



**Commonwealth Human Rights Initiative**



October 13, 2017

## **JAIL MAIL: PRISONS AND PARLIAMENT**

Dear Friends,

Greetings from CHRI!

The last parliament session - 'Monsoon Session' was held from 17<sup>th</sup> July to 11<sup>th</sup> August 2017. During the session, the Members of Parliament (MPs) posed questions to various ministries to seek information on the working of the government and therefore bring more accountability. This session saw MPs pose 24 questions on prisons and prisoners. While one of the questions was orally responded, the rest were responded to in writing. The questions addressed issues like overcrowded jails, repatriation of prisoners, rehabilitation, and jail breaks among others. Out of the questions asked, 13 were directed towards the Ministry of Home Affairs, nine to the Ministry of External Affairs, and one question each to the Ministry of Law and Justice and the Ministry of State, Culture and Tourism. The attached note provides a link to all these questions and answers as well as provides a brief summary of the information received through these questions in this parliament session.

### **What can you do?**

You can apprise your representative about the issues and challenges that you face or are important to you. You could also ask questions on these issues to your MP or other MPs who may in turn ask it from the relevant ministry. The admissibility of the question in parliament is governed by the Rules and Procedures and Conduct of Business in the [Lok Sabha](#) ( Rule 41) and [Rajya Sabha](#) (Rule 47) . You can also look at the questions earlier asked in the Lok Sabha [here](#) which would help you in drafting the questions. After the questions are drafted, they can be sent to the MPs through the following links: [Lok Sabha Members details](#) and [Rajya Sabha Member details](#). Also, in order to understand the areas of work of your MP/ other MPs, you can use PRS Legislative Research's [MP Track](#).

Write to us at [chriprisonsprog@gmail.com](mailto:chriprisonsprog@gmail.com) with your comments and suggestions. Please send us an email if you wished to subscribe to these updates.

Best Regards,

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## PRISONS & PARLIAMENT

The questions listed below were asked by Members of Parliament during the 2017 Monsoon session. These questions pertain to issues relating to prisons and prisoners. Interestingly, many parliamentarians asked questions on the status of Indians imprisoned abroad. 14 of the 24 questions have been asked by BJP (8) and Congress (6) MPs and the rest by MPs from regional parties.

Date & Question Number	Topic	Forum Lok Sabha / Rajya Sabha	Asked by	Responded By (Name & Designation)
<b>Overcrowded Prisons</b>				
08.08.2017/ 303	<a href="#">Occupancy Rate of Jails</a>	Lok Sabha	Shri Sushil Kumar Singh	Minister Of State In The Ministry Of Home Affairs - Shri Hansraj Gangaram Ahir
01.08.2017/ 2682	<a href="#">Overcrowded Jail</a>	Lok Sabha	Shri Anshul Verma	Minister Of State In The Ministry Of Home Affairs - Shri Hansraj Gangaram Ahir
<b>Prison Conditions &amp; Prisons Monitoring</b>				
09.08.2017/ 2617	Non Official Visitors To Prisons*	Rajya Sabha	Shri Sanjay Seth/Smt. Vandana Chavan	Minister Of State In The Ministry Of Home Affairs - Shri Hansraj Gangaram Ahir
09.08.2017/ 2639	Death Of Undertrials And Convicts In Lock Ups*	Rajya Sabha	Smt Wansuk Syiem	Minister Of State In The Ministry Of Home Affairs - Shri Hansraj Gangaram Ahir
19.07.2017 / 409	Deteriorating Condition Of Jails*	Rajya Sabha	Shri Harivansh	Minister Of State In The Ministry Of Home Affairs - Shri Hansraj Gangaram Ahir
<b>Modernization of Prisons</b>				
01.08.2017/ 2617	<a href="#">Modernisation of Jail</a>	Lok Sabha	Shri Bhola Singh	Minister Of State In The Ministry Of Home Affairs - Shri Hansraj Gangaram Ahir
01.08.2017/ 2713	Assistance For Modernisation Of Jails*	Rajya Sabha	Shri B.K. Hariprasad	Minister Of State In The Ministry Of Home Affairs - Shri Hansraj Gangaram Ahir
<b>Indians in Foreign Prisons</b>				
10.08.2017/ 2737	Indians Imprisoned And Dying Abroad*	Rajya Sabha	Shri Majeed Memon	The Minister Of State In The Ministry Of External Affairs - Shri M. J. Akbar
19.07.2017/ 623	<a href="#">Indian Prisoners Abroad</a>	Lok Sabha	Shri Nishikant Dubey/ Innocent/ Rajesh Pandey	The Minister Of State In The Ministry Of External Affairs - Shri M. J. Akbar
09.08.2017/ 3907	<a href="#">Indian Prisoners Abroad</a>	Lok Sabha	Shri Sushil Kumar Singh	The Minister Of State In The Ministry Of External Affairs - Shri M. J. Akbar
09.08.2017/ 3907	<a href="#">Indians in Pak Jails</a>	Lok Sabha	Shri Ravindra	The Minister For External Affairs -

327			Kumar Pandey	Shrimati Sushma Swaraj
27.07.2017/ 1302	Indians Imprisoned And Dying Abroad*	Rajya Sabha	Shri Ranjib Biswal	The Minister Of State In The Ministry Of External Affairs - Gen. Dr. V. K. Singh (Retd)
02.08.2017/ 2826	<a href="#">Indian Nationals in Neighbouring Countries Jails</a>	Lok Sabha	Shri Dilip Kumar Mansukhlal Gandhi	The Minister Of State In The Ministry Of External Affairs - Gen. Dr. V. K. Singh (Retd)
20.07.2017/ 498	People From Rajasthan In Jails Of Pakistan*	Rajya Sabha	Shri Om Prakash Mathur	The Minister Of State In The Ministry Of External Affairs - Gen. Dr. V. K. Singh (Retd)
<b>Others Issues relating to Prisons &amp; Prisoners</b>				
01.08.2017/ 2599	<a href="#">Criminals Lodged In Jails</a>	Lok Sabha	Smt Geetha Kothapalli	Minister Of State In The Ministry Of Home Affairs - Shri Hansraj Gangaram Ahir
02.08.2017/ 2814	<a href="#">Fishermen in Various Jails</a>	Lok Sabha	Shri Elumalai Vellaigounder/ Kirit Premjibhai Solanki	The Minister Of State In The Ministry Of External Affairs - Gen. Dr. V. K. Singh (Retd)
10.08.2017/ 2729	Indian Migrant Labourers Held In Prisons*	Rajya Sabha	Smt Kanimozhi	The Minister Of State In The Ministry Of External Affairs - Shri M. J. Akbar
10.08.2017/ 2731	Indians In Foreign Prisons*	Rajya Sabha	Shri Husain Dalwai	The Minister Of State In The Ministry Of External Affairs - Shri M. J. Akbar
19.07.2017/ 362	Andaman Cellular Jail*	Rajya Sabha	Shri Ritabrata Banerjee	Minister Of State, Culture And Tourism (Independent Charge) - Dr. Mahesh Sharma
25.07.2017/ 1383	<a href="#">Web Application for Free Legal Services to Prisoners</a>	Lok Sabha	Shri (Adv.)Joice George	Minister Of State In The Ministry Of Home Affairs - Shri Hansraj Gangaram Ahir
18.07.2017/ 341	<a href="#">Rehabilitation of Prisoners</a>	Lok Sabha	Shri Ram Mohan Naidu Kinjarapu	Minister Of State In The Ministry Of Home Affairs-Shri Hansraj Gangaram Ahir
01.08.2017/ 2698	<a href="#">Jail Breaks</a>	Lok Sabha	Shri Mansukhbhai Dhanjibhai Vasava	Minister Of State In The Ministry Of Home Affairs-Shri Hansraj Gangaram Ahir
09.08.2017/ 2628	Measures to improve security of jails*	Rajya Sabha	Shri Anubhav Mohanty	Minister Of State In The Ministry Of Home Affairs - Shri Hansraj Gangaram Ahir
11.08.2017/ 2985	Timely Justice to undertrials*	Rajya Sabha	Prof. M.V. Rajeev Gowda	Minister of Law and Justice

The questions asked and answers tabled on prisons in the Rajya Sabha in this session can be found here: <http://164.100.47.5/newsite/dailyquestions/uns.aspx>

## SUMMARY OF QUESTIONS & ANSWERS

### 1. PRISON OVERCROWDING

The questions tabled by the two MPs centred on data pertaining to the occupancy rate of jails – in terms of sanctioned capacity, total occupancy, schemes to reduce overcrowding, and space available to each prisoner. Also allocations of funds for modernization of jails in the country were inquired about.

Information about the capacity and occupancy were provided stating data from NCRB. At the end of 2015, a total of 4,19,623 inmates were lodged in 1401 jails in the country against the available capacity of 3,66,781 inmates, indicating an occupancy rate 114.4. Out of 1401 Jails in the country, 149 jails had an overcrowding rate of more than 100% as on 31.12.2015. As per the 2016 Model Prison Manual, the minimum accommodation space per prisoner in sleeping barracks is 3.71m<sup>2</sup> and in cells 8.92m<sup>2</sup> of ground area. However, the ministry responded that no central statistics are available on the actual space available to a prison inmate in different jails.

On the question pertaining to funds for modernization, the ministry reiterated that prisons is a state subject and central funds are allocated; however, individual state action depends on varied implementation by the respective state governments.

### 2. Prison Conditions & Prisons Monitoring

Certain specific questions regarding the appointment of concerned citizens as non-official visitors (NOVs) to prisons, the schemes for training these visitors, the number of visits made to various prisons since January 2016 and the details of government mechanisms to monitor and assist the Board of Visitors (BOVs) and NOVs. Also, a very specific question was asked related to the death of a female inmate in Byculla Jail (Mumbai) who was allegedly beaten to death by the jailor and five other guards. Among these very specific questions was also the issue of dismal conditions of jails, and plans to improve these conditions.

The ministry answered all questions related to NOVs and BOVs. With the objective of having a transparent, open and accessible prison system, the Government of India has issued an advisory on appointment and working of Non-Official Visitors (NOVs) for prisons to all States and UTs on 18.2.2011. The states have been advised that the DG/IG (Prisons) should obtain six monthly reports from the prison superintendents about the regularity of visits and the nature of work done by NOVs. However the ministry responded that there are no central statistics on the Board of Visitors constituted in the jails and visits by NOVs.

However, on the issue of Byculla incident, the Minister answered the questions by stating the facts that emerged after the incident, giving details of the prisoner and jailor involved. No other details were given about further action taken by authorities, save for the suspension pending investigation of the prison guards involved.

On the conditions of jails and plans to improve the same, the Minister once again stated that prisons is a state subject and by issue of model prisons manual, the government has given all the direction needed, to aid states in improving the present condition.

### **3. Modernization of Prisons**

Two Members of Parliament asked questions about overcrowding and the subsequent poor conditions of inmates in Indian jails. They also inquired about the fate of central level plans on modernization of prisons.

The ministry replied that with a view to reduce overcrowding in jails, the Government of India had sanctioned a Scheme namely "Modernization of Prisons" in 2002-03 with an outlay of Rs.1800 crore. The total spending on the scheme was Rs. 1796.55 crores. The scheme resulted in construction of 125 new jails, 1579 barracks and 8658 staff quarters for the prison personnel. The scheme came to an end on 31.3.2009. The ministry chose not to provide any information on the possibility of renewal of the modernisation scheme given the high levels of overcrowding.

### **4. Indians in Foreign Prisons**

A wide range of questions were raised pertaining to common demographic-wise details of Indians imprisoned abroad, repatriation applications received by the government, India's bilateral relations in regard to prisoners and the time taken to process repatriation applications based on inter-ministerial interactions. A number of questions paid special attention to Indians imprisoned in Pakistan, the treatment meted out to them, the action taken by the government to retrieve these prisoners and the number of Pakistani civilians in Indian jails.

**Regarding repatriation**, since the enactment of the Repatriation of Prisoners Act in 2003, 170 applications for repatriation have been received and 61 Indian prisoners have been repatriated from foreign prisons. On bilateral agreements, India has entered such conventions with 30 countries. Besides this, India has acceded to the Inter American Convention, by virtue of which, India can receive and send requests to the member countries as well as those countries who have signed/ratified the Inter American Convention.

As per the available information, as of 27 July 2017, there were 417 fishermen in Pakistan's custody and 15 fishermen in Sri Lanka's custody, who were believed to be Indian nationals. There were no Indian fishermen in the custody of Bangladesh. In case of Pakistan, consular access is awaited and information about the states that they belong to is not available. In case of Sri Lanka, the 15 fishermen were believed to be from the State of Tamil Nadu and the Union Territory of Puducherry.

As per the available information, there were 60 civilian prisoners including Shri. Kulbhushan Jadhav, who were believed to be Indian, in the custody of Pakistan. Besides, there is a matter of 75 missing Indian defence personnel, whose custody has not been acknowledged by Pakistan so far.

Since 2014, 10 Indian fishermen and two Indian civil prisoners have died in the custody of Pakistan authorities. As per the list provided by the Government of Pakistan on July 1, 2017 under bi-annual exchange of lists of Prisoners between India and Pakistan, there were 52 civilian prisoners believed-to-be Indian in Pakistani jails. Details pertaining to the state, that they may be belonging to, have not been provided.

### **5. Others Issues relating to Prisons & Prisoners**

The MPs asked a wide range of questions, pertaining to several aspects of prisons. One MP inquired about the recent development of a web application to avail free legal services on the web. Also, steps and procedures to expedite the process of justice to undertrials and whether a time frame for the same could be spelt out by the government. Another MP also requested information regarding

jail breaks around the country, the number of convicts/ inmates who have escaped, the prison officers responsible for such lapse and state-wise detail of the same. A question about rehabilitation of prisoners – whether there are programmes, how they work, their results and effectiveness, and if the government has conducted any survey or way of feedback to evidence the efficacy of these programmes for inmates was asked. Another MP asked about the number of criminals lodged in various jails, and whether state governments have requested the Centre for their release, whether these requests were granted or not, and the basis for rejection of such cases. Interestingly, an MP asked about the number of Bengalis who were jailed in the Andaman Cellular Jail and further details of imprisonment.

The ministry gave specific replies to some questions while others were met with generic responses. With regards to the inquiry about **a web application for legal aid to prisoners**, the ministry stated that the National Legal Services Authority (NALSA) has developed and launched a web application in New Delhi on 29.6.2017 for legal services to under trial prisoners/convicts. The web application facilitates to know the unrepresented under trial prisoners, and the Legal Services Institutions can provide them free legal services. The under trial prisoners or their relatives can also send their request to the legal services institutions for getting free legal aid.

In reply to the question tabled regarding **timely justice to undertrials**, the ministry stated that the Minister of Law and Justice has written to the Chief Justices of High Courts on 3rd February 2017 requesting for periodic monitoring of release of under trials so that every accused person receives a fair trial and does not languish in jail longer than is absolutely necessary as per law. In compliance with the order of the Hon'ble Supreme Court dated 05.02.2016, Undertrial Review Committees have started functioning at district level in the country. The Legal Services Authorities have set up legal aid clinics in jails and are providing adequate number of competent panel lawyers and para legal volunteers to assist Under Trial Prisoners and convicts, particularly the poor and indigent. The National Legal Services Authority has recently set up video conferencing facility at State Legal Services Authorities levels for video conferencing between the inmates in jails and their relatives.

Regarding State/UT wise details of **Rehabilitation of prisoners** and daily wages paid to the convicts at the end of 2015, as compiled by National Crime Records Bureau, the minister submitted details as annexure, and stated that the process of rehabilitation of offenders is an integral part of the prison department. Prisoners are provided training in different work and trade to enable them to earn their livelihood through the skills learnt during their incarceration. Prisons is a state subject under Entry 4 of List II of the Seventh Schedule to the Constitution of India. The administration and management of prisons is primarily the responsibility of the concerned state governments. No central surveys are conducted to collect feedback on rehabilitation programmes run by the state governments.

In reply to the question on **Andaman Cellular Jail**, the Minister of State, Culture & Tourism (independent charge) Dr. Mahesh Sharma, said that The Directorate of Art and Culture, Andaman & Nicobar Administration, Port Blair has stated that as per their available records, 535 revolutionaries were jailed in the Cellular Jail from 1909 to 1938 and out of them 387 revolutionaries were from the undivided Bengal. The available records have details of the 535 revolutionaries and are properly maintained.

In reply to the **question of jail breaks**, the Minister of State in the Ministry of Home Affairs submitted statistics of escapes in annexure, however, passed scrutiny of responsibility onto state governments.

**About *Jail Mail***

*Jail Mail* is a regular series of Prison Reform Updates from CHRI for readers interested in the rights of prisoners and the reform of prisons as a matter of public concern. The engagement of civil society in the management and monitoring of prisons and the rights of prisoners is vital to the transparency of this traditionally closed institution and to ensure the practical realisation of the rights of those behind bars. *Jail Mail* invites discussion between civil society members and those entrusted to oversee and manage prisons.

Evidence-based research and watch reports of CHRI's Prison Reforms Programme, interviews with critical stakeholders, topical issues and developments concerning the liberty of prisoners, and health of prisons in India and around the world will form the sources of *Jail Mail*. Its periodicity will depend on the urgency of issues and the interest they generate.

**About CHRI and the Prison Reforms Programme**

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI, with the conviction that there was little focus on the issues of human rights within the Commonwealth although the organisation provided member countries a shared set of values and legal principles from which to work.

The Prison Reforms Programme of CHRI is more than 15 years old. The programme focuses on improving prison monitoring through the strengthening of undertrial review mechanisms and prison visiting system nationally, and ensuring early safeguards against unnecessary pre-trial detentions, specifically in Rajasthan and West Bengal. The programme also advocates for timely repatriation of foreign national prisoners and immediate release of asylum seekers. Evidence-based research, advocacy, capacity-building of actors of the criminal justice system including prison officials, welfare and probation officers, criminal defense lawyers, magistrates, legal aid functionaries and civil society actors are the regular

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