10	50.00
	District Jail, HAJIPUR	885	1016	1217	114.80	137.51
	Central Jail, BUXAR	1126	1227	1151	108.97	102.22
	Female District Jail, BUXAR	69	75	54	108.70	78.26
	Open Jail, BUXAR	104	97	85	93.27	81.73
	District Jail, BHABHUA	355	442	373	124.51	105.07
	District Jail, SASARAM	970	746	713	76.91	73.51
	Sub Jail, BIKRAMGANJ	307	111	474	36.16	154.40
	District Jail, ARRA	1195	1039	994	86.95	83.18
	Central Jail, MOTIHARI	1900	2135	2264	112.37	119.16
	District Jail, BETTIYA	1811	1284	1095	70.90	60.46
	Sub Jail, BAGAHA	613	157	320	25.61	52.20
	District Jail, GOPALGANJ	1100	913	1551	83.00	141.00
	District Jail, SIWAN	684	677	627	98.98	91.67
	District Jail, CHHAPRA	724	1173	753	162.02	104.01
	S.K.B. Central Jail, MUZAFFARPUR	2135	2351	2190	110.12	102.58
	District Jail, DARBHANGA	521	567	488	108.83	93.67
	Sub Jail, BENIPUR	347	123	480	35.45	138.33
	District Jail, MADHUBANI	819	600	885	73.26	108.06
	Sub Jail, JHANJHARPUR	220	197	204	89.55	92.73
	Sub Jail, BENIPATTI	500	93	300	18.60	60.00
	District Jail, SITAMARHI	336	830	474	247.02	141.07
	District Jail, SAMASTIPUR	1220	540	1033	44.26	84.67
	Sub Jail, ROSERA	232	140	370	60.34	159.48
	Sub Jail, DALSINGHSARAI	164	108	165	65.85	100.61
	District Jail, SHEOHAR	486	144	239	29.63	49.18
	Central Jail, PURNEA	1048	1406	1705	134.16	162.69

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	District Jail, KATIHAR	1175	733	589	62.38	50.13
	District Jail, KISHANGANJ	617	310	341	50.24	55.27
	District Jail, ARARIA	1258	752	603	59.78	47.93
	District Jail, SUPOUL	534	466	389	87.27	72.85
	Sub Jail, BIRPUR	130	60	305	46.15	234.62
	District Jail, MADHEPURA	182	273	177	150.00	97.25
	Sub Jail, UDAKISHANGANJ	374	267	360	71.39	96.26
	District Jail, SAHARSHA	557	548	572	98.38	102.69
	S.J.S. Central Jail, BHAGALPUR	1962	1571	1591	80.07	81.09
	Female District Jail, BHAGALPUR	83	105	88	126.51	106.02
	Sub Jail, NAUGACCHIA	284	173	44	60.92	15.49
	District Jail, KHAGARIYA	800	567	658	70.88	82.25
	District Jail, BEGUSARAI	1026	1205	1041	117.45	101.46
	District Jail, BANKA	732	688	691	93.99	94.40
	Special Central Jail, BHAGALPUR	3288	1037	1751	31.54	53.25
	District Jail, MUNGER	746	584	1110	78.28	148.79
	District Jail, JAMUI	188	402	184	213.83	97.87
	District Jail, LAKHISRAI	571	450	99	78.81	17.34
	District Jail, SHEKHPURA	288	156	222	54.17	77.08
	Central Jail, GAYA	2606	1955	2559	75.02	98.20
	Sub Jail, SHERGHATI	250	210	359	84.00	143.60
	District Jail, AURANGABAD	309	523	248	169.26	80.26
	Sub Jail, DAUDNAGAR	560	121	232	21.61	41.43
	District Jail, NAWADA	614	674	575	109.77	93.65
	District Jail, JEHANABAD	1156	568	852	49.13	73.70
	TOTAL	44920	38982	41331	86.78	92.01
Chhattisgarh	Central Jail, Raipur	1790	2847	2610	159.05	145.81
	Dist. Jail, Dhamtari	265	138	168	52.08	63.40
	Dist. Jail, Mahasamund	170	272	319	160.00	187.65
	Sub-Jail, Baloda Bazar	410	265	245	64.63	59.76
	Sub-Jail, Gariyaband	110	143	115	130.00	104.55
	Central Jail, Jagdalpur	1351	2202	2196	162.99	162.55
	Dist. Jail, Kanker	374	154	148	41.18	39.57
	Dist. Jail, Dantewara	250	669	675	267.60	270.00
	Sub-Jail, Sukma	110	87	144	79.09	130.91
	Sub-Jail, Bijapur	90	36	33	40.00	36.67

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	Sub-Jail, Narayanpur	110	41	33	37.27	30.00
	Central Jail, Bilaspur	1540	2961	2810	192.27	182.47
	Dist. Jail, Raigarh	705	363	376	51.49	53.33
	Dist. Jail, Korba	230	190	171	82.61	74.35
	Dist. Jail, Janjgir	280	202	195	72.14	69.64
	Sub-Jail, Pendra Road	110	47	54	42.73	49.09
	Sub-Jail, Katghora	148	172	149	116.22	100.68
	Sub-Jail, Saranggarh	50	56	49	112.00	98.00
	Sub-Jail, Sakti	140	116	124	82.86	88.57
	Sub-Jail, Mungeli	250	92	103	36.80	41.20
	Central Jail, Ambikapur	1020	2185	2145	214.22	210.29
	Dist. Jail, Baikuntpur	148	120	137	81.08	92.57
	Dist. Jail, Jashpur	290	234	238	80.69	82.07
	Dist. Jail, Ramanujganj	170	321	312	188.82	183.53
	Sub-Jail, Surajpur	130	195	241	150.00	185.38
	Sub-Jail, Manendragarh	130	147	160	113.08	123.08
	Central Jail, Durg	2006	2009	1783	100.15	88.88
	Dist. Jail, Rajnandgaon	156	221	200	141.67	128.21
	Dist. Jail, Kabirdham	110	183	207	166.36	188.18
	Sub-Jail, Sanjari Balod	110	185	160	168.18	145.45
	Sub-Jail, Dongargarh	110	50	48	45.45	43.64
	Sub-Jail, Bemetara	150	117	103	78.00	68.67
	Sub-Jail, Khairagarh	110	78	88	70.91	80.00
	Total	13123	17098	16539	130.29	126.03
Goa	Central Jail, Colvale	624	385	307	61.70	49.20
Gujarat	Ahmedabad Central Jail	2646	2689	2416	101.63	91.31
	Vadodara Central Jail	1165	1617	1299	138.80	111.50
	Rajkot Central Jail	1232	1639	1253	133.04	101.70
	Surat (Lajpor) Central Jail	2967	2620	2573	88.30	86.72
	Nadiad District Jail	421	447	401	106.18	95.25
	Mehsana District Jail	244	183	168	75.00	68.85
	Palanpur District Jail	268	301	240	112.31	89.55
	Bhavnagar District Jail	412	418	445	101.46	108.01
	Junagadh District Jail	265	383	336	144.53	126.79
	Jamnagar District Jail	466	359	380	77.04	81.55
	Himmatnagar District Jail	243	140	124	57.61	51.03
	Bharuch District Jail	309	322	330	104.21	106.80
	Rajpipla District Jail	347	176	121	50.72	34.87

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	Amreli District Jail	264	250	309	94.70	117.05
	Galpadar District Jail	290	241	279	83.10	96.21
	Godhra Sub Jail	165	205	213	124.24	129.09
	Navsari Sub Jail	230	173	172	75.22	74.78
	Gondal Sub Jail	150	124	145	82.67	96.67
	Modasa Sub Jail	105	146	125	139.05	119.05
	Surendranagar Sub Jail	125	120	125	96.00	100.00
	Patan Sub Jail	202	195	177	96.53	87.62
	Chhotaudepur Sub Jail	107	137	132	128.04	123.36
	Morbi Sub Jail	171	168	193	98.25	112.87
	Palara (Bhuj) Special Jail	530	372	253	70.19	47.74
	Porbandar Special Jail	120	94	111	78.33	92.50
	Junagadh Open Jail	40	13	13	32.50	32.50
	Amreli Open Jail	40	14	12	35.00	30.00
	Ahmedabad Women Jail	200	100	92	50.00	46.00
	TOTAL	13724	13646	12437	99.43	90.62
Haryana	Central JAIL AMBALA	1228	1158	1007	94.30	82.00
	Central JAIL - 1 HISAR	1499	1324	1293	88.33	86.26
	Central JAIL - 2 HISAR	571	670	590	117.34	103.33
	District JAIL ROHTAK	1300	1217	1185	93.62	91.15
	District JAIL KARNAL	2434	1434	1356	58.92	55.71
	District JAIL GURUGRAM	2412	2466	2127	102.24	88.18
	District JAIL BHIWANI	561	729	619	129.95	110.34
	District JAIL SIRSA	807	1135	933	140.64	115.61
	District JAIL SONIPAT	745	1046	838	140.40	112.48
	District JAIL JIND	669	919	805	137.37	120.33
	District JAIL KURUKSHETRA	446	558	529	125.11	118.61
	District JAIL NARNAUL	350	497	415	142.00	118.57
	District JAIL REWARI	65	104	62	160.00	95.38
	District JAIL KAITHAL	515	604	470	117.28	91.26
	District JAIL FARIDABAD	2500	2374	1983	94.96	79.32
	District JAIL YAMUNANAGAR	1200	741	605	61.75	50.42
	District JAIL PALWAL	60	51	40	85.00	66.67
	District JAIL PANIPAT	870	983	855	112.99	98.28
	District JAIL JHAJJAR	1074	868	871	80.82	81.10
	TOTAL	19306	18878	16583	97.78	85.90
Himachal Pradesh	Lala Lajpat Rai District & Open Air Correctional Home Dharamshala, Kangra	303	343	308	113.20	101.65

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	District Jail Solan	102	150	101	147.06	99.02
	Model Central Jail Nahan	471	509	532	108.07	112.95
	District Jail Kullu	33	63	38	190.91	115.15
	District Jail Bangarh Una	174	183	166	105.17	95.40
	District Jail Chamba	147	155	139	105.44	94.56
	District Jail Kaithu(Shimla)	73	109	78	149.32	106.85
	Sub Jail Nurpur	29	36	24	124.14	82.76
	Model Central Kanda	438	495	482	113.01	110.05
	District Jail Hamirpur	47	62	54	131.91	114.89
	District Jail I Bilaspur	84	130	119	154.76	141.67
	Open Air Jail Bilaspur	120	17	10	14.17	8.33
	District Jail Mandi	95	182	174	191.58	183.16
	Open Air Jail Mandi	15	5	5	33.33	33.33
	Borstal Jail Mandi	15	0	0	0.00	0.00
	TOTAL	2146	2439	2230	113.65	103.91
Jharkhand	Total	16776	18387	19626	109.60	116.99
Kerala	Central Prison, THIRUVANANTHAPURAM	727	1234	1059	169.74	145.67
	Central Prison, VIYYUR	560	603	465	107.68	83.04
	Central Prison, KANNUR	986	866	1524	87.83	154.56
	High Security Prison, VIYYUR	540	168	142	31.11	26.30
	Open Prison, CHEEMENI	179	46	40	25.70	22.35
	Open Prison, NETTUKALTHERI	391	430	182	109.97	46.55
	Women's Open Prison, POOJAPPURA	20	31	17	155.00	85.00
	Women's Prison, TRIVANDRUM	108	71	29	65.74	26.85
	Women's Prison, THRISSUR	100	36	46	36.00	46.00
	Women's Prison, KANNUR	24	15	14	62.50	58.33
	District Jail, THIRUVANANTHAPURAM	284	264	221	92.96	77.82
	District Jail, KOLLAM	242	188	235	77.69	97.11
	District Jail, PATHANAMTHITTA	45	0	0	0.00	0.00
	District Jail, ALAPPUZHA	61	83	16	136.07	26.23
	District Jail, VIYYUR	121	274	16	226.45	13.22
	District Jail, ERNAKULAM	145	200	108	137.93	74.48
	District Jail, KOTTAYAM	55	86	71	156.36	129.09
	District Jail, KANNUR	130	120	179	92.31	137.69
	District Jail, KASARGOD	54	50	25	92.59	46.30
	District Jail, WAYANAD	80	73	77	91.25	96.25

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	District Jail, KOZHIKODE	262	225	102	85.88	38.93
	District Jail, PALAKKAD	324	194	146	59.88	45.06
	Spl. Sub Jail, TVPM	228	254	71	111.40	31.14
	Spl. Sub Jail, KOTTARAKKARA	50	118	217	236.00	434.00
	Spl. Sub Jail, MAVELIKKARA	92	87	60	94.57	65.22
	Spl. Sub Jail, IRINJALAKKUDA	35	43	36	122.86	102.86
	Spl. Sub Jail, MUVATTUPUZHA	72	97	96	134.72	133.33
	Spl. Sub Jail, DEVIKULAM	36	14	0	38.89	0.00
	Spl. Sub Jail, PONKUNNAM	48	62	17	129.17	35.42
	Spl. Sub Jail, KANNUR	112	11	17	9.82	15.18
	Spl. Sub Jail, THALASSERY	44	14	26	31.82	59.09
	Spl. Sub Jail, KASARGOD	54	69	31	127.78	57.41
	Spl. Sub Jail, VYTHIRI	22	47	57	213.64	259.09
	Spl. Sub Jail, MANJERI	39	83	22	212.82	56.41
	Spl. Sub Jail, KOZHIKODE	50	51	37	102.00	74.00
	Spl. Sub Jail, CHITTUR	30	36	59	120.00	196.67
	Sub Jail, ATTINGAL	43	84	23	195.35	53.49
	Sub Jail, CHAVAKKAD	28	28	3	100.00	10.71
	Sub Jail, VIYYUR	84	62	26	73.81	30.95
	Sub Jail, ALUVA	26	14	33	53.85	126.92
	Sub Jail, ERNAKULAM	28	70	25	250.00	89.29
	Sub Jail, MATTANCHERRY	28	58	58	207.14	207.14
	Sub Jail, PEERUMEDU	38	34	21	89.47	55.26
	Sub Jail, MEENACHIL	20	20	35	100.00	175.00
	Sub Jail, KANNUR	28	39	56	139.29	200.00
	Sub Jail, TIRUR	17	25	12	147.06	70.59
	Sub Jail, PONNANI	19	24	17	126.32	89.47
	Sub Jail, PERINTHALMANNA	28	46	29	164.29	103.57
	Sub Jail, VADAKARA	13	15	16	115.38	123.08
	Sub Jail, KOYILANDY	20	14	23	70.00	115.00
	Sub Jail, OTTAPPALAM	24	51	39	212.50	162.50
	Sub Jail, ALATHUR	23	36	42	156.52	182.61
	Spl. Sub Jail, NEYYATTINKARA	148	117	9	79.05	6.08
	Borstal school, ERNAKULAM	90	27	27	30.00	30.00
	District Jail, IDUKKI	283	101	89	35.69	31.45
	TOTAL	7338	7108	5046	96.87	68.77
Maharashtra	Central Jail, Amravati	943	1350	1059	143.16	112.30
	Central Jail Nagpur	1810	2345	2092	129.56	115.58

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	Central Jail Aurangabad	539	1753	1417	325.23	262.89
	Central Jail Nashikroad	3018	3056	2386	101.26	79.06
	Central Jail Kolhapur	1699	2254	1958	132.67	115.24
	Central Jail Yerawada	2449	5693	4307	232.46	175.87
	Central Jail Mumbai	804	2941	1968	365.80	244.78
	Central Jail Thane	1105	3718	2610	336.47	236.20
	Central Jail Talaja	2124	2635	2376	124.06	111.86
	Sub Total	14491	25745	20173	177.66	139.21
	District Prison Cl-I Aloka	695	379	329	54.53	47.34
	District Prison Cl-I Bhandra	343	319	284	93.00	82.80
	District Prison Cl-I Chandrapur	333	502	527	150.75	158.26
	District Prison Cl-I Yavatmal	229	303	305	132.31	133.19
	District Prison Cl-I Morshi Open Prison	200	149	52	74.50	26.00
	District Prison Cl-I Wardha	252	284	226	112.70	89.68
	District Prison Cl-I Gadchiroli O.P.	75	58	31	77.33	41.33
	District Prison Cl-I Dhule	294	272	264	92.52	89.80
	District Prison Cl-I Latur	500	308	276	61.60	55.20
	District Prison Cl-I Borstal School Nashik	105	13	11	12.38	10.48
	District Prison Cl-I Paithan O.P.	500	353	99	70.60	19.80
	District Prison Cl-I Yerawada O.P.	172	163	46	94.77	26.74
	District Prison Cl-I Byculla	200	352	115	176.00	57.50
	District Prison Cl-I Kalyan	540	1864	1371	345.19	253.89
	District Prison Cl-I Ratngiri SP	246	149	130	60.57	52.85
	District Prison Cl-I Mumbai DWP	262	368	271	140.46	103.44
	Sub Total	4946	5836	4337	117.99	87.69
	District Prison Cl-II Buldhana	101	234	234	231.68	231.68
	District Prison Cl-II Washim	200	165	178	82.50	89.00
	District Prison Cl-II Beed	161	238	265	147.83	164.60
	District Prison Cl-II Jalana	556	192	188	34.53	33.81
	District Prison Cl-II Jalgoan	200	452	396	226.00	198.00
	District Prison Cl-II Nanded	135	165	248	122.22	183.70
	District Prison Cl-II Nandurbar	500	157	147	31.40	29.40
	District Prison Cl-II Parbhani	252	374	416	148.41	165.08
	District Prison Cl-II Osmanabad	269	204	230	75.84	85.50

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	District Prison Cl-II Aurangabad OP	90	74	20	82.22	22.22
	District Prison Cl-II Ahmednagar	69	131	90	189.86	130.43
	District Prison Cl-II Sangli	235	331	349	140.85	148.51
	District Prison Cl-II Satara	168	228	297	135.71	176.79
	District Prison Cl-II Solapur	141	400	284	283.69	201.42
	District Prison Cl-II Visapur OP	200	91	34	45.50	17.00
	District Prison Cl-II Alibag	82	92	103	112.20	125.61
	District Prison Cl-II Sawantwadi	78	61	51	78.21	65.38
	District Prison Cl-II Sindhudurg	200	59	30	29.50	15.00
	Sub Total	3637	3648	3560	100.30	97.88
	District Prison Cl-III Amravati OP	80	63	12	78.75	15.00
	District Prison Cl-III Nagpur OP	80	72	24	90.00	30.00
	District Prison Cl-III Akola Female OP	50	30	13	60.00	26.00
	District Prison Cl-III Nashikroad OP	210	200	88	95.24	41.90
	District Prison Cl-III Bhusawal	60	46	58	76.67	96.67
	District Prison Cl-III Open Colony Atpadi	28	2	2	7.14	7.14
	District Prison Cl-III Kolhapur City	125	177	94	141.60	75.20
	District Prison Cl-III Kolhapur OP	140	114	53	81.43	37.86
	District Prison Cl-III Yerwada WOP	50	31	13	62.00	26.00
	District Prison Cl-III JJ Hospital P	20	0	0	0.00	0.00
	District Prison Cl-III Thane OP	25	20	10	80.00	40.00
	District Prison Cl-III Yawatmal OP	15	15	8	100.00	53.33
	District Prison Cl-III Wardha OP	15	14	6	93.33	40.00
	District Prison Cl-III Dhule OP	15	15	2	100.00	13.33
	District Prison Cl-III Latur OP	15	10	0	66.67	0.00
	District Prison Cl-III Ratnagiri OP	15	11	5	73.33	33.33
	District Prison Cl-III Sindhudurg	15	12	5	80.00	33.33
	Sub Total	958	832	393	86.85	41.02

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	TOTAL	24032	36061	28463	150.05	118.44
Manipur	Manipur Central Jail, Imphal	250	52	35	20.80	14.00
	Manipur Central Jail, Sajiwa	845	797	583	94.32	68.99
	Ideal Teacher Training Academy, Sajiwa Lamkhai (Quarantine Prison)	0	0	5	0.00	0.00
	Total	1095	849	623	77.53	56.89
Meghalaya	District Jail, NONGPOH	100	179	165	179.00	165.00
	District Jail, SHILLONG	170	357	287	210.00	168.82
	District Jail, JOWAI	130	225	163	173.08	125.38
	District Jail, TURA	200	191	195	95.50	97.50
	District Jail, WILLIAMNAGAR	50	31	24	62.00	48.00
	TOTAL	650	983	834	151.23	128.31
Mizoram	Central Jail	480	545	409	113.54	85.21
	Separate Women Jail	98	72	29	73.47	29.59
	Dist. Jail, Aizwal	113	84	36	74.34	31.86
	Dist. Jail, Lunglei	140	153	104	109.29	74.29
	Dist. Jail, Sialha	95	39	30	41.05	31.58
	Dist. Jail, Kolasib	146	117	79	80.14	54.11
	Dist. Jail, Champhai	136	168	143	123.53	105.15
	Dist. Jail, Lawngtlai	136	26	17	19.12	12.50
	Dist. Jail, Serchhip	165	72	22	43.64	13.33
	Dist. Jail, Mamit	114	68	26	59.65	22.81
	TOTAL	1623	1344	895	82.81	55.14
Nagaland	Central Jail, Dimapur	600	145	150	24.17	25.00
	District Jail, Kohima	120	92	41	76.67	34.17
	District Jail, Mokokchung	180	47	39	26.11	21.67
	District Jail, Tuensang	90	23	13	25.56	14.44
	District Jail, Mon	100	92	79	92.00	79.00
	District Jail, Phek	50	7	12	14.00	24.00
	District Jail, Dimapur	100	73	52	73.00	52.00
	District Jail, Wokha	40	27	14	67.50	35.00
	District Jail, Zunheboto	50	21	14	42.00	28.00
	District Jail, Peren	60	5	7	8.33	11.67
	District, Kiphire	60	6	4	10.00	6.67
	TOTAL	1450	538	425	37.10	29.31
Punjab	Central Jail PATIALA	1801	1720	1373	95.50	76.24
	Central Jail BHATHINDA	2375	1643	1292	69.18	54.40
	Central Jail LUDHIANA	3200	2983	2432	93.22	76.00

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	Central Jail FEROPUR	1236	1212	1029	98.06	83.25
	Central Jail KAPURTHALA	2990	3133	2281	104.78	76.29
	Central Jail GURDASPUR	950	719	598	75.68	62.95
	Central Jail AMRITSAR	2266	3072	2315	135.57	102.16
	Central Jail FARIDKOT	2072	1879	1532	90.69	73.94
	Central Jail HOSHIARPUR	723	702	446	97.10	61.69
	District Jail SANGRUR	650	708	657	108.92	101.08
	Security Jail NABHA	462	321	220	69.48	47.62
	District Jail ROOPNAGAR	473	528	359	111.63	75.90
	Special Jail LUDHIANA	500	240	379	48.00	75.80
	Women Jail LUDHIANA	320	235	218	73.44	68.13
	Open Jail NABHA	75	32	5	42.67	6.67
	New Jail NABHA	850	765	624	90.00	73.41
	New Jail MANSA	433	496	378	114.55	87.30
	Special Jail BARNALA	435	398	409	91.49	94.02
	District Jail SHRI MUKTSAR SAHIB	900	410	376	45.56	41.78
	Sub Jail MOGA	75	61	23	81.33	30.67
	Sub Jail PATHANKOT	280	192	103	68.57	36.79
	Special Jail PATTI	204	132	180	64.71	88.24
	Sub Jail FAZILKA	48	61	33	127.08	68.75
	Sub Jail MALARKOTLA	170	135	87	79.41	51.18
	Special Jail BATHINDA	288	0	245	0.00	85.07
	TOTAL	23776	21777	17594	91.59	74.00
Rajasthan	CENTRAL JAILS-9					
	AJMER	960	894	957	93.13	99.69
	ALWAR	1172	1059	824	90.36	70.31
	BHARATPUR	825	715	585	86.67	70.91
	BIKANER	1200	880	672	73.33	56.00
	GANGANAGAR	560	565	538	100.89	96.07
	JAIPUR	1173	1209	1126	103.07	95.99
	JODHPUR	1475	1364	1288	92.47	87.32
	KOTA	1009	1226	966	121.51	95.74
	UDAIPUR	910	970	946	106.59	103.96
	TOTAL	9284	8882	7902	95.67	85.11
	SPECIAL CENTRAL JAIL SHALYAVAS DAUSA	700	467	573	66.71	81.86
	JUVENILE REF. JAITARAN	20	2	1	10.00	5.00
	HIGH SECURITY JAIL GHUGRA	264	85	88	32.20	33.33

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	TOTAL	984	554	662	56.30	67.28
	WOMEN REFORMATORIES-7					
	WOMEN REF.AJMER	50	76	137	152.00	274.00
	WOMEN REF.BHARATPUR	100	33	221	33.00	221.00
	WOMEN REF.BIKANER	222	24	169	10.81	76.13
	WOMEN REF.JAIPUR	250	112	96	44.80	38.40
	WOMEN REF.JODHPUR	200	49	0	24.50	0.00
	WOMEN REF.KOTA	100	204	299	204.00	299.00
	WOMEN REF,UDAIPUR	76	37	39	48.68	51.32
	Sub Total	998	535	961	53.61	96.29
	DISTRICT JAILS-26					
	A'Class-2					
	DHOLPUR	352	279	251	79.26	71.31
	TONK	420	424	329	100.95	78.33
	B'Class-24					
	BANSWARA	238	275	256	115.55	107.56
	BARAN	162	199	215	122.84	132.72
	BARMER	159	158	160	99.37	100.63
	BHILWARA	225	229	244	101.78	108.44
	BIKANER	400	390	355	97.50	88.75
	BUNDI	354	370	354	104.52	100.00
	CHITTOREGARH	338	376	376	111.24	111.24
	CHURU	163	205	164	125.77	100.61
	DAUSA	250	179	254	71.60	101.60
	DUNGARPUR	70	76	104	108.57	148.57
	HANUMANGARH	350	426	501	121.71	143.14
	JAISALMER	150	132	98	88.00	65.33
	JAIPUR	500	436	350	87.20	70.00
	JALORE	36	47	63	130.56	175.00
	JHALAWAR	500	536	451	107.20	90.20
	JHUNJHUNU	210	260	233	123.81	110.95
	KAROLI	190	177	114	93.16	60.00
	NAGORE	69	79	96	114.49	139.13
	PALI	65	75	120	115.38	184.62
	PRATAPGARH	325	298	284	91.69	87.38
	RAJSAMAND	55	56	59	101.82	107.27
	SAWAI MADHOPUR	65	42	61	64.62	93.85
	SIKAR	224	257	257	114.73	114.73

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	SIROHI	215	287	267	133.49	124.19
	Sub Total	6085	6268	6016	103.01	98.87
	SUB JAILS-60					
	ABU ROAD	65	67	77	103.08	118.46
	AKLERA	60	0	0	0.00	0.00
	ANOOP GARH	220	146	137	66.36	62.27
	ATRU	82	50	46	60.98	56.10
	BALI	60	53	75	88.33	125.00
	BALOTRA	55	80	110	145.45	200.00
	BANDIKUI	100	65	42	65.00	42.00
	BAYANA	100	76	53	76.00	53.00
	BEAWAR	100	138	116	138.00	116.00
	BEGUN	40	34	35	85.00	87.50
	BEHRORE	50	0	0	0.00	0.00
	BHADRA	35	19	16	54.29	45.71
	BHAWANI MANDEE	35	33	40	94.29	114.29
	BHIM	7	8	8	114.29	114.29
	BHINMAL	40	53	48	132.50	120.00
	BILARA	110	88	64	80.00	58.18
	CHHABRA	90	87	75	96.67	83.33
	CHHOTI SADRI	40	26	13	65.00	32.50
	DEEG	175	171	108	97.71	61.71
	DIDWANA	35	29	38	82.86	108.57
	FATEHPUR	30	44	19	146.67	63.33
	GANGAPUR	55	43	36	78.18	65.45
	GANGAPURCITY	73	59	45	80.82	61.64
	GULABPURA	22	32	21	145.45	95.45
	HINDON CITY	79	65	24	82.28	30.38
	JAHAJPUR	22	12	15	54.55	68.18
	JAITARAN	80	95	85	118.75	106.25
	JHADOLE	105	87	58	82.86	55.24
	KANORE	25	20	24	80.00	96.00
	KAPASAN	30	39	24	130.00	80.00
	KARANPUR	65	67	80	103.08	123.08
	KHETRI	33	47	55	142.42	166.67
	KISHANGARH BAS	127	126	132	99.21	103.94
	KOTPUTLI	155	143	98	92.26	63.23
	KOTRA	164	170	124	103.66	75.61

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	KUSHALGARH	30	39	35	130.00	116.67
	MALPURA	40	18	19	45.00	47.50
	MANDALGARH	22	30	14	136.36	63.64
	MAVLI	27	30	35	111.11	129.63
	MERTA CITY	138	104	109	75.36	78.99
	NANVA	10	29	28	290.00	280.00
	NEEM KA THANA	65	77	48	118.46	73.85
	NIMBAHERA	55	76	50	138.18	90.91
	NOHAR	82	70	69	85.37	84.15
	NOKHA	110	0	0	0.00	0.00
	PARBATSAR	188	150	140	79.79	74.47
	PHALAUDI	17	23	18	135.29	105.88
	POKRAN	15	18	14	120.00	93.33
	RAISINGH NAGAR	55	56	87	101.82	158.18
	RAJGARH	65	70	63	107.69	96.92
	RAMGANJ MANDEE	40	36	28	90.00	70.00
	RATANGARH	30	41	49	136.67	163.33
	SAGWARA	100	103	96	103.00	96.00
	SALUMBER	84	49	42	58.33	50.00
	SAMBHER	100	74	59	74.00	59.00
	SANCHORE	27	32	41	118.52	151.85
	SANGOD	80	80	37	100.00	46.25
	SHAHPURA	35	21	16	60.00	45.71
	SOJAT CITY	40	47	27	117.50	67.50
	SURATGARH	105	79	93	75.24	88.57
	Sub Total	4124	3624	3158	87.88	76.58
	OPEN CAMPS-39					
	AJMER	5	5	5	100.00	100.00
	ALWAR	70	63	53	90.00	75.71
	BARMER	70	42	39	60.00	55.71
	BEECHAWAL	103	83	79	80.58	76.70
	BANSWARA	5	4	5	80.00	100.00
	BHARATPUR	90	56	50	62.22	55.56
	BHILWARA	10	11	10	110.00	100.00
	BIKANER (Un Beechewal)	10	9	8	90.00	80.00
	BUNDI	10	9	9	90.00	90.00
	CHITTOREGARH	16	14	14	87.50	87.50
	DHOLPUR	20	11	20	55.00	100.00

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	DURGAPURA	15	15	13	100.00	86.67
	DAUSA	5	4	4	80.00	80.00
	GANGANAGAR	20	18	18	90.00	90.00
	GOVIND GUSHALA SINTHAL (BELASARA) BIKANER	20	19	15	95.00	75.00
	HANUMANGARH (colafarm)	15	14	15	93.33	100.00
	JHALAWAR	25	23	21	92.00	84.00
	JAISALMER	30	20	17	66.67	56.67
	JAITASER	126	45	41	35.71	32.54
	JALORE (keshwaana)	10	9	9	90.00	90.00
	JHUNJHANU	25	18	17	72.00	68.00
	KARALI	5	5	5	100.00	100.00
	KHATUSHAM (SIKAR)	12	10	10	83.33	83.33
	KOTA	60	54	48	90.00	80.00
	MANDORE	35	31	31	88.57	88.57
	NAGORE	15	15	14	100.00	93.33
	NARSINGH PURA SHRIGANGANAGAR	20	19	20	95.00	100.00
	PRATAPGARH	25	11	9	44.00	36.00
	RAJSAMAND	5	6	6	120.00	120.00
	RTANGARH	5	5	5	100.00	100.00
	SANGANER	410	328	311	80.00	75.85
	SHREE GOSEVA SADHAN PAKASARNA HANUMANGARH	10	9	9	90.00	90.00
	SHREE KLYAN BHUMI GOSHLA GANGANAGAR	10	11	11	110.00	110.00
	SHREE KRISHNA GUSHALA GOLUWALA(HANUMANGARH)	25	21	12	84.00	48.00
	SIKAR	30	22	27	73.33	90.00
	SIROHI	5	4	4	80.00	80.00
	TONK	20	10	8	50.00	40.00
	TILONIYA (AJMER)(Women)	10	0	0	0.00	0.00
	UDAIPUR	25	11	8	44.00	32.00
	Sub Total	1427	1064	1000	74.56	70.08
	TOTAL	22902	20927	19699	91.38	86.01
Sikkim	Central Prison, Rongyek	186	333	326	179.03	175.27
	District Prison, Namchi	74	106	110	143.24	148.65
	TOTAL	260	439	436	168.85	167.69
Telangana	Central Prison HYDERABAD	1250	1191	1048	95.28	83.84
	Central Prison CHERLAPALLI	1980	1834	1586	92.63	80.10

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	Central Prison WARANGAL	966	906	2634	93.79	272.67
	P A C CHERLAPALLI	150	91	72	60.67	48.00
	SPW, HYDERABAD	250	200	173	80.00	69.20
	BORSTAL SCHOOL	93	1	245	1.08	263.44
	District Jail SANGAREDDY	260	208	185	80.00	71.15
	District Jail MAHABUBNAGAR	147	182	192	123.81	130.61
	District Jail NALGONDA	210	178	377	84.76	179.52
	District Jail ADILABAD	331	113	167	34.14	50.45
	District Jail NIZAMABAD	460	177	229	38.48	49.78
	District Jail KARIMNAGAR	349	287	396	82.23	113.47
	District Jail KHAMMAM	340	199	254	58.53	74.71
	Spl. SUB Jail ASIFABAD	66	37	19	56.06	28.79
	Spl. SUB Jail NIRMAL	38	21	273	55.26	718.42
	Spl. SUB Jail JAGITIAL	54	18	21	33.33	38.89
	Spl. SUB Jail BHADRACHALAM	70	54	35	77.14	50.00
	Sub Jail PARGI	57	37	56	64.91	98.25
	Sub Jail JOGIPET	37	8	4	21.62	10.81
	Sub Jail MEDAK	27	18	19	66.67	70.37
	Sub Jail SIDDIPET	25	19	23	76.00	92.00
	Sub Jail NAGARKURNOOL	90	16	11	17.78	12.22
	Sub Jail KALWAKURTHY	17	2	8	11.76	47.06
	Sub Jail BHONGIR	25	11	19	44.00	76.00
	Sub Jail DEVARAKONDA	27	9	17	33.33	62.96
	Sub Jail HUZURNAGAR	104	12	12	11.54	11.54
	Sub Jail MIRYALAGUDA	50	9	29	18.00	58.00
	Sub Jail SURYAPET	15	28	16	186.67	106.67
	Sub Jail LAXETTIPET	25	30	9	120.00	36.00
	Sub Jail KAMAREDDY	10	13	25	130.00	250.00
	Sub Jail HUZURABAD	43	8	11	18.60	25.58
	Sub Jail YELLANDU	25	4	0	16.00	0.00
	Sub Jail SATHUPALLI	40	11	11	27.50	27.50
	Sub Jail MADHIRA	24	6	3	25.00	12.50
	Sub Jail JANGAON	40	5	13	12.50	32.50
	Sub Jail PARKAL	40	8	16	20.00	40.00
	Sub Jail MAHABUBABAD	100	16	23	16.00	23.00
	TOTAL	7835	5967	5572	76.16	71.12
Tripura	KENDRIYA SANSODHANAGAR / BLG (including female block)	1000	576	543	57.60	54.30

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	UDAIPUR District JAIL	156	82	49	52.56	31.41
	KAILASAHAR DISTRICT JAIL	120	83	54	69.17	45.00
	SONAMURA SUB JAIL	135	38	60	28.15	44.44
	KAMALPUR SUB JAIL	102	59	60	57.84	58.82
	DHARMANAGAR SUB JAIL	57	84	47	147.37	82.46
	KHOWAI SUB JAIL	108	67	52	62.04	48.15
	KANCHANPUR SUB JAIL	135	8	31	5.93	22.96
	LONGTHARAI VALLEY SUB JAIL	135	7	15	5.19	11.11
	GANDACHERRA SUB JAIL	135	6	5	4.44	3.70
	SABROOM SUB JAIL	54	0	0	0.00	0.00
	AMARPUR SUB JAIL	56	0	23	0.00	41.07
	BELONIA SUB JAIL	55	57	48	103.64	87.27
	TOTAL	2248	1067	987	47.46	43.91
Uttar Pradesh	Central Jail, NAINI	2060	3983	4238	193.35	205.73
	Central Jail, VARANASI	1266	1705	1699	134.68	134.20
	Central JAIL, FATEHGARH	1574	2208	2177	140.28	138.31
	Central JAIL, BAREILLY	1799	2143	2148	119.12	119.40
	Central JAIL, AGRA	1350	1988	1931	147.26	143.04
	District JAIL, AGRA	1135	2955	2536	260.35	223.44
	District JAIL, FIROZABAD	840	1470	1544	175.00	183.81
	District JAIL, MAINPURI	498	1142	1384	229.32	277.91
	District JAIL, MATHURA	554	1523	1497	274.91	270.22
	District JAIL, ALIGARH	1148	2804	2803	244.25	244.16
	District JAIL, ETAH	607	1185	1145	195.22	188.63
	District JAIL, KASGANJ	1050	733	688	69.81	65.52
	District JAIL, JHANSI	536	1130	1137	210.82	212.13
	District JAIL, LALITPUR	122	435	402	356.56	329.51
	District JAIL, ORAI	430	779	730	181.16	169.77
	District JAIL, BAREILLY	3558	2665	2726	74.90	76.62
	District JAIL, BADUAN	529	1365	1386	258.03	262.00
	District JAIL, SHAHJAHANPUR	511	1350	1370	264.19	268.10
	District JAIL, PILIBHIT	602	899	837	149.34	139.04
	District JAIL, MURADABAD	717	2974	3198	414.78	446.03
	District JAIL, RAMPUR	450	913	990	202.89	220.00
	District JAIL, BIJNOR	580	1032	1018	177.93	175.52
	District JAIL, LUCKNOW	3540	3072	3303	86.78	93.31
	District JAIL, RAEBARELI	486	1021	1130	210.08	232.51
	District JAIL, UNNAO	650	1043	1116	160.46	171.69

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	District JAIL, HARDOI	748	1507	1625	201.47	217.25
	District JAIL, SITAPUR	969	1584	1709	163.47	176.37
	District JAIL, KHERI	725	1416	1423	195.31	196.28
	District JAIL, KANPUR	1245	2315	2302	185.94	184.90
	District JAIL, KANPUR DEHAT	1050	1569	1565	149.43	149.05
	District JAIL, ETAWAH	610	1611	1625	264.10	266.39
	District JAIL, FATEHGARH	846	903	904	106.74	106.86
	District JAIL, KANNAUJ	660	717	728	108.64	110.30
	District JAIL, BULANDSHAHR	890	1937	1948	217.64	218.88
	District JAIL, MEERUT	1707	2387	2803	139.84	164.21
	District JAIL, BAGHPAT	660	703	741	106.52	112.27
	District JAIL, GHAZIABAD	1704	4754	4189	278.99	245.83
	District JAIL, GAUTAM BUDDH NAGAR	3750	2703	2448	72.08	65.28
	District JAIL, SAHARANPUR	533	1599	1566	300.00	293.81
	District JAIL, MUZAFFARNAGAR	870	2138	2223	245.75	255.52
	District JAIL, FATEHPUR	670	1305	1242	194.78	185.37
	District JAIL, PRATAPGARH	458	823	1073	179.69	234.28
	District JAIL, VARANASI	747	2006	1814	268.54	242.84
	District JAIL, GHAZIPUR	397	739	802	186.15	202.02
	District JAIL, JAUNPUR	320	1174	1193	366.88	372.81
	District JAIL, MIRZAPUR	332	619	652	186.45	196.39
	District JAIL, SONBHADRA	550	887	966	161.27	175.64
	District JAIL, GYANPUR	114	270	327	236.84	286.84
	District JAIL, BANDA	567	803	821	141.62	144.80
	District JAIL, CHITRAKOOT	862	593	575	68.79	66.71
	District JAIL, HAMIRPUR	400	655	676	163.75	169.00
	District JAIL, GORAKHPUR	822	1556	1576	189.29	191.73
	District JAIL, MAHARAJ GANJ	550	804	861	146.18	156.55
	District JAIL, DEORIA	533	1481	1467	277.86	275.23
	District JAIL, BASTI	540	1131	1140	209.44	211.11
	District JAIL, SIDDHARTH NAGAR	540	671	759	124.26	140.56
	District JAIL, FAIZABAD	720	1061	968	147.36	134.44
	District JAIL, AMBEDKAR NAGAR	971	554	603	57.05	62.10
	District JAIL, BARABANKI	960	1213	1215	126.35	126.56
	District JAIL, SULTANPUR	443	929	1040	209.71	234.76
	District JAIL, BAHRAICH	540	1084	1353	200.74	250.56

State	Name and Type of the Prison (including temporary prisons)	Capacity of the Prison	Population as on 1 April 2020	Population as on 30th June 2020	Occupancy Rate as on 1st April	Occupancy Rate as on 30th June
	District JAIL, GONDA	508	814	829	160.24	163.19
	District JAIL, BALRAMPUR	420	360	350	85.71	83.33
	District JAIL, AZAMGARH	1244	1331	1770	106.99	142.28
	District JAIL, MAU	540	540	635	100.00	117.59
	District JAIL, BALLIYA	339	775	761	228.61	224.48
	District JAIL, KAUSHAMBI	420	721	811	171.67	193.10
	SUB JAIL, DEOBAND	131	0	190	0.00	145.04
	SUB JAIL, MAHOBA	175	323	287	184.57	164.00
	ADARSH JAIL, LUCKNOW	600	443	434	73.83	72.33
	NARI BANDI NIKETAN	420	218	238	51.90	56.67
	KISHORE SADAN BAREILLY	188	0	0	0.00	0.00
	TOTAL	60580	96243	98360	158.87	162.36
Uttarakhand	Central JAIL, Sitarganj	552	674	660	122.10	119.57
	Open JAIL, Sitarganj	300	45	46	15.00	15.33
	Sub JAIL, Haldwani	382	1166	1142	305.24	298.95
	District JAIL, Chamoli	209	81	69	38.76	33.01
	District JAIL, Haridwar	904	1175	1165	129.98	128.87
	District JAIL, Nainital	71	130	92	183.10	129.58
	District JAIL, ALMORA	152	172	162	113.16	106.58
	District JAIL, TEHRI	160	179	152	111.88	95.00
	Sub JAIL, Roorkee	244	413	341	169.26	139.75
	District JAIL, Dehradun	580	1205	1038	207.76	178.97
	District JAIL, Pauri	150	150	120	100.00	80.00
	TOTAL	3704	5390	4987	145.52	134.64
Andaman & Nicobar Islands		269	237	268	88.10	99.63
Chandigarh		1120	940	744	83.93	66.43

ANNEXURE - IV

State-wise and category-wise information on the class of prisoners determined by State HPCs for release

S. No.	Name of the State/ UT	Categories of Undertrials determined for release by the HPC	Categories of Convicts determined for release by the HPC
1	Andhra Pradesh	<ol style="list-style-type: none"> Those arrested for offences for which the maximum sentence prescribed is not more than 7years Those eligible for release under the provision of S. 436A of the CrPC 	<ol style="list-style-type: none"> Those convicted for offences for which the maximum sentence prescribed is not more than seven (7) years Those who have already spent the maximum sentence imposed by the trial Court so that they may be released forthwith.
2	Bihar	N/P	N/P
3	Chhattisgarh	<p>A prisoner, whether undertrial or convicted in a:</p> <ol style="list-style-type: none"> Case triable by Magistrate of First class or Second class and punishable with imprisonment of 7 years or less with or without fine, languishing in jail for a period of three months or more¹⁸¹ Should be a resident of Chhattisgarh 	
4	Goa	<ol style="list-style-type: none"> Those who are charged with offence punishable up to 7 years or less with or without fine 	<ol style="list-style-type: none"> Those who have been sentenced to imprisonment up to 7 years or less with or without fine. The extension of parole terms of convicts already out on parole to be co-terminus to the lockdown.
5	Gujarat	<ol style="list-style-type: none"> who are accused of offences with maximum sentence of 7 yrs or less with or without fine and the case is exclusively triable by the Judicial Magistrate. who are accused of offences with maximum sentence of 7 yrs or less and who are granted bail by the competent criminal court but not released due to inability to furnish bond or execute surety detained under Chapter VIII of the CrPC i.e. u/s 107, 108, 109 and 151 of Cr.PC. who are accused of offences with maximum sentence of 7 yrs or less and are of unsound mind 	<ol style="list-style-type: none"> extension of period of parole and furlough for those who are already on parole and furlough leave <p>Civil Prisoners</p> <ol style="list-style-type: none"> who have failed to honour the order of maintenance passed u/s 125 of the CrPC or in other matrimonial proceedings to be released with or without condition/s who were imprisoned for flouting or disobedience of the order passed by the Civil Courts

¹⁸¹ Changed to 3 weeks or more for male undertrial prisoner and 2 weeks or more for female undertrial prisoner; removed the cut-off date for completion of 3 weeks for male convict prisoners and 2 weeks for female convict prisoners

6	Haryana	<ol style="list-style-type: none"> 1. Those with only one undertrial case pending, in which maximum prescribed sentence is 7 years or less 2. Those with two undertrial cases pending, in which maximum prescribed punishment in both cases is 7 years or less 3. Those who are in judicial custody awaiting filing of challan and have been booked for any offence punishable for imprisonment up to 7 years by the concerned local Police Stations and not concerned in any other case may be released on interim bail 	<ol style="list-style-type: none"> 1. Extension of Parole for those who are already on Parole 2. who have already availed one parole or one furlough peacefully and surrendered in time to be granted fresh one-time special parole on the same set of sureties if sureties give their consent for fresh parole 3. Those who are above the age of 65 years may be granted special parole 4. Those who have no pending trial cases and sentences for 7 years or less, with or without fine may be considered for expeditious parole 5. Those sentenced in one case for 7 years or less, with or without fine, and having one or more undertrial cases, if the prisoner has availed last one parole peacefully and should be on bail in undertrial case/s 6. Convict prisoners of simple offences or prisoners falling under the category of hard-core prisoners for single offence whose 1st Parole/furlough case was sanctioned by the sanctioning authority after completing the requisite conditions and their parole/furlough has been granted by the competent authority but they could not furnish the surety/security to the District Magistrate concerned in the prescribed time as mentioned in the Temporary Release Warrant 7. Those who have undergone their substantive sentences and undergoing sentence for non-payment of fine and are not involved in any other case 8. Whose sentence is up to seven years but they are also convicted in multiple cases. However they have already undergone/acquitted or sentenced for fine only, in all other matters and undergoing sentence in last case with no other undertrial case_ <p>Civil Prisoners/Simple Imprisonment Prisoners</p> <ol style="list-style-type: none"> 1. Those who are detained in the prison in family court matters wherein person is in custody for non-payment of maintenance u/s 125 Cr.P.C. either in pending case or in execution
7	Himachal Pradesh	<ol style="list-style-type: none"> 1. First time offenders 2. Have been arrested or are facing trial for an offence punishable up to 7 year or less 3. The case is triable by Magistrate, and 4. They are in custody for last three months or more 5. The Undertrial Prisoners should be the residents of Himachal Pradesh 	<ol style="list-style-type: none"> 1. With imprisonment up to 7 years 2. Release under S.432 of CrPC (suspension or remission of sentence)
8	Jharkhand	N/P	N/P

9	Karnataka	<ol style="list-style-type: none"> 1. First time offenders and are facing charges for punishment of less than 7 years (based on the decision of the District Level Committee) 2. Those who were granted bail but were not released because of inability to furnish surety 3. Those detained under Chapter VIII of CrPC i.e., u/ s107, 108, 109, 151 of CrPC 4. Those facing trial with an imprisonment up to seven years or less, is of unsound mind and needs to be dealt under Chapter XXV of CrPC 5. Those who have failed to honour the order of S.125 of CrPC or in other matrimonial proceedings may be in jail and may be released with or without conditions 	<ol style="list-style-type: none"> 1. Those who were undergoing imprisonment for less than 7 years (based on the decision of the District Level Committee) 2. Those who were undergoing imprisonment more than 7 years and less than 14 years (based on the decision of the HPC) 3. Extension of period of parole for those who were already on parole <p>Civil Prisoners</p> <ol style="list-style-type: none"> 1. Those who were undergoing civil imprisonments in connection with disobeying the orders of Civil Courts shall also be considered for release
10	Kerala	N/P	N/P
11	Maharashtra	<ol style="list-style-type: none"> 1. Who have been booked/charged for offences for which the maximum punishment is 7 years or less 2. Who have been charged for the offences punishable for 7 years or more 	<ol style="list-style-type: none"> 1. Maximum punishment is 7 years or less 2. Maximum sentence is above 7 years and if convict has returned to prison on time on last 2 releases (on parole/furlough)
12	Manipur	<ol style="list-style-type: none"> 1. For those in prison for heinous crimes, if bail has been granted but could not furnish the bond. 2. For less serious offences, if they had been in prison for more than the statutory period of 4 months, and those who have been granted bail but are in prison due to non-furnishing of surety bonds only. 	<ol style="list-style-type: none"> 1. Cases of four convicts were considered individually
13	Meghalaya	<ol style="list-style-type: none"> 1. Those who are facing trial or are in judicial custody pending investigation, for an alleged offence(s) where the punishment prescribes sentences of 7 years or less. 2. Those who have been granted bail but could not furnish bail bonds. 3. Even if they have more than one case and in all other cases, he/she is "on bail" except the one for which he is being considered and the same prescribes punishment for 7 (seven) year or less 	<ol style="list-style-type: none"> 1. Those who had been sentenced for 10 years and had already completed 9.5 years including regular remission could be considered for 6 months special remission of sentence by the Home department. 2. Those who were sentenced for 7 years or more, but less than 10 years and were left with only five months to complete the sentence could be considered for 5 months special remission of sentence. 3. Those who were sentenced for 5 years or more but less than 7 years and were left with 4 months to complete the sentence could be considered for 4 months special remission of sentence. 4. Those who were sentenced for 3 years or more but less than 5 years and were left with only 3 months to complete the sentence could be considered for 3 months special remission of sentence. 5. Those who were sentenced for 1 year or more but less than 3 years and were left with only 2 months to complete their sentence could be considered for 2 months special remission of sentence.

14	Mizoram	<ol style="list-style-type: none"> 1. For offences for which the prescribed punishment is up to 7 years, with or without fine. 2. Who are of ill health and/or old, with special preference to those with respiratory problems, high blood pressure and diabetes as they are more vulnerable to the effects of the COVID-19 virus. 	<ol style="list-style-type: none"> 1. Remission of sentence for convicts whose sentence are up to 10 years and whose cases can be considered for remission of sentences. 2. Who has not been given a sentence of more than 10 years under the NDPS Act, i.e. where the seized contraband does not involve commercial quantity. 3. Those sentenced under Section 27 of the NDPS Act Extension of their special parole for eight weeks, for those who are already on Parole or Furlough. 4. Who are of ill health and/or who are old in age, with special preference to those with respiratory problems, high blood pressure and diabetes as they are more vulnerable to the effects of the COVID-19 virus. 5. Who are sentenced for a period of 7 years or less, with or without fine and an appeal has been preferred by the convict
15	Nagaland	<ol style="list-style-type: none"> 1. Those who are facing trial in a case which prescribes a maximum sentence of 7 year or less 2. Those who have more than one case and have bail in all cases except the one where the prescribed punishment is for 7 years or less 	N/P
16	Odisha	<ol style="list-style-type: none"> 1. Those involved in offences for which the prescribed punishment up to 7 years or less, with or without fine 	<ol style="list-style-type: none"> 1. Those who have no pending undertrial cases and sentenced for term of 7 years or less, with or without fine. 2. Those who have been sentenced in one case for 7 years or less, with or without fine, and having one or more undertrial cases, and have availed last one parole peacefully and should be on bail in undertrial case(s) 3. Those who are already on parole or furlough, their special parole may be extended as per discretion of competent authority. 4. Those who are above the age of 65 years (except those involved in multiple cases or convicted under NDPS Act or POCSO Act or for rape and sexual offences or acid attack or those who are foreign nationals) 5. Those of 70 years of age or more and vulnerable to the possibility of contracting COVID-19 infection, granting of parole may be considered by the competent authority. 6. Those who have already undergone/ completed sentence for a period of 10 years and above in Jails in Odisha.

17	Punjab	<ol style="list-style-type: none"> Those in custody up to two undertrial cases pending, in which maximum prescribed punishment in both cases is 7 years or less Those aged 65 years and above and have up to two undertrial cases pending, in which the maximum prescribed punishment in both cases is 10 years or less Those in custody for offences where the maximum prescribed sentence is up to 10 years and suffering from chronic diseases and pre-existing conditions as follows (which shall be determined as per the report of the jail Medical Officer and further certified by an SMO or the CMO) - <ol style="list-style-type: none"> Chronic Diabetes HIV Serious neurological issues (not simple depression) Chronic lung disease Severe Asthma Serious Heart condition Pregnant women may also be considered <i>(This was later expanded on 2 May 2020 to include all undertrial prisoners)</i> Those in custody under S.107 or S.151 of CrPC may be considered for release on bail by the concerned Executive Magistrate immediately Those under S.326 IPC and 307 IPC which are not of serious nature. Those in NDPS Act cases arrested for small quantity violations (further relaxed for intermediate quantity violations with exceptions and further relaxed to all undertrials other than those under custody in commercial quantity cases with exceptions) Cases where either only S.379 has been imposed or in case of other sections which have a maximum prescribed punishment up to 7 years S.324 and 325 IPC S.498-A IPC S.406 and 420 IPC Cases under Excise Act All cases under S.354 IPC except those where the victim was below 15 years of age or any section of POCSO Act had been applied. Those under S. 307 IPC and 304 IPC, except those where a fire-arm had been used by the accused, involved an attempt on life of a govt servant while on duty, cases associated with criminal gangs, extortion, terrorist or organised crime, where the injured victim is still in hospital S.379 IPC, S.406, 420 IPC, S. 452 IPC, S.323 or 324 IPC, S.188 IPC, S.336 IPC, NI Act, DM Act, S.316 IPC, S.279, 337, 338, 427 IPC, S.170 IPC, S.315 IPC, S. 498A IPC S.457, 380 IPC - to be considered on a case-to-case basis, where the accused is not a habitual offender and the amount involved is not very high. 	<ol style="list-style-type: none"> Those not having any pending undertrial cases and sentenced up to 7 years, with or without fine Those sentenced in one case up to 7 years, with or without fine, and having up to two undertrial cases, and is on bail in undertrial cases, and has availed the last parole peacefully Those sentenced up to 10 years and suffering from chronic diseases or pre-existing conditions as follows (which shall be determined as per the report of the jail Medical Officer and further certified by an SMO or the CMO) - <ol style="list-style-type: none"> Chronic Diabetes HIV Serious neurological issues (not simple depression) Chronic lung disease Severe Asthma Serious Heart condition Pregnant women may also be considered <i>(This was extended to all convicts who were suffering from these and were under treatment for the same for at least 1 year prior to the date of release)</i> Those aged 65 years and above - <ol style="list-style-type: none"> Having no pending undertrial cases and sentenced up to 10 years, with or without fine Sentenced in one case up to 10 years, with or without fine, and having up to two undertrial cases, and is on bail in the undertrial cases and should have availed the last parole peacefully Extension of parole by six weeks to be granted to prisoners presently on parole. However, the convict has the option of returning to the prison early with the approval of the concerned Superintendent of Jail. Those convicted under NDPS Act, who have been sentenced to 3 years or less - relaxed further for convicts who had been convicted for up to 5 years, with or without fine, who do not have any other case pending against them, and if they had completed at least 75% of the total sentence.
18	Rajasthan	N/P	N/P
19	Sikkim	<ol style="list-style-type: none"> who are accused of offences with maximum sentence of 7 years or less with or without fine who are first offenders who are in custody for the last three months or more 	<ol style="list-style-type: none"> who have only three months of their sentence remaining who have medical conditions
20	Telangana	<ol style="list-style-type: none"> Accused having committed the offences which are bailable and non-bailable offences which are punishable with imprisonment for less than seven years 	<ol style="list-style-type: none"> Convicted for having committed the offences which are bailable and non-bailable offences which are punishable with imprisonment for less than seven years
21	Tripura	<ol style="list-style-type: none"> Those who have been arrested for crimes where the maximum prescribed punishment is 3, 5 and 7 years. 	<ol style="list-style-type: none"> Cases of convicts were considered individually.
22	Uttar Pradesh	<ol style="list-style-type: none"> Those who are facing criminal cases in which maximum sentence is 7 years and presently confined in jails 	<ol style="list-style-type: none"> Those already on parole Those who have already availed 1 parole peacefully and surrendered on time Those who are not facing a sentence of more than 7 years

23	Uttarakhand	1. Offences for which the prescribed punishment is upto seven years or less, with or without fine	<ol style="list-style-type: none"> 1. For offences for which the prescribed punishment is up to seven years or less, with or without fine 2. Where the prisoners has been convicted with less than seven years, even when the maximum prescribed punishment is more than seven years 3. Those convicted with less than seven years of imprisonment with or without fine, under the NDPS Act, 1985 (parameters for release of convicts on parole relaxed on 9 April 2020).
24	West Bengal	<ol style="list-style-type: none"> 1. Those charged with offences punishable for a period up to 7 years 2. Those charged with offences punishable for a period up to 10 years 3. Those having not more than two cases pending in offences punishable for a period of up to 7 years 4. Female inmates aged 60 years or more 5. Those eligible under S. 436A of CrPC 6. Those detained under S.110 of CrPC 7. Those under S.399/S.402 of IPC 8. Those under S. 498A of IPC combined with other sections of IPC (S.325/308/506/S.420/120B of IPC) 9. Those under S.406, S.418, S.419 and S.420 of IPC 10. Those under S.25/S.27 of Arms Act 11. Eligible inmates on a case to case basis 12. Those who are in custody for a single offence to be considered on merits 	<ol style="list-style-type: none"> 1. Those convicted for offences punishable for a period up to 7 years 2. Life convicts who have completed 14 years of actual imprisonment 3. Those of age 60 years and above and not within the excluded category 4. Eligible inmates on a case to case basis
25	Andaman & Nicobar Islands	1. Those involved in offences for which the prescribed punishment up to 7 years or less, with or without fine	
26	Chandigarh	<ol style="list-style-type: none"> 1. First time offenders 2. Arrested and facing trial with only 1 case pending, in which maximum prescribed sentence is 7 years or less 3. The case is triable by Magistrate 4. The accused is in custody for last three months or more 5. Those having 2 or more trial cases pending, in which maximum prescribed punishment in all cases is 7 years or less 	<ol style="list-style-type: none"> 1. Extension of their special parole for eight weeks, for those who are already on Parole or Furlough. 2. Convicts who have already availed one Parole or one Furlough peacefully and surrendered in time may be granted fresh eight-week Special Parole on the same set of sureties if sureties give their consent for special parole and in case new surety is required, then without holding fresh enquiry. 3. Those who are on bail in other cases where they are facing trial to be considered for release on eight week Special Parole, after verification by the office of concerned DM.

27	Delhi	<ol style="list-style-type: none"> 1. First time offenders 2. Those who were arrested or are facing trial for offence punishable up to 7 years 3. Case is triable by Magistrate 4. Had been in custody for the last 3 months or more. (reduced to one month or more on 28 March, and in case of women, if she had been in custody for a period of 15 days or more) <p><u>Note:</u> The HPC agreed to the above four categories which were identified in the orders passed by Division Bench of Hon'ble High Court of Delhi in case titled "Shobha Gupta & Ors. Vs. Union of India & Ors." bearing W.P.(C) No.2945 of 2020 decided on 23.03.2020.</p> <ol style="list-style-type: none"> 5. If they had more than one case and were on bail in all other cases except the one which the prescribed punishment was for 7 years or less 6. Senior citizens more than 60 years of age and were in custody for 6 months or more, facing trial in a case which prescribes a maximum sentence of 10 years or less 7. Those who are less than 60 years of age and are in custody for one year or more, facing trial in a case which prescribes a maximum sentence of 10 years or less 8. Undertrials/Remand prisoners who are in custody for 15 days or more, facing trial in a case which prescribes a maximum sentence of 7 years or less 9. Those who are suffering from HIV, Cancer, Chronic Kidney Dysfunction (UTP requiring Dialysis), Hepatitis B or C, Asthma, and Tuberculosis and were in custody for 3 months or more, facing trial in a case which prescribes a maximum sentence of 7 years or less 10. Those suffering from the above-mentioned illnesses and were in custody for a period of 6 months or more, facing trial in a case which prescribes a maximum sentence of 10 years or less 11. Those suffering from the above-mentioned illnesses and were in custody for a period of 6 months or more, facing trial in a case which prescribes punishment of 10 years up to life imprisonment and were not involved in multiple cases 12. Those facing trial for a case under S.302 IPC and were in jail for more than two years with no involvement in any other case 13. Those facing trial for offence under S.304 IPC and were in jail for more than one year with no involvement in any other case 14. Those facing trial in a case under S.307 or S.308 IPC and were in jail for more than 6 months with no involvement in any other case 15. Those facing trial or were remand prisoners in theft cases and were in jail for more than 15 days 16. Male undertrials above 65 years of age and female undertrials above 60 years of age facing trial in a case except the ones excluded and are in jail for more than 6 months with no involvement in any other case 17. Those who were related as spouse of the deceased, facing trial for a case under S.498A and S.304B IPC and were in jail for more than 2 years with no involvement in any other case. 18. Those who were related as father-in-law, mother-in-law, brothers-in-law, sisters-in-law of the deceased, facing trial for offence under S.498A and S.304B IPC and were in jail for more than one year with no involvement in any other case. 	<p>For special remission of sentence:</p> <ol style="list-style-type: none"> 1. Those who are sentenced for 10 years and have already completed 9 and a half years of custody including regular remission be granted special remission of 6 months 2. Those who are sentenced for 7 years or more but less than 10 years, and are left with only 5 months to complete the sentence be granted special remission of 5 months 3. Those who are sentenced for 5 years or more but less than 7 years, and left with only 4 months to complete the sentence be granted special remission of 4 months 4. Those who are sentenced for 3 years or more but less than 5 years, and left with only 3 months to complete the sentence be granted special remission of 3 months 5. Those who are sentenced for 1 year or more but less than 3 years, and left with only 2 months to complete the sentence be granted special remission of 2 months 6. Those who are undergoing civil imprisonment 7. Those who had completed their substantive sentence (inclusive of regular and special remission granted)
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28	Jammu & Kashmir	<ol style="list-style-type: none"> 1. All undertrial prisoners with only one case pending against them, in which maximum prescribed sentence is 7 years or less with or without fine. 2. Prisoners with advanced age, suffering from any illness may be examined on case to case basis. 3. Those falling under Section 436A CrPC 4. Those accused of compoundable offences 5. Those who were detained under sections 107, 108, 109 and 151 of CrPC 6. Those detained for non-payment of maintenance ordered under Section 488/125 CrPC. 7. Those detained under the Code of Civil Procedure for not obeying the decree/order of the court. 	<ol style="list-style-type: none"> 1. All those who have been convicted in one case only and have spent more than 10 years (eight years in case of women) in jail 2. All those who have been sentenced to imprisonment for three years with or without fine and the conviction has been upheld by the Appellate Court but revision against the judgment by Appellate Court is pending before the Hon'ble High Court 3. All those who have completed their sentence but are still in prison due to non-payment of fine. 4. Prisoners with advanced age, suffering from any illness may be examined on case to case basis.
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CHRI PROGRAMMES

CHRI seeks to hold the Commonwealth and its member countries to high of human rights, transparent democracies and Sustainable Development Goals (SDGs). CHRI specifically works on strategic initiatives and advocacy on human rights, Access to Justice and Access to Information. Its research, publications, workshops, analysis, mobilisation, dissemination and advocacy, informs the following principal programmes:

1. Access to Justice (ATJ) *

* **Police Reforms:** In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as enforcers of a regime. CHRI's programme in India and South Asia aims at mobilising public support for police reforms and works to strengthen civil society engagement on the issues. In Tanzania and Ghana, CHRI examines police accountability and its connect to citizenry.

* **Prison Reforms:** CHRI's work in prisons looks at increasing transparency of a traditionally closed system and exposing malpractices. Apart from highlighting systematic failures that result in overcrowding and unacceptably long pre-trial detention and prison overstay, it engages in interventions and advocacy for legal aid. Changes in these areas can spark improvements in the administration of prisons and conditions of justice.

2. Access to Information

* **Right to Information:** CHRI's expertise on the promotion of Access to Information is widely acknowledged. It encourages countries to pass and implement effective Right to Information (RTI) laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh, Ghana and Kenya. In Ghana, CHRI as the Secretariat for the RTI civil society coalition, mobilised the efforts to pass the law; success came in 2019 after a long struggle. CHRI regularly critiques new legislation and intervenes to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. It has experience of working in hostile environments as well as culturally varied jurisdictions, enabling CHRI bring valuable insights into countries seeking to evolve new RTI laws.

***Freedom of Expression and Opinion -- South Asia Media Defenders Network (SAMDEN):** CHRI has developed a regional network of media professionals to address the issue of increasing attacks on media workers and pressure on freedom of speech and expression in South Asia. This network, the South Asia Media Defenders Network (SAMDEN) recognises that such freedoms are indivisible and know no political boundaries. Anchored by a core group of media professionals who have experienced discrimination and intimidation, SAMDEN has developed approaches to highlight pressures on media, issues of shrinking media space and press freedom. It is also working to mobilise media so that strength grows through collaboration and numbers. A key area of synergy lies in linking SAMDEN with RTI movements and activists.

3. International Advocacy and Programming

Through its flagship Report, *Easier Said Than Done*, CHRI monitors the compliance of Commonwealth member states with human rights obligations. It advocates around human rights challenges and strategically engages with regional and international bodies including the UNHRC, Commonwealth Secretariat, Commonwealth Ministerial Action Group and the African Commission for Human and People's Rights. Ongoing strategic initiatives include advocating for SDG 16 goals, SDG 8.7 (see below), monitoring and holding the Commonwealth members to account and the Universal Periodic Review. We advocate and mobilise for the protection of human rights defenders and civil society spaces.

4. SDG 8.7: Contemporary Forms of Slavery

Since 2016, CHRI has pressed the Commonwealth to commit itself towards achieving the United Nations Sustainable Development Goal (SDG) Target 8.7, to 'take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.' In July 2019 CHRI launched the Commonwealth 8.7 Network, which facilitates partnerships between grassroots NGOs that share a common vision to eradicate contemporary forms of slavery in Commonwealth countries. With a membership of approximately 60 NGOs from all five regions, the network serves as a knowledge-sharing platform for country-specific and thematic issues and good practice, and to strengthen collective advocacy.



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