



REPORT ON THE COVID-19 SITUATION IN PRISONS AND POLICY RECOMMENDATIONS FOR THAILAND

(31 March, 2020)



INTRODUCTION

More than 60 per cent of countries are now experiencing prison overcrowding¹. This term is used to describe a situation whereby the number of inmates exceeds the capacity of correctional facilities. Prison overcrowding gravely affects the living condition of inmates, who are forced to co-exist in closed, confined and congested spaces and share limited resources. This overcrowding leads to inadequate items needed for basic hygiene (such as soap, toothpaste and shampoo), shortage of clean water and medicines as well as conflict and violence inside the facilities.

Most inmates hail from demographic groups that have struggled with economic/social constraints. A number of inmates have also had health problems before being imprisoned. Among their problems are drug/alcohol abuse, mental issues, and infectious diseases (such as tuberculosis, HIV/AIDS, Hepatitis B and Hepatitis C). When these factors are combined with limited personnel, budget, facilities and access to health services in prison, it is a challenge preventing the spread of communicable diseases in these facilities even in normal times.

¹ <https://www.prisonstudies.org/news/covid-19-prisons-%E2%80%93-major-public-health-risk>

² <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>

On 11 March 2020, the World Health Organization (WHO) declared that the coronavirus disease, or COVID-19, was a pandemic as it raged through several countries worldwide. As of 31 March 2020, COVID-19 had swiftly infected 697,244 people and caused 33,257 deaths². In the face of this pandemic, many nations imposed strict lockdowns and almost every country has banned people from gathering and recommended social distancing to reduce the risk of infection.

It is however difficult to implement such measures in prisons as overcrowding and a regular inflow/outflow of inmates put them at a high risk of contracting COVID-19. This particular pandemic, which is unprecedentedly severe in our times, has therefore directly affected the health, living condition and human rights of incarcerated persons. It also has significant implications on prison management across the globe.

PRISONERS' FUNDAMENTAL RIGHT TO HEALTH AND INTERNATIONAL ORGANIZATIONS' CALL FOR ACTION

Every person has the fundamental right to healthcare services, regardless of whether he or she is in prison or not. This right is enshrined in Article 12 of the International Covenant on Economic, Social and Cultural Rights. The state has the duty to protect its citizens from health threats and provide those in need with medical treatment. In addition, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) stipulates that “...*People in prisons and other places of detention should enjoy the same standards of healthcare that are available in the community outside, and they should have free access to necessary health services without discrimination on the grounds of their legal status*”³.

Taking into account the acute situation in prisons around the world, the Special Rapporteur on the right of everyone to enjoy the highest attainable standard of physical and mental health states that most prisoners “*face overcrowding, violence and unsanitary conditions detrimental to their mental and physical health and conducive to the spread of disease*”. It was also stressed that a violation of inmates’ right to health could interfere with fair trial guarantees and the prohibition of torture and other forms of cruel, inhuman or degrading treatment⁴.

³ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), UN Doc A/RES/70/175 (17 December 2015), Rule 24(1)

⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/101/42/PDF/G1810142.pdf?OpenElement>

In the wake of the present escalating COVID-19 situation, international organizations have raised concerns about the welfare of inmates in prisons and detention centers across the world. On 25 March 2020, UN High Commissioner for Human Rights Mrs. Michelle Bachelet reminded member states that *“imprisonment should be a measure of last resort, particularly during this crisis”*. She also urged nations to quickly reduce the number of people in detention. She suggested that they examine ways to release inmates particularly vulnerable to COVID-19, among them older inmates and those who are sick, as well as low-risk offenders. *“Now, more than ever, governments should release every person detained without sufficient legal basis, including political prisoners and others detained simply for expressing critical or dissenting views,”* Bachelet stressed⁵.

The WHO has also accorded importance to this issue, emphasizing that prisons and places of detention are vulnerable to a fast spread of diseases and should not be ignored. The organization has released interim guidance titled *“Preparedness, Prevention and Control of COVID-19 in Prisons and Other Places of Detention”*. This guidance states that prison health is considered a part of public health, emphasizing that *“the fundamental approach to be followed is prevention of introduction of the infectious agent into prisons or other places of detention, limiting the spread within the prison, and reducing the possibility of spread from the prison to the outside community.”*

COVID-19 SITUATION IN PRISONS ACROSS THE WORLD

COVID-19 INFECTIONS AND DEATHS AMONG PRISONERS

COVID-19 infections have gripped prisons worldwide and the situation has changed swiftly over the past two months. China⁶ and Iran⁷ were the first two countries to have detected coronavirus cases in prison⁸. France⁹, Pakistan¹⁰, the United States¹¹, Italy¹², the United Kingdom¹³ and Spain¹⁴ soon followed. In addition, it has been

⁵ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E>

⁶ <https://www.theguardian.com/world/live/2020/feb/21/coronavirus-live-updates-china-wuhan-hubei-south-korea-cases-infections-death-toll-outbreak-diamond-princess-latest-news>

⁷ <https://women.ncr-iran.org/2020/03/26/two-female-prisoners-die-in-qarchak-prison-for-women-due-to-covid-19/>

⁸ <https://cdn.penalreform.org/wp-content/uploads/2020/03/FINAL-Briefing-Coronavirus.pdf>

⁹ <https://www.bloomberg.com/news/articles/2020-03-18/france-urged-to-free-prisoners-to-thwart-virus-in-crowded-jails>

¹⁰ <https://www.voanews.com/science-health/coronavirus-outbreak/pakistan-confirms-1st-prisoner-covid-19-crowded-jail>

¹¹ <https://www.correctionsone.com/coronavirus-covid-19/articles/1st-inmate-in-califfs-prison-system-tests-positive-for-covid-19-FeEstbjvdtAMmmYr/>

¹² <https://www.channelnewsasia.com/news/world/italy-release-inmates-fight-coronavirus-prison-rights-group-12553514>

¹³ <https://www.dailymail.co.uk/news/article-8152775/19-inmates-10-UK-prisons-test-positive-coronavirus.html>

¹⁴ <https://www.euroweeklynews.com/2020/03/25/first-coronavirus-death-in-madrid-prison-in-and-38-correctional-officers-test-positive-for-coronavirus-in-spain/>

reported that quite a number of prisoners in the United Kingdom¹⁵, Spain¹⁶, Iran¹⁷, and France¹⁸ have died of COVID-19 (27 March 2020). Experts have estimated that up to 800 prisoners may die of the virus in the United Kingdom alone in the end if preventive measures are not sufficient or efficient enough¹⁹. In addition, prison riots over COVID-19 have claimed the lives of many inmates in Italy²⁰, Romania²¹, Jordan²² and Colombia²³.

RIOTS OVER COVID-19

Concerns about a COVID-19 outbreak in prisons have spawned protests behind bars in many countries. One of them took place at the El Modero Prison in Colombia's Bogota. During the riot, 23 prisoners were killed and 83 injured. Inmates rioted amid concern over poor sanitary conditions and authorities' inadequate attention to the issues²⁴. Additionally, riots broke out at more than 20 prisons in Italy, mostly over a rule banning relatives from visiting inmates amid this COVID-19 crisis. The riots caused nine deaths. Three other prisoners died of overdose after they broke into medical facilities to steal drugs, while 16 escaped during the riots²⁵. In Lebanon, inmates protested at no fewer than two prisons to demand temporary release as they were worried about contracting COVID-19 behind bars²⁶.

MEASURES TO PREVENT/REDUCE INFECTION RISKS IN PRISONS

CONTACT WITH THE OUTSIDE WORLD

When COVID-19 first spread, prisons in several countries adopted measures to prevent the virus from entering their compounds, by minimizing contact with the outside world. The United Kingdom, the Philippines, the Netherlands, Israel and Kuwait were among such nations, banning visits with prisoners²⁷. Italy also implemented such a measure, but in the wake of the ban, prisoners became enraged and rioted. To minimize the adverse impact on prisoners from the ban,

¹⁵ <https://www.dailymail.co.uk/news/article-8155541/First-UK-prisoner-die-coronavirus-revealed-paedophile-84-jailed-1970s.html>

¹⁶ <https://www.euroweeklynews.com/2020/03/25/first-coronavirus-death-in-madrid-prison-in-and-38-correctional-officers-test-positive-for-coronavirus-in-spain/>

¹⁷ <https://women.ncr-iran.org/2020/03/26/two-female-prisoners-die-in-qarchak-prison-for-women-due-to-covid-19/>

¹⁸ <https://www.bloomberg.com/news/articles/2020-03-18/france-urged-to-free-prisoners-to-thwart-virus-in-crowded-jails>

¹⁹ <https://www.theguardian.com/uk-news/2020/mar/21/prisons-could-see-800-deaths-from-coronavirus-without-protective-measures>

²⁰ <https://time.com/5799474/italy-prison-coronavirus-protest-deaths/>

²¹ <https://www.romania-insider.com/riot-prison-romania>

²² <https://english.alaraby.co.uk/english/news/2020/3/16/jordan-says-2-dead-in-prison-riot-over-coronavirus>

²³ <https://edition.cnn.com/2020/03/23/americas/colombia-prison-riots/index.html>

²⁴ <https://www.france24.com/en/20200323-at-least-23-inmates-killed-in-prison-riot-over-coronavirus-in-colombia>

²⁵ <https://www.euronews.com/2020/03/09/six-dead-as-coronavirus-restrictions-trigger-italy-prison-riots>

²⁶ <https://www.aljazeera.com/news/2020/03/riots-rock-overcrowded-lebanon-prisons-coronavirus-fears-200317164301234.html>

²⁷ <https://www.theguardian.com/global-development/2020/mar/23/everyone-will-be-contaminated-prisons-face-strict-coronavirus-controls>

²⁸ https://www.washingtonpost.com/national/jails-and-prisons-suspend-visitation-to-keep-coronavirus-from-spreading/2020/03/16/0cae4adc-6789-11ea-abef-020f086a3fab_story.html

some countries such as the United States allowed inmates to chat with their family members over the phone free of charge or to have longer phone conversations²⁸.

Likewise, Australia introduced a video-call service so that prisoners could still communicate with friends/family²⁹. In New York, inmates have been allowed to send two e-mails, given five postage stamps and permitted to make one free phone call per week³⁰. While Moroccan prisons have not banned visitors outright, they have curbed the risk of contracting COVID-19 by allowing just one visit per inmate per month and limiting the number to one visitor each time³¹.

HYGIENE AND HEALTHCARE SERVICES

The lack of necessities needed for good hygiene and healthcare are among factors exposing prisons to COVID-19 risks. Amid the COVID-19 situation, prisons in Iran³² and Italy³³ have reported a shortage of medicines and hygiene supplies including sanitary napkins. In the United States, some states have started providing free hand sanitizers in prisons and waiving treatment fees (US\$4 each) for prisoners developing cold symptoms³⁴. In Mexico, wardens have introduced a COVID-19 prevention plan that places strong emphasis on hand washing, the use of antibacterial hand-wash gels and masks, better access to amenities for effective hygiene, and promoting good hygiene and cleanliness in prison³⁵.

QUARANTINE AND ISOLATION IN PRISONS

Congested correctional facilities across the globe are vulnerable to COVID-19, which may spread swiftly among inmates if the risks are not mitigated in time. Aware of the threat, many countries such as Bangladesh³⁶, the United States³⁷ and India³⁸ have sought to prevent the spread of coronavirus among inmates by isolating newly arrived prisoners for at least 14 days. In Mexico, Tunisia and Ethiopia, separate detention units have been set up for sick inmates³⁹. In Spain and France, they have increased isolation time for sick inmates and are strictly screening requests to organize activities in prisons⁴⁰.

²⁹ <https://www.corrections.vic.gov.au/covid19>

³⁰ <https://www.newyorker.com/news/news-desk/it-spreads-like-wildfire-covid-19-comes-to-new-yorks-prisons>

³¹ <https://www.morocoworldnews.com/2020/03/296631/covid-19-new-preventive-measures-for-moroccan-prisons/>

³² <https://iranhumanrights.org/2020/02/grave-concerns-for-prisoners-in-iran-amid-coronavirus-outbreak/>

³³ <https://www.dw.com/en/coronavirus-sets-italian-prison-ablaze/a-52742593>

³⁴ <https://edition.cnn.com/2020/03/18/politics/coronavirus-in-us-jails-heighten-concerns/index.html>

³⁵ <https://www.prison-insider.com/en/articles/coronavirus-la-fievre-des-prisons>

³⁶ <https://www.dhakatribune.com/bangladesh/2020/03/15/are-bangladesh-s-cramped-prisons-safe-from-coronavirus>

³⁷ <https://www.wsj.com/articles/bureau-of-prisons-imposes-14-day-quarantine-to-contain-coronavirus-11585093075>

³⁸ <https://www.deccanherald.com/national/north-and-central/covid-19-isolation-facilities-setup-in-jk-prisons-816466.html>

³⁹ <https://www.prison-insider.com/en/articles/coronavirus-la-fievre-des-prisons>

⁴⁰ *ibid*

TRIALS

A number of countries have suspended trials as another measure to prevent the spread of COVID-19 in prisons. Australia⁴¹, Canada⁴², Pakistan⁴³ and the United Kingdom⁴⁴ are a few examples. This initiative aims to not only reduce the need to bring inmates to court but also to curtail the number of new inmates. This measure, however, means cases will be left pending in courts and the detention of pre-trial inmates will last longer. In the United States, some courts are therefore pushing for a lower amount of bail and the release of prisoners convicted of non-serious crimes. In Algeria, trials are being conducted with the help of video calls instead of physical appearances in courtrooms⁴⁵. France, too, has supported the use of video-call trials in place of physical court trials⁴⁶.

IMPACT ON PRISON STAFF

Prison staff are generally exposed to higher levels of risk. When facilities become overcrowded, the ratio of staff to prisoners becomes disproportionate. Corrections officials in several countries have to work longer hours inside prisons due to the shortage of staff. After the COVID-19 outbreak, prison staff in numerous nations including the United States⁴⁷, Spain⁴⁸, Australia⁴⁹ and the United Kingdom⁵⁰ were found to have been infected with COVID-19. Furthermore, the staff also face the risk of riots that may endanger their health and life. Reports show staff in Italy⁵¹ and Colombia⁵² have been injured during prison riots.

Spain's Professional Association of Prison Officers has expressed dissatisfaction with the government for not preparing a national plan or providing adequate personal protection gear to deal with the COVID-19 situation in prisons. This has exposed personnel to the risk of infection. There has also been no contingency plan or measures for them to deal with staff shortage⁵³.

⁴¹ <https://www.bendigoadvertiser.com.au/story/6689501/covid-19-leads-to-concerns-about-court-delays-and-backlog/>

⁴² <https://www.nationalobserver.com/2020/03/18/news/covid-19-pandemic-means-court-delays-and-stalled-justice-system>

⁴³ <https://gulfnnews.com/world/asia/pakistan/10-steps-pakistan-is-taking-to-contain-coronavirus-1.70403640>

⁴⁴ <https://www.theguardian.com/law/2020/mar/18/longer-criminal-trials-in-england-and-wales-to-be-delayed-due-to-covid-19>

⁴⁵ <https://www.sandiegouniontribune.com/news/courts/story/2020-03-20/state-court-leader-urges-courts-to-lower-bail-consider-early-release-of-inmates-during-covid-19-emergency>

⁴⁶ <https://www.prison-insider.com/en/articles/coronavirus-la-fievre-des-prisons>

⁴⁷ <https://www.sacbee.com/news/politics-government/the-state-worker/article241531806.html>

⁴⁸ <https://www.euroweeklynews.com/2020/03/25/first-coronavirus-death-in-madrid-prison-in-and-38-correctional-officers-test-positive-for-coronavirus-in-spain/>

⁴⁹ <https://www.theguardian.com/commentisfree/2020/mar/26/coronavirus-is-a-ticking-time-bomb-for-the-australian-prison-system>

⁵⁰ <https://www.bbc.com/news/uk-england-surrey-51917123>

⁵¹ <https://www.aljazeera.com/news/2020/03/italy-tightens-lockdown-coronavirus-deaths-mount-live-updates-200321233509033.html>

⁵² <https://www.bbc.com/news/world-latin-america-51999594>

⁵³ <https://confi.legal.com/20200317-la-apfp-denuncia-que-solo-en-algunas-carceles-se-dispone-de-algun-medio-de-proteccion-frente-al-coronavirus/>

In Tunisia, the government is planning to conduct campaigns to raise awareness among inmates and prison staff on how to protect themselves from COVID-19⁵⁴. In England and Wales, the Ministry of Justice announced an emergency plan to ensure the safety of staff which includes case identification, management of staff absences if they need to self-isolate, and the provision and supply of soap and cleaning materials⁵⁵. Additionally, the United Kingdom has asked its navy to be on standby to fill in if prison officers are infected and cannot go to work⁵⁶.

Regarding the shortage of face masks, Hong Kong's prison staff have started working with inmates to produce masks in prison⁵⁷.

EARLY/CONDITIONAL RELEASE OF PRISONERS

Several countries have released prisoners early in the wake of the COVID-19 crisis. Though the conditions for early release might differ, this measure is being implemented based on the idea that it is essential to release certain groups of prisoners, including pre-trial detainees, prisoners serving the last few months of their sentence, those with short sentences for minor offenses, as well as inmates most at risk of contracting COVID-19 (such as the elderly, those seriously ill or pregnant). This measure often excludes offenders of serious crimes.

Iran, one of the countries hit hardest by the Coronavirus, has granted temporary release to 85,000 inmates including political prisoners⁵⁸ so as to ease prison overcrowding and the risk of COVID-19 infections behind bars. Los Angeles in the United States has already released 1,700 prisoners serving the last 30 days of their sentence. The city is also preparing to release pregnant inmates and elderly prisoners at high risk of contracting the disease⁵⁹. Similar measures have been considered for implementation in Germany, Sudan, Kenya, India, Afghanistan and Australia. In Poland, laws have been amended to allow electronic monitoring of convicts so as to put more offenders under house arrest and ease the burden on the country's prison system⁶⁰.

⁵⁴ <http://kapitalis.com/tunisie/2020/03/13/coronavirus-sterilisation-et-autres-mesures-preventives-dans-les-prisons-tunisiennes/>

⁵⁵ <https://www.gov.uk/government/news/coronavirus-covid-19-prison-preparedness-lucy-frazer-statement>

⁵⁶ <https://www.thetimes.co.uk/article/coronavirus-navy-standing-by-to-support-prisons-if-officers-catch-virus-c6nftsgwz>

⁵⁷ <https://www.scmp.com/news/hong-kong/health-environment/article/3048971/coronavirus-officers-join-inmates-hong-kongs>

⁵⁸ <https://www.reuters.com/article/us-health-coronavirus-iran-prisoners/iran-temporarily-frees-85000-from-jail-including-political-prisoners-idUSKB-N21410M>

⁵⁹ <https://www.prisonpolicy.org/virus/virusresponse.html#releases>

⁶⁰ <https://www.reuters.com/article/us-health-coronavirus-poland-prisons/poland-to-let-more-prisoners-serve-sentences-at-home-amid-coronavirus-idUSKB21A1XR>

SITUATION IN THAILAND

IMPRISONMENT OVERVIEW

Thailand has 143 prisons/correctional facilities. Together, they have the capacity to hold 254,302 inmates, with 305,312 square meters of sleeping quarters⁶¹. However, there are presently as many as 377,722 inmates in the country (25 March 2020). In other words, the number of prisoners has exceeded the official capacity of prisons/correctional facilities by more than 123,000. Thailand ranks 6th in the world in terms of inmate numbers (behind the United States, China, Russia, Brazil and India). In the ASEAN region, Thailand ranks 1st in this regard⁶². As for the imprisonment rate, there are 535 inmates per 100,000 population in Thailand. If the ranking is based solely on this ratio, Thailand ranks 4th in the world.

According to Corrections Department statistics, 17.7 per cent of the total prison population (or 66,788 prisoners) have not yet been convicted (they are detained during investigations, court trials, at the Court of Appeals/Supreme Court), or have received a confinement sentence or a prison sentence in lieu of fines⁶³. When categorized by crime type, more than 80 per cent of convicted prisoners are imprisoned for drug offences. The second biggest group comprises those convicted of property crimes (8 per cent). Next are those convicted of offences against life and body (6 per cent), those convicted of sexual crimes (3 per cent), and those violating forest laws, the gambling law, gun laws, immigration laws or committing other minor offenses⁶⁴ (3 per cent)⁶⁵.

When categorized by sentence, more than half of the convicted prisoners (55 per cent) have received a sentence of between three months and five years. The second biggest group, which accounts for 20 per cent, are those who have received an imprisonment term of between five and 10 years. About 12 per cent have been sentenced to between 10 and 20 years in prison, while another 12 per cent have received a sentence of between 20 and 50 years. The remaining 2 per cent are those handed a sentence of more than 50 years, or the death sentence.

⁶¹ <https://www.isranews.org/isranews-scoop/85003-prison-em.html>

⁶² <https://www.prisonstudies.org/highest-to-lowest/prison-population-total>

⁶³ <http://www.correct.go.th/stathomepage/>

⁶⁴ *Minor offenses refer to offenses punishable by no more than one month in jail and/or a fine of up to Bt10,000.*

⁶⁵ <http://www.correct.go.th/rtnew103/filepdf/1583388984.pdf>

Inmates in Thailand generally live in congested conditions because of prison overcrowding. Each inmate has less than one square meter on average as their sleeping space. Moreover, they spend as many as 14 hours a day in their sleeping quarters. Although inmates generally have personal amenities (such as cups, clothes and bedding), they share common areas – the dining zone, bathroom and washing space. It is therefore difficult for them to keep a physical distance from each other in such closed, limited spaces.

In the past several years, prison overcrowding has caused a host of management problems, especially with regards to the lack of adequate resources and fundamental healthcare facilities (including medicine, medical services, equipment, isolation rooms). The ratio of nurses to inmates is 1:1,250. Most prisons also do not have a doctor on duty. Now, with COVID-19 spreading rapidly, overcrowding and limited healthcare resources have raised the risk of outbreaks in prisons. Such an outbreak, if it erupts, will have adverse impact on the outside community.

MEASURES TO PREVENT COVID-19 INFECTIONS/OUTBREAKS IN PRISONS

The Corrections Department of Thailand has already introduced measures to prevent the spread of COVID-19 in prisons based on the principle of “No Exit for Insiders, No Entry for Outsiders”. In other words, visits to prisoners are banned and so are activities that see inmates working outside correctional facilities. Inmates are allowed to leave prison only when they need to report to court or seek treatment at hospitals. Also, outsiders are not allowed to organize any activity for inmates in prisons during this COVID-19 crisis.

In addition, the Corrections Department has taken more precautions, such as screening new inmates, those who are transferred from other facilities, and those who have returned from court hearings. Screening is especially stringent for inmates who have had a record of travel to and from high-risk countries⁶⁶. If an inmate has fever or respiratory symptoms, corrections officials will alert local public-health officials for diagnosis and treatment. Inmates who do not have any suspicious symptoms will still be isolated and closely monitored for 14 days. Furthermore, the Corrections Department has launched campaigns to encourage every prison

⁶⁶ <http://www.correct.go.th/infosaraban63/letter/filepdf/1582184084.pdf>

to regularly clean its compound, visitor rooms, sleeping quarters, kitchen and facilities with frequent contact. Inmates are also advised to wear masks and wash their hands frequently in an effort to prevent/reduce COVID-19 risks⁶⁷.

The Corrections Department and the Public Health Ministry have collaborated to maintain healthcare in prisons and this has achieved concrete results. For example, they have successfully developed a comprehensive healthcare system and conducted training for prison-based health volunteers. Such tangible achievements have reflected efforts to protect the welfare of prisoners. As this COVID-19 situation unravels, the Corrections Department is also working closely with the Public Health Ministry, the Disease Control Department, provincial public-health offices and major hospitals. The emphasis is placed on screenings and the provision of personal protective gear for staff working in prisons. The Disease Control Department, in collaboration with the Corrections Department's Medical Service Division, has prepared guidelines on how to investigate and control COVID-19 in the event that infections have been confirmed. The guidelines aim to ensure preparedness and a timely response⁶⁸.

According to a Corrections Department report on the situation (as of 26 March 2020), two inmates in Thailand had contracted COVID-19. One of them is in Bangkok and the other in Ratchaburi province. The first patient underwent a drug test as part of an investigation into alleged drug abuse at the Bangkok Metropolitan Prison. His infection was likely due to close contact during his arrest with a policeman who was infected with COVID-19⁶⁹. The second patient is a convicted prisoner who has been serving his term since 2016 at Ratchaburi Provincial Prison. It is believed that he contracted COVID-19 while seeking treatment for another disease outside the correctional facility. On 29 March 2020, more than 100 inmates, gripped by COVID-19 panic, rioted at the Buriram Provincial Prison. There has been no report that any inmate at this prison caught the coronavirus. However, buildings at the correctional facility were burnt, property damaged and many inmates tried to escape⁷⁰.

⁶⁷ <http://www.correct.go.th/infosaraban63/letter/filepdf/1580353061.pdf>

⁶⁸ <http://www.correct.go.th/infosaraban63/letter/filepdf/1582184084.pdf>

⁶⁹ <https://www.bangkokbiznews.com/news/detail/872683>

⁷⁰ <https://www.thairath.co.th/news/crime/1807479>

POLICY RECOMMENDATIONS

Prisons and correctional facilities in Thailand differ in terms of physical infrastructure, inmate density and staff preparedness. As the COVID-19 situation in the country keeps evolving day by day, the Thailand Institute of Justice (TIJ) issued the following recommendations to support prison management in times of an emergency to ensure justice is delivered efficiently and sustainably.

NON-CUSTODIAL MEASURES

International guidelines suggest that imprisonment should be used only as a last resort of criminal punishment. Prison should apply only when there is no other appropriate measure to punish wrongdoers. In Thailand, efforts to support the use of non-custodial measures for minor offenses have been ongoing for decades with the aim to achieve a balance between justice for the damaged parties and the fundamental rights of wrongdoers as well as public safety.

Global trends of the COVID-19 outbreak in prisons show the spread of the disease poses a serious threat to health and safety, and leads to violence behind bars. To minimize the risk of such occurrences in Thailand, relevant authorities should prioritize the reduction of the inmate population by implementing non-custodial measures at the pre-trial, trial and sentencing or post-sentencing stages as follows:

- 1) To lower the number of people sent to prison, relevant authorities should consider using alternatives to short prison sentences for non-serious offenders, especially for those who are at risk of contracting COVID-19, such as the elderly, those with underlying health conditions mentioned in Regulation Announcements issued under the Emergency Decree⁷¹, pregnant women and other offenders with minor offenses who pose no threat to society. Alternative measures that can be used in place of imprisonment may include fines, probation, house arrests and the use of electronic monitoring devices;

⁷¹ Conditions include chronic noncommunicable diseases, such as diabetes, hypertension, coronary artery and cerebrovascular diseases, respiratory system diseases, and persons who are immunocompromised caused by a natural history of disease and medication <<http://www.mfa.go.th/main/contents/files/news3-20200329-164122-910029.pdf>>

2) To reduce prison congestion, relevant authorities should consider using emergency measures to release inmates who are deemed as posing no threat to public safety by taking into account the nature of the crime committed, their behavior, the remainder of their imprisonment sentence, and their health risks. Measures taken may include early release, parole, temporary release, and turning the remainder of their prison term into house arrest, etc. Such measures should be carried out carefully and appropriately, and on a case-by-case basis. Priority should be given to the following groups of prisoners:

- Remand prisoners (those under police investigation or awaiting trial and have not been convicted of a criminal offence) and those have been incarcerated in place of paying fines. There are about 67,000 in this group;

- Prisoners whose remaining prison sentence is less than one year. There are about 72,000 in this group. (Of them, 19,161 have less than three months to serve, 18,716 have between three and six months, and 34,800 have between six and 12 months);

- Convicted elderly prisoners who are over 60 years old. There are about 5,800 in this group; and

- Prisoners convicted of non-violent or petty offenses (for example, violation of forestry laws, immigration laws, gambling laws, and other minor offenses). There are about 9,400 in this group.

3) In implementing measures in items 1 and 2, relevant authorities should work together closely in preparing an efficient monitoring and reporting system for inmates who receive conditional release. To ensure public safety and reduce the stigmatization of released prisoners, there should be clear guidelines on pre-release health checks. Prisoners should also be informed about how to protect themselves against COVID-19, how to safely migrate to their home provinces, and should receive appropriate employment support after release.

GENERAL MEASURES ON PRISON MANAGEMENT

4) Prisons should introduce specific measures for the treatment of vulnerable groups of prisoners who have a higher risk of getting infected including elderly prisoners, pregnant women, children residing in prison with their mothers, and those with illnesses or underlying health conditions mentioned in the Regulation Announcements that were issued under the Emergency Decree. Such measures should pay attention to the specific needs of each individual, be gender sensitive and take into account a possibly higher risk of infections faced by particular groups of prisoners;

5) Prisons should regularly provide information to all inmates on what causes COVID-19, symptoms of the disease and preventative measures in a form and language that they understand so as to enhance their understanding, ease anxiety and guide inmates on to how to monitor their own health conditions;

6) Prisons should educate inmates on the correct use of face masks and provide masks as well as items necessary to maintain personal hygiene – such as soap and shampoo – available for their use in adequate numbers free of charge;

7) Prisons should encourage the use of new communication technologies such as video conferencing and other online platforms for court trials, consultation sessions with lawyers, and family visits. In this regard, prisons should procure adequate equipment needed to respond to inmates' needs for such communication;

8) Every prison should quarantine new inmates for at least 14 days in a separate area in an appropriate manner to monitor their health condition based on the advice of medical personnel;

9) Prisons should reduce the amount of time large groups of inmates have to spend together especially in the sleeping area. Appropriate measures should be implemented including reducing the number of hours inmates have to spend in their sleeping cells in order to curb the risk of viral contagion.

10) Prisons should provide masks and personal protective gear for prison officials, especially medical staff. Prisons should also prepare reinforcements in the event that some of the staff get infected and need to stay away from work; and

11) Prisons should arrange health screenings for inmates prior to their release. In case an inmate is found to have been infected, local public health authorities must be immediately alerted to prepare treatment with the goal of preventing the disease from spreading to the outside community.

ABOUT TIJ

The Thailand Institute of Justice (TIJ) is a research institute affiliated with the United Nations Crime Prevention and Criminal Justice Programme Network or UN-PNI.

TIJ primarily seeks to promote criminal justice system reform through the implementation of international standards and norms related to the vulnerable groups in contact with the justice system while encouraging coordination among domestic justice constituencies and strengthening regional cooperation, particularly within the ASEAN region.

Thailand Institute of Justice
GPF Building Tower B, 15 - 16 th Fl.,
Witthayu Rd., Pathumwan,
Bangkok, 10330, Thailand

✉ info@tijthailand.org
🌐 www.tijthailand.org
📘 tijthailand.org
📺 [tijthailand](#)
▶ [JustRightChannelTIJ](#)