Respecting Human Rights while Enforcing the Lockdown:

Guidelines for Police

March 2020
RESPECTING HUMAN RIGHTS WHILE ENFORCING THE LOCKDOWN

GUIDELINES FOR POLICE

“COVID 19 is a test of societies, of governments, of communities and of individuals. It is a time for solidarity and cooperation to tackle the virus, and to mitigate the effects, often unintended, of measures designed to halt the spread of COVID 19. Respect for human rights across the spectrum, including economic and social rights, and civil and political rights, will be fundamental to the success of the public health response”.¹

United Nations Office of the High Commissioner for Human Rights

Aim

These guidelines propose actionable measures to assist police departments across India to implement the critical task of enforcing the current nationwide lockdown within the Constitutional framework. This requires the police to approach its mandate in a humane, transparent, accountable and non-discriminatory manner, in the spirit of service, always respecting the human rights of the population.

Nationwide Lockdown

Starting 25th March 2020, the Prime Minister of India announced a 21-day nationwide lockdown in the wake of the worldwide pandemic caused by the rapid spread of the COVID-19 or Coronavirus. This necessitates the estimated 1.3 billion people of India to be ordered to be confined indoors and take major precautionary measures in everyday life. It has compelled the curtailment of the fundamental rights to movement, assembly, livelihood, and education. Only the most essential services designated by the Central and state governments are allowed to operate. While the lockdown has caused widespread disruption, fear and anxiety across all segments of society, it disproportionately debilitates the poor and vulnerable. Starvation and homelessness are a looming reality for lakhs of people left without wages. The police too are under severe strain, and face overwhelming structural and resource constraints and challenges. They are required to act in public service while facing the very tensions to their own health and the safety of their loved ones.

Unfortunately these early days of the nationwide lockdown has witnessed large-scale suffering, compounded by an insensitive and often brutal response by state authorities. Police brutality - writ large in videos virtually from all states across the country - has

dehumanised the state response. Taking notice *suo moto* and calling for judicial intervention, the High Court of Kerala will monitor all State action in Kerala during the lockdown period:

“While we have come across an abundance of material in the print and social media, that would lead us to believe that exemplary work is being done by the health authorities as well as by the police personnel, we cannot turn a blind eye to some of the other material that has been published in the print, electronic and social media in the past week, that would point to excesses committed by the police personnel in the course of discharge of their duties. We have also to allay the fear among the citizenry as regards infringement of their fundamental rights. We are therefore of the view that the implementation of the lockdown in this State, by the Central or State authorities, must be under the watchful eyes of the Judiciary and, towards this end, we deem it appropriate to institute this *suo moto* proceeding to monitor State action during this lockdown period”.

At this time of collective hardship, the populace at large is looking to the police for professionalism, protection, assistance and guidance. The police have a distinct role in making sure the lockdown is adhered to with minimum hardship to all communities, and need to build a secure base of public trust and support. In tandem, the police are the key ground-level liaison point for essential services providers going about their work and keeping supply chains in motion. All police actions need to be done in the spirit of public service with accommodation, empathy and an abiding respect for rights and human dignity; while ensuring all precautions to guard against the spread of the virus. It is only this that can calm fear, clear confusions, and build trust and solidarity. Honouring these underlying principles will ensure success in getting through both this unprecedented lockdown and public health crisis.

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3 It is hoped other state High Courts will take on this important role of monitoring during the lockdown.

GUIDELINES

CHRI recommends the following measures as guidelines to all state police departments.

Lockdown Management Plan

The police leadership in every state needs to develop a holistic Lockdown Management Plan (hereafter the Plan) at the earliest. The Plan should frame the policing approach. It must be designed to equip police officers to understand their role in enforcing the lockdown without highhandedness, and enable operational decision-making and action to be swift, reasonable, fair and accessible. It can provide practical guidance for all aspects of the operational response - including managing the public, facilitation of essential services, minimal use of force, curtailed arrests, measures to reach out to vulnerable groups, protective measures to prevent the spread of the virus; as well as internal reporting, supervision, accountability, and communication requirements, at all levels, to ensure police on the ground are well informed and accountable. For targeted results, states may develop a separate plan for rural and urban areas, as need be.

It may be written as a Standing Operating Procedure (SOP) – concise, clear, and well organized, with specific practical steps for field implementation. To ensure it reaches the hands of all personnel, particularly those at field-level, the Plan can be published as easy-to-refer checklists and/or pocket books which can be circulated as paper copies and/or, for ease of access, digitally on mobile phones and computers in the language of the state, as well as the link languages of Hindi and English where possible. As department-wide operational guidance, it should be uploaded on state/district police websites, displayed in various police units particularly police stations, and available with mobile patrolling units. Taking all measures to make the Plan easily accessible to the public can raise public awareness and enable public cooperation with the police.

With the need to abide by physical distancing and restrictions on gatherings of people, as well as all police time taken up by the urgent handling of the current crisis, it is recognized that instituting special training on the Plan will be difficult at this time. As an alternative, supervising officers, particularly district police chiefs, police stations in charge, and heads of units, can hold targeted sessions at their levels to orient their staff on the Plan and its provisions.

While police leaders are best placed to frame a holistic plan within local contexts, CHRI urges that the following areas are included in every plan through actionable measures elaborated below.

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5 CHRI takes note of the briefing paper circulated by the Indian Police Foundation to the Offices of all state Director Generals (DGs) of Police, Police Commissioners of metro cities and DGs of central paramilitary forces advising the preparation of a ‘Pandemic Preparedness Plan’. The drafting of these guidelines are our effort to lend support to all the various efforts to assist and support police departments in shaping the needed responses to the current challenges before them.
Summary of Measures

Protective Measures Against Covid-19
Like other essential service providers, the nature of their work places police personnel at great risk of contracting the virus, and thus spreading it. It is vital that all police, especially those in police stations and out on the streets, strictly adopt protective measures at all times. Police officers overseeing lock-ups must ensure protective measures for all persons in custody.

Guidance on Minimised Use of Force
In the midst of unprecedented restrictions on people’s daily lives, the use of force by police as a means to enforce the lockdown must be prohibited. Non-violent means must be devised and implemented.

Facilitating Access to Essential Service Providers and Full Cooperation with Service Providers
The police are the crucial liaison point between people and essential services. This not only ensures the smooth conduct and delivery of essential services, it can save lives. This is a critical component of the police role and must be prioritised.

Specific Protocol on Stop, Verify and Assist
It will smoothen the police’s job in regulating and assisting people found on the streets to have a simple, practical, easily implementable protocol to refer to in terms of questions to ask and possible responses.

Guidance on Curtailed Arrests and Detention
To prevent unnecessary detention, it is urged that there is no arrest or detention for alleged violations of the lockdown. In line with the critical need to ensure people, and police personnel, are not put in danger of contracting the virus by being in close proximity in custody, the police should curtail all arrests and detention as far as possible.

Accountability for Police Misconduct
There must be firm action against any police personnel found deviating from, abusing, and/or violating established procedures and principles governing lockdown management, particularly on use of force, arrest, detention, and managing the public and essential services.

Special Measures to Protect Vulnerable Groups
Certain vulnerable groups face immense difficulties accessing assistance and services, which will only be amplified during the lockdown. It is crucial to identify people and groups who may be at risk of coming into harm and/or of being further marginalised, due to the restrictions on movement and interaction.

Ensuring a Non-Discriminatory Response
The police must be non-discriminatory in its response and be vigilant to monitor for and stem any instances of discrimination.

Regular and Clear Communication; both Internally across all levels, and with the Public
There must be consistent, concerted communication within the police, across the ranks; and with the public, throughout the duration of the lockdown, of the lockdown management plan, developments, measures to be taken, and assurances by police leaders.
I. **Protective Measures Against Covid-19**

Like other essential service providers, the nature of their work places police personnel at great risk of contracting the virus, and thus spreading it. It is vital that all police, especially those in police stations and out on the streets, strictly adopt protective measures at all times. Police officers overseeing lock-ups must ensure protective measures for all persons in custody.

1. Ensure that all police personnel in the field have adequate protective gear including masks and gloves, and are provided hand sanitisers.

2. Instruct all police personnel to maintain a physical distance of 3 feet\(^6\) from each other at all times, whether in offices, police stations, and on the streets:
   a. Ensure the physical distancing requirement is adhered to during meetings and briefings
   b. Prescribe the number of personnel permitted to be in Police Control Room (PCR) vans and any police vehicle to adhere to the physical distancing requirement
   c. Strictly enforce that only one personnel is permitted to ride police motorcycles/two-wheelers

3. Disinfect all offices, police stations, outposts, chowkis, Police Control Room vans, and all police vehicles daily

4. Take all measures to ensure the following are operationalized in all administrative units:
   a. Provide clean running water and working hand-wash facilities
   b. Ensure sufficient supplies of hand sanitisers for staff in each unit

5. Operationalise the following in all police stations/lock-ups:
   a. Disinfect and thoroughly clean police lock-ups for men and women daily
   b. Maintain high standards of hygiene for all police staff and persons in lock-ups
   c. Ensure a distance of 3 feet can be kept between each person in police lock-ups at all times, including at night to sleep (in sync with guidelines in Part V)
   d. Provide and guarantee a consistent supply of separate bars of soap to each person in police lock-ups, and instruct each person to wash or sanitise their hands frequently
   e. Provide hand sanitisers where access to running water is limited
   f. Provide a cloth mask/handkerchief/gamcha/tissue paper to each person in police lock-ups to enable them to cover their mouth as much as possible
   g. Instruct Station House Officers and select police personnel at every police station to keep a vigilant check on the health of each person in lock-up. Anyone sneezing,

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coughing, having fever or breathlessness must immediately be sent to the nearest medical facility for testing

h. Ensure every arrested person is medically examined immediately after arrest as per Section 54 of the Code of Criminal Procedure; if kept in custody, s/he is mandatorily medically examined every 48 hours [based on the direction in D.K. Basu vs. State of West Bengal]

6. Instruct field-level personnel to abide by the following safety measures:
   a. Avoid physical contact with any person on the street
   b. Maintain a distance of 3 feet, as far as possible, while interacting with members of the public
   c. Use separate handtowels/handkerchiefs and avoid sharing

7. Lay down clear protocol for police personnel to follow immediately on returning home, with emphasis on washing hands and face, bathing and changing clothes, and daily washing of the police uniform

8. Take measures to ensure that all police personnel, especially those on the field, can be regularly tested for the virus given their constant exposure to public spaces. Anyone showing symptoms should immediately be removed from duty and provided medical attention

9. Formulate a contingency plan for fulfilling police duties, and providing support to those taken ill, in the event of the spread of the virus among personnel. The plan must:
   a. Draw up a deployment plan to manage existing, available strength
   b. Assure the subordinate ranks, particularly the constabulary, of guaranteed pay and adequate leave to recover
   c. Cover costs of treatment as part of the existing medical insurance provided to officers across ranks
   d. Provide support, including supply of essential goods, to the families of personnel, where necessary

10. Prominently display the instructions on maintaining distance and hygiene on posters, in the local language, outside every police office and police station

11. Designate a senior officer at Police Headquarters as the nodal point to receive and monitor all reports of virus symptoms and/or positive cases. Call for reports to be promptly sent to immediate supervisors, with a copy to the nodal officer, to inform when virus symptoms are found among police personnel and persons in custody
II. Minimize Use of Force

In the midst of unprecedented restrictions on people’s daily lives, the use of force by police as a means to enforce the lockdown must be prohibited. Non-violent means must be devised and implemented.

12. Issue and strictly enforce a department-wide circular\(^7\) that prohibits police personnel from using force on persons found out on the streets, and directs the use of only non-violent means to resolve these situations. In the circular, reiterate Principle 8 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials: Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

13. Orient and equip field-level personnel with the skills of effective dialogue and communication to understand people’s reasons or recognise their compulsions for being out on the streets; and provide the needed assistance.

14. Expressly prohibit police personnel from doing the following, classify these as acts of serious police misconduct with appropriate punishments:
   a. Beating, or threatening anyone with beating, for alleged violation of the lockdown
   b. Forcing people to roll, crawl, squat, do sit-ups, or be made to do humiliating acts as public punishments for alleged violation of the lockdown

15. Permit force only to be used where life or property is endangered, restrict such force to the minimum extent necessary, and take all measures to prevent harm and injury. Require mandatory reporting to the supervising officer of any incident where minimum force had to be used.

16. Arrange regular orientations of field-level officers with supervising officers, through video conferencing when needed, on the prohibition against any use of force except in the defined circumstances.

\(^7\) A judge of the Kerala High Court, Justice Devan Ramachandran, has written to the Director General of the Kerala Police requesting him to direct all Kerala Police officers not to use force against alleged violators, unless it is “absolutely essential to use force and even then, only to the extent necessary”. As reported on Live Law on 28 March 2020.

\(^8\) Reiterate the guidance on no force, as in the circular, in the Plan; and annex the circular to it.
III. Ensure Access to Essential Services and Full Cooperation with Service Providers

The police are the crucial liaison point between people and essential services. This not only ensures the smooth conduct and delivery of essential services, it can save lives. This is a critical component of the police role and must be prioritised.

17. Instruct, orient and equip field-level officers to take all necessary measures to facilitate unhindered, timely and safe movement of every designated essential service provider, and the movement of people to access essential services, including:
   a. Guiding delivery persons to reach the point of delivery through the shortest route possible, keeping in mind blockades and road/gate closures
   b. Assisting people with information about the location of the nearest grocery/kinara stores, chemists, ATMs, hospitals, ration shops, primary health centres, and all other essential services
   c. Assisting anyone in need of medical aid or intervention to reach the closest hospital
   d. Coordinate with civil society organisations and NGOs to facilitate access to essential services, especially to identify and reach out to vulnerable individuals and/or communities, particularly the disabled/physically and mentally challenged individuals and groups, senior citizens, and children

18. Ensure that all police personnel across ranks, especially field-level officers, have full knowledge and awareness of each designated essential service provider in their state, as per government and departmental orders issued

19. Circulate departmental orders with the list of essential service providers by all means necessary, such as to the official mobile and WhatsApp numbers of personnel, making sure that every Beat Constable, every officer on patrol duty, and every officer on law and order duty have this list in their possession with easy access when on duty on the roads

20. Ensure that all police personnel, especially field level officers, have full knowledge and awareness of the specific document(s) or identification proof which essential service providers have to carry and show the police

21. Actively disseminate clear information in publicly accessible channels (including regional, locally and national broadcast agencies, both public and private) about the process, conditions, and documentation, if any, required to obtain a “movement pass” for essential service providers or for members of the public

22. Ensure that the process of issuance of the movement pass is swift, easy to follow, and does not require physical verification of any kind. To ensure accessibility for all,
the process could be completed not just through online platforms but also through modes such as text messages and WhatsApp

23. Ensure at all times that all persons accessing a service, such as when waiting outside a provisions/grocery store or ration shop, adhere to the requirement of physical distancing

IV. Establish a “Stop, Verify and Assist” Protocol

*It will smoothen the police’s job in regulating and assisting people found on the streets to have a simple, practical, easily implementable protocol to refer to in terms of questions to ask and possible responses.*

24. Develop a ‘Stop, Verify and Assist’ protocol that will lay down step-by-step procedures for police personnel to follow on stopping and engaging with persons found on the streets. The protocol should be designed to guide field level officers in their interaction with the public. Emphasis should be on being cooperative and facilitating assistance. At a minimum, it should contain:
   a. Basic questions to understand the reasons for a person being outside and respond accordingly, the questions should be limited to finding out where a person is going and their reason for going there, and should not be invasive
   b. Various kinds of assistance the police can provide to help a person access essential services, including referral to helplines
   c. Objective and clear criteria to identify genuine breaches of lockdown conditions and the proportionate police responses possible

V. Limit Arrests and Detention

*To prevent unnecessary detention, it is urged that there is no arrest or detention for alleged violations of the lockdown. In line with the critical need to ensure people, and police personnel, are not put in danger of contracting the virus by being in close proximity in custody, the police should curtail all arrests and detention as far as possible.*

25. Recognise the grave threat to persons in the contained and limited spaces of police custody, and to police personnel themselves, of contracting and spreading coronavirus and the urgent need to take all necessary preventive measures

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26. Ensure that police personnel are aware that the commonly invoked legal provisions to hold a person in violation of lockdown conditions are bailable

27. Ensure that police personnel can provide, prima facie, evidence-based reasons for suspecting a person in violation of any such legal provision

28. Direct all arresting officers to refrain from making arrests in all cases of suspected violators; instead they should condone/give warnings/impose fines

29. Direct Station House Officers to coordinate with the Secretary of the District Legal Services Authority or the Taluk Legal Services Committee (as applicable) to identify the legal aid lawyer designated/attached to his/her police station; and put up the names and contact details of the legal aid lawyers outside every police station

Minimise taking people into police custody

30. Impose a blanket rule that in all cases of offences with punishment up to 7 years, arresting officers are directed to not make arrests, with reasons recorded in writing, as per the provisions of Sections 41 and 41A, Code of Criminal Procedure

31. Resist from making arrests even in cases of offences with punishment beyond 7 years, unless in matters where arrest is absolutely necessary as per conditions laid down in the Code of Criminal Procedure. Any arrest made must fully adhere to all the procedures and rights on arrest laid down in the Constitution and the Code of Criminal Procedure

32. Prohibit police personnel from carrying out any preventive arrests during the coronavirus pandemic

33. Seek court directions to move persons out of police lock-ups through release on bail in all cases

VI. Account for Police Misconduct

There must be firm action against any police personnel found deviating from, abusing, and/or violating established procedures and principles governing lockdown management, including on use of force, arrest, detention, and managing the public and essential services.

34. Emphasize a strict adherence with laid down procedures and human rights standards, at all levels, in enforcing the lockdown

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10 For example, Sections 188, 268, 269, 270, 271 of the Indian Penal Code, 1860; The Epidemic Diseases Act 1897 (Sections 2 and 3), and The Disaster Management Act, 2005 (Sections 51 to 60)
35. Follow clear reporting procedures on every police action, particularly from officers on the streets in charge of implementing the Stop, Verify and Assist Protocol, to allow review and ensure officers are accountable for their actions.

36. Ensure all members of the public are able to easily file complaints against police officers for any alleged misconduct or criminality, for instance through a dedicated helpline with the numbers well publicised. Make it compulsory for the supervising officer to acknowledge and respond to every complaint received, clearly stating the course to be taken.

37. Take firm action, departmental or criminal as warranted, against any police personnel, irrespective of rank, who:
   a. Commits any act which obstructs, prevents, or limits an essential service provider from carrying out their duties.
   b. Causes harm or injury to an essential service provider.
   c. Uses arbitrary or abusive use of force against a person or persons.
   d. Unnecessarily or unlawfully arrests or detains a person or persons.

   *If prosecution is called for, in line with the conditions of these guidelines, and if the police personnel cannot be taken into custody, immediately suspend them from duty and initiate the legal process as soon as it is feasible.*

VII. Protect Vulnerable Groups

   *Certain vulnerable groups face immense difficulties accessing assistance and services, which will only be amplified during the lockdown. It is crucial to identify people and groups who may be at risk of coming into harm and/or of being further marginalised, due to the restrictions on movement and interaction.*

38. Take special measures and formulate plans to address the specific needs and vulnerabilities of women, children, the sick, senior citizens, disabled persons; or any other group, which will be particularly hampered by the restrictions on movement and social interaction, including:
   a. Assisting in delivering rations or medicines to their residences.
   b. Escorting anyone in need to a hospital, bank, ration shop or provisions store, or any other essential service.
   c. Facilitating the continuity of medical or support services for the sick, senior citizens, and disabled persons especially or anyone in need.
   d. Where possible, making regular phone calls to check in on anyone in need.

39. Recognize the distinct hardship and safety concerns faced by vulnerable groups including the homeless, migrant workers, sex workers, trans persons, members of minority groups, women and children in unsafe houses, and communities from the Northeast susceptible to hate crimes. As a start, this can be done by:
   a. Devising specific support services or strategies for anyone in need.
b. Consulting civil society organisations and other relevant stakeholders to build a repository of effective referrals for anyone in need

c. Assuring anyone in need of police presence and response

40. Take special and specific measures, at police station and district levels, to speak to minority group members in the community to learn and understand their needs and complaints, provide assurance, seek suggestions, and frame the police response based on this

VIII. Do not Discriminate and Be Accessible to All

The police must be non-discriminatory in its response and be vigilant to monitor for and stem any instances of discrimination.

41. Treat all persons as equal before the law as guaranteed in Article 14, Constitution of India. Carry out all policing duties impartially and with no discrimination against any citizen on the grounds of religion, race/ethnicity, caste, sex, place of birth as guaranteed by the Constitution

42. Be vigilant of and take lawful action against any racial, religious, caste-based, or any identity-based stereotyping, discriminatory statements or actions in the community; or by police personnel; in adherence with the conditions required by these guidelines

43. Swiftly inquire into discriminatory and/or insensitive actions or behaviour by any police personnel, in adherence with the conditions required by these guidelines

44. Incentivise field-level personnel that take special measures and formulate plans towards building community trust in policing

IX. Communicate Clearly and Be Visible

There must be consistent, concerted communication within the police, across the ranks; and with the public, throughout the duration of the lockdown, of the lockdown management plan, developments, measures to be taken, and assurances by police leaders.

Within the department

45. Ensure relevant and updated information on the conditions of the lockdown, including central/state-specific guidelines, and the Plan are shared, in an easily understandable format and language, with all supervisory officers including the station house officers, district police chiefs, officers in charge of a range, officers in charge of a zone, heads of all departments/units and any other supervisory officer

46. Hold daily briefings at all levels through video or conference calls as far as possible, from police station, district, range and headquarters, to share up-to-date information
across rank and file, and review concerns related to conduct of the lockdown, including specific action needed

47. Ensure that all relevant and updated precautionary measures to be taken by police personnel are continually reiterated in the daily briefings

48. Make concerted efforts to ensure beat/patrol officers responsible for patrolling areas and interacting with the public are well versed with the lockdown plan and are clear about the steps to be taken

49. Review the implementation of the Plan at regular intervals

With the public

50. Regularly assure the public of police presence and support during the lockdown, through videos and social media, particularly on Twitter, and to ensure maximum outreach, through radio

51. Actively disseminate easily understandable information that relays the responsibilities of the public in adhering to the lockdown, including the restrictions in place, actions that could constitute genuine breaches and their penalties; actions that can be facilitated, and the essential services available; through various mediums, at all levels, including police/government websites, press, television, news channels, radio and online news portals, flyers, display boards at/near public places that are allowed to remain open, announcements through loudspeakers in residential colonies, social media, and any other medium as suitable

52. Take steps to ensure the information reaches all people, including those with little or no reading abilities, and people with special needs

53. Share regular updates with the public about relevant developments regarding the coronavirus crisis and government/police measures

54. While taking all the needed protective measures including maintaining the required physical distance, prioritise weekly visits by beat officers to households in their jurisdiction, to maintain regular contact with the residents of their local communities. This will enable the police to remain abreast of difficulties faced by communities and facilitate redress as suitable, including coordinating with local administration and/or other essential services
About CHRI

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation working in the area of human rights. In 1987, several Commonwealth professional associations founded CHRI, since there was little focus on human rights within the association of 53 nations, although the Commonwealth provided member countries the basis of shared common laws.

Through its reports and periodic investigations, CHRI continually draws attention to the progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, the United Nations Human Rights Council members, the media and civil society. It works on and collaborates around public education programmes, policy dialogues, comparative research, advocacy and networking on the issues of Access to Information and Access to Justice.

CHRI seeks to promote adherence to the Universal Declaration of Human Rights, the Commonwealth Harare Principles and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in the Commonwealth.

CHRI is headquartered in New Delhi, India, with offices in London, UK and Accra, Ghana.

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