

26-03-2020

To,

The Chief Justice of Karnataka,

Hon'ble Justice Shri Abhay Shreeniwas Oka,

High Court of Karnataka

Sub: a) Request for immediate measures to be taken in line with the World Health Organization Guidelines (WHO) to prevent the spread of COVID-19 virus in the Prisons and other similar detention centres established across the State of Karnataka.

Respected Sir,

The Prisons Forum, Karnataka thanks the Department of Prisons for their preliminary response to prevent the threat of COVID 19 within the prisons in Karnataka. The Forum extends its appreciation and gratitude to the Department for being one of the first to step up to the challenge that lies ahead of us all, by incorporating measures such as restricting visits to inmates, manufacturing and distribution of masks to prisoners, enhancing the maintenance of hygiene and cleanliness within the prisons, etc.

The **World Health Organisation (WHO)** has in its **interim guidance**, dated **15th March 2020**, titled '**Preparedness, Prevention and Control of Covid-19 In Prisons and Other Places of Detention**', rightly pointed out that "People deprived of their liberty, such as prisons, are likely to be more vulnerable to various diseases and conditions. The very fact of being deprived of liberty generally implies that people in prisons and other places of detention live in close proximity with one another, which is likely to result in a heightened risk of person-to-person and droplet transmission of pathogens like COVID-19. In addition to demographic characteristics, people in prisons typically have a greater underlying burden of disease and worse health conditions than the general population, and frequently face greater exposure to risks

such as smoking, poor hygiene and weak immune defence due to stress, poor nutrition, or prevalence of coexisting diseases, such as bloodborne viruses, tuberculosis and drug use disorders”

The WHO has also asked countries to increase the level of preparedness, alert and response to identify, manage and care for new cases of COVID-19. They have emphasised on the need for a contingency plan to ensure that there is an adequate health response and maintaining secure, safe and humane detention settings. Additionally, within their human rights framework, few of the principles that the WHO has reiterated are:

- 1) The provision of health care for people in prisons and other places of detention is a **State responsibility**.
- 2) People in prisons and other places of detention should enjoy the same standards of health care that are available in the outside community, **without discrimination on the grounds of their legal status**.
- 3) Adequate measures should be in place to ensure a **gender-responsive approach** in addressing the COVID-19 emergency in prisons and other places of detention.
- 4) Prisons and other detention authorities need to ensure that the human rights of those in their custody are respected, **that people are not cut off from the outside world, and most importantly – that they have access to information and adequate health care provision**.
- 5) Enhanced consideration should be given to **non-custodial measures**.
- 6) **Screening** at the stage of admissions
- 7) Assurance that **continued contact with family and relatives will be upheld** in order to **boost the emotional and psychological support** and to contain psychological and behavioural reactions likely to occur due to physical distancing from the outside world.

In view of the present serious epidemic of corona virus, it becomes very important that each public institutions be reviewed and proper measures and immediate steps are taken to prevent the spread of virus. One such public institute which requires immediate attentions and steps to be taken are the Prisons established throughout the State of Karnataka. Moreover attention also needs to be given to Juvenile Homes, Observation Homes, Rescue Homes and any other such closed institutions within the State of Karnataka.

In furtherance of COVID 19 pandemic, and its possibility of having serious implication on the prison inmates across the country, Hon'ble Supreme Court of India, in its Suo Motu Writ Petition (Civil) No. 1/2020 has directed for constitution of a High Powered Committee at every State and Union Territory, comprising of:

- Chairman of the State Legal Services Committee,
- Principal Secretary (Home/Prison) by whatever designation is known as,
- Director General of Prison(s),

The said High Powered Committee has complete discretion in order to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought. However, the Hon'ble Apex in its order dated 23/03/2020 did provide certain guidelines to be considered including:

- 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.
- nature of offence,
- 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.

As on the date of this appeal to the concerned authorities enlisted, the Government of Kerala has constituted a High-Level Committee to recommend grant of parole/interim bail to de-congest prisons. Additionally, the Kerala High Court has directed the police not to make arrests except where it is inevitable. Similarly, the Delhi Government has inserted provision of "Emergency Parole" in the Delhi Prison Rules 2018 to provide up to 8 weeks parole in one spell to inmates in situations like an epidemic, natural disaster or any other situation warranting easing of population of inmates in prison. *(All connected documents are annexed for your perusal).*

In lieu of the interim guidance given by the WHO, the rulings of the Supreme Court and taking from the examples of Kerala and Delhi, the Prisons Forum Karnataka, requests the kind consideration of the concerned authorities to the following recommendations:

1. To speed up the process of constituting the High-Level Committee for the state of Karnataka, so that prisoners (undertrials and convicts) eligible for release as per the Supreme Court orders can be shortlisted and the release process complete to decongest the prisons in the state.
2. To additionally bring to completion the process of premature release of prisoners who have been shortlisted by the due process (a few months ago) and is now at the stage of Government's final approval for the release.
3. To provide additional health care teams for each of the prisons in the State, so that every assistance for prevention can be rendered to existing staff of the Department of Prisons and to the medical staff within each of the prisons.
4. To make available adequate equipment for a thorough screening of prisoners, particularly at the time of their admission to the prison.
5. To make available materials such as disinfectants, chlorine powder, soaps and any other such material so that sanitation is enhanced in every nook and corner of the prison.

6. To ensure regular supply of water to the prisons across the state so that personal hygiene and preventive steps, particularly washing of hands is not compromised at any cost.
7. To provide adequate resource support to the staff for their own health and well-being.
8. To ensure total quarantine for new admissions, for a minimum period of two weeks to twenty days (the incubation period of the virus).
9. To create a task force containing both the staff and the Convict prisoners to provide assistance required for various preventive measures within the prison.
10. To enhance non-contact communication by increasing the duration of the phone calls made by the prisoners especially to their family members.
11. To restrict visits and strictly regulate general contacts as far as possible, especially with those entering the prison from outside.
12. To provide facilities of video conference and other modes of telecommunication to the inmates in different prisons across the State and to the children in conflict with law lodged in juvenile homes, observation homes.
13. To inform the family members of the prisoners who are released by the said constituted High Powered Committee, so that they are able to reach their place of residence safely. Further, if it is not possible for the said family members to receive their members from the prisons, then travel facilities have be provided to the released prisoners by the Department, along with a pass indicating their release, so that they are not subject to excesses by the police on their way home.
14. To make the health care guidelines provided by the WHO, accessible in the local language (s) via posters, regular announcements, radio announcements (wherever available) within prisons and other closed institutions.

The Prison Forum, Karnataka request the concerned authorities to consider the above recommendations for the prisons as well as the Juvenile Homes, Observation Homes and any other such detention facilities across the State. It is our belief that it is only through quick action and joint efforts that we will be able to safeguards our people and our facilities and come victorious on the other side.

The Prisons Forum is willing to provide volunteers for any assistance that may be required by the Departments concerned to further to cause of protecting and safeguarding the people in **prisons and various other closed institutions/ detention centers across the State.**

With hope that we will come out victorious on the other side!

Prisons Forum Karnataka

The contact details of the members of the Prisons Forum Karnataka are mentioned below:

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(On Behalf of Prisons Forum Karnataka)

All information related to the Forum is available at www.prisonforum.in.

Annexures:

- 1) Preparedness, Prevention and Control of COVID-19 in prisons and other places of detention, WHO, Interim Guidance, 15 March 2020
- 2) Document on specific sanitation measures for prevention of COVID-19
- 3) Supreme Court Order on prisons vis-à-vis prevention of COVID-19 in prisons in India
- 4) News article on initiatives by various governments
- 5) News article on measures taken by the High Court of Kerala & the Government of Kerala