



CHRI's Recommendations to the National Crime Records Bureau's Annual Report - Prison Statistics India (PSI) March 2017

The Commonwealth Human Rights Initiative (CHRI) works on access to justice and access to information with the objective to bring accountability and transparency in the criminal justice machinery. In our experience, we have realized the importance of data in identifying the causes of functionality or dysfunctionality in the system, and the impact of changes in law and procedure over the years and across jurisdictions. CHRI believes that data acts as an important means for the state to make an informed decision while framing policies and making laws. The objective of this submission is to assist the NCRB towards further improving the quality of the data published on prisons. We have proposed both, a) addition of data sets to the existing chapters and b) addition of new chapters. We also suggest that certain vital information should be provided jail-wise.

| S. No. | Chapter & Table number | Proposed addition/changes | Rationale |
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| 1 | CHAPTER 1: PRISON INSTITUTION | Classification/Segregation of the existing category 'undertrial prisoners' into - a) pre-trial detainees or remand prisoners, b) undertrials. This needs to be amended wherever data on classification of prisoners has been provided. | On the basis of the stage of trial, inmates can be classified into four categories: a) Pre-trial or remand prisoners (whose chargesheet has not been filed yet, the trial has not begun); b) Undertrial prisoners (who are undergoing trial); c) Convicts (whose trial is completed and they are found guilty); and d) Detenues (persons detained under preventive laws). Currently the inmates in category a) and b) are clubbed together. Tamil Nadu has made this segregation but their pre-trial data appears under 'detenues'. |

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| | | Inclusion of number and percentage share of overstaying prisoners – those prisoners whose sentence is over but are still in jail. This is generally seen in the category of foreign national prisoners. (Tables 1.3 to 1.6) | The proviso to Section 436A CrPC provides that no person shall be detained for more than the maximum period of imprisonment provided for the said offence under that law. This information will help track illegal and/or unnecessary detention. |
| 2 | CHAPTER 2: INMATE POPULATION AND OVERCROWDING IN PRISONS | Jail wise information on sanctioned and actual inmate population should be provided | Problem of overcrowding needs to be tackled at the jail level as the state averages are often misleading. This information would also assist the prison departments and state governments for better prison management by channelizing funds and manpower prudently. |
| | | Jail-wise information should also include total floor area of the prisons, the total floor area of living quarters, and floor space per inmate. | This would give the accurate picture of the space available per inmate. |
| 3 | CHAPTER 3: TYPES OF PRISON INMATES | Table 3.23, titled ‘State/UT-wise Distribution of Different Types of Inmates Suffering from Mental Illness at the end of 2015’ mentions the number of inmates suffering from mental illness. <ul style="list-style-type: none"> i. There should be gender-wise segregation of this data ii. The table should be further classified to add ‘ Number of Inmates suffering from mental illness at the time of admission to prison’ | This would ensure completeness of information and assist in policy development. |
| | | Inclusion of ‘Others’ in all Forms in which gender-wise details are being collected gender-wise data. | Please provide appropriate categorization. |
| 4 | CHAPTER 4: DISTRIBUTION OF CONVICTED AND UNDERTRIALS PRISONERS UNDER | Inclusion of number of convicts under ‘The Protection of Children from Sexual Offences Act, 2012’ under Table 4.2, ‘State/UT-wise Number of Convicts by Type of Offences under Special and Local Laws’. | The suggested Act is relatively new and its inclusion would help ascertaining the implementation of this important legislation by the authorities. |

| | <p>INDIAN PENAL CODE (IPC) AND SPECIAL AND LOCAL LAWS (SLL)</p> | <p>Inclusion of a table on offence-wise distribution of duration of sentence. We recommend that it should either be added in Chapter 4 or Chapter 7. Illustratively :</p> <table border="1" data-bbox="528 292 1460 576"> <thead> <tr> <th rowspan="2">Offence Type</th> <th colspan="6">Period of Sentence</th> <th rowspan="2">Total Convicts</th> </tr> <tr> <th>Less than 1 year</th> <th>1-3 years</th> <th>3-7 years</th> <th>7-10 years</th> <th>10-14 years</th> <th>Life-term</th> </tr> </thead> <tbody> <tr> <td>Rape</td> <td></td> <td></td> <td></td> <td>230</td> <td>500</td> <td>45</td> <td>775</td> </tr> <tr> <td>Murder</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>Clarification on the column “Transferred to Other States” under Table 4.5, ‘Details of Convicts Released during the year’. This is one of the columns to arrive at the total releases of convicts during the year.</p> <ul style="list-style-type: none"> i. Under Table 4.6, ‘Details of Undertrials Released / Transferred during the year’: ii. One of the columns in the table mentions ‘Released on Appeal’. This requires clarification. iii. ‘Others’ need to be defined and mentioned at the bottom of the table. iv. The title of Table 4.6 should be amended to “ Details of Undertrial Prisoners Released/Transferred during the year” v. Inclusion of data on the number of undertrials convicted during the year vi. Inclusion of data on undertrials discharged vii. Inclusion of data on the number of persons released/transferred from prison as they were found to be juvenile. | Offence Type | Period of Sentence | | | | | | Total Convicts | Less than 1 year | 1-3 years | 3-7 years | 7-10 years | 10-14 years | Life-term | Rape | | | | 230 | 500 | 45 | 775 | Murder | | | | | | | | <p>While Chapter 4 provides data on offences under which inmates have been convicted, it does not mention the sentence awarded to these inmates. Similarly Chapter 7 mentions the period of sentence of convicts, but there is no offence-wise segregation. Therefore the report does not provide offence-wise distribution of duration of sentence. For example, the period for which rape offenders were sentenced.</p> <ul style="list-style-type: none"> i. To clarify the applicability of data on transfer of prisoners to other states in this table. i. The table pertains to the release or transfer of undertrials and therefore the question of appeal does not arise. ii. Completeness of information iii. The information only pertains to undertrial prisoners and not all undertrials. iv. The PSI report provides the information about the number of convicts as on 31 December of every year. However it does not provide the number of undertrials convicted during the year. v. and vi This information is currently not provided or segregated. |
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| Offence Type | Period of Sentence | | | | | | Total Convicts | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Less than 1 year | 1-3 years | 3-7 years | 7-10 years | 10-14 years | Life-term | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Rape | | | | 230 | 500 | 45 | 775 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Murder | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>5</p> | <p>CHAPTER 5: DEMOGRAPHIC PARTICULARS OF PRISON INMATES</p> | <p>In all tables, inclusion of the income criteria, marital status and inmates with children of all types of prison inmates.</p> | <p>This information will assist policy development. The income criteria finds mention in the format of the admission registers in prisons and would provide for the economic background of the inmates which is currently missing. Also, the</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| | | | marital status of the inmate would also provide information on the impact of incarceration on the prisoners and their families. |
| | | The religious classification of inmates should be further classified by caste. So Hindu- SC, ST, OBC & Others; Muslim- SC,ST, OBC & others; Sikh- SC,ST,OBC& others and so on. | This information will assist policy development and ensure completeness of information. |
| | | As mentioned above, there is a need to define what constitutes category 'Others'. The same must be mentioned in Table 5.4, 'Demographic Profile of Other Prisoners' which would make the data more specific. | This inclusion will ensure completeness of information. |
| 6 | CHAPTER 6: PERIOD OF DETENTION OF UNDERTRIAL PRISONERS | <ul style="list-style-type: none"> i. Inclusion of a table on the period of detention of Undertrial prisoners acquitted during the year ii. Inclusion of a table on the period of detention of Convict prisoners | <ul style="list-style-type: none"> i. This information will assist policy development and provide truer picture of period of detention of inmates, as their detention has a starting and end point. ii. While the report has information on the period of sentence of convict prisoners, their period of detention has not been provided. This information will assist policy development. |
| 7 | CHAPTER 7: PERIOD OF SENTENCES OF THE CONVICTS | <p>Inclusion of the following columns to Table 7.3 :</p> <ul style="list-style-type: none"> i. Number of death row prisoners acquitted during the year and ii. Number of death row prisoners who died (natural/un-natural) during the year. iii. Period of Detention spend by death row prisoners | This information will assist policy development. |
| 8 | CHAPTER 9: DEATHS IN JAILS | It is not clear as to what constitutes 'Natural Deaths' and 'Other Deaths' and the criterion for classifying a death as 'natural' or 'unnatural'. This must be clearly explained in the analysis. | Clarification to explain the criterion for classifying a death as 'natural' and 'un-natural'. This would also help to guide the prison authorities to classify a death as natural or unnatural. |
| | | Classification of deaths in custody by age, convict/pretrial/undertrial/others, religion and caste. | Completeness of information. Crucial Information to assist policy development. It would be important to better understand the reasons and patterns around custodial deaths. |

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| | | <p>Information must be provided on the judicial enquiries of deaths in custody. This could be in the form of :</p> <ul style="list-style-type: none"> i. Number of judicial enquiries of death in custody conducted ii. Status of the enquiry, iii. Number of prison officials suspended, reinstated, prosecuted, acquitted and convicted. | <p>This is a statutory mandate specified under S.176 of the Code of Criminal Procedure, 1973.</p> |
| | | <p>Inclusion of a table mentioning reasons for 'Natural Deaths' in prison.</p> | <p>The chapter provides reasons for 'Unnatural Deaths' in Prison but not for the 'Natural Deaths' in prison. Natural deaths form 90% of the total deaths in prison. Completeness of information. Example- Deaths due to respiratory diseases, drug overdose, heart attacks, renal failure or other reasons. To assist policy development.</p> |
| | | <p>The data on number of deaths in jails to be provided jail-wise.</p> | <p>This would help to identify the jails where deaths have occurred frequently and to assist policy development.</p> |
| | | <p>Clarification: Table 9.1 mentions one of the reason for death as 'Deaths due to Negligence/ Excesses by the Jail personnel'. What does 'Death due to Negligence' mean?</p> | <p>Please provide clarification.</p> |
| 9 | <p>CHAPTER 10: JAIL INSPECTIONS AND VISITS</p> | <p>Inclusion of the following data sets:</p> <ul style="list-style-type: none"> i. Number of jail inspections by Non-Official Visitors ii. Number of jail inspections by Representatives of Human Rights Commissions iii. Number of jail visits by lawyers to meet their clients iv. Number of jail visits made by researchers, non-government organisations, media persons, film-makers (who are not Non-official visitors) v. Number of visits by probation officers vi. Number of jail visits by Comptroller & Auditor General | <p>This chapter segregates inspections data into amorphous categories of inspections by 'Medical', 'Executive', 'Judicial' and 'Other' inspections. Section 59 (25) of the Prison Act, corresponding rules of the jail manuals; Section 12 (c) of Protection of Human Rights Act 1993; and other provisions clearly mandate prison visits from specific stakeholders.</p> |
| 10 | <p>CHAPTER 11: STRENGTH AND TRAINING OF JAIL</p> | <p>The strength of the jail officials and staff to be recorded as per the Model Jail Manual 2016.</p> | <p>To follow the standard provided by the Model Jail Manual. It will assist in future policy decisions.</p> |

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| | <p>OFFICIALS</p> | <p>Inclusion of following ratios at the end of the year: jail staff-inmate; medical officer-inmate; and guarding staff-inmate. The information should be provided jail-category wise.</p> | <p>To monitor the availability of adequate jail staff to ensure safety and security of prisoners, jail staff themselves and public at large.</p> |
| | | <p>Inclusion of post-wise number of prison staff recruited during the year and the number of staff which received the induction training.</p> | <p>The information in Table 11.1 titled ‘Sanctioned and Actual Strength of Jail Officers/Staff’ relates to the sanctioned and actual strength of jail officials. Also Table 11.3 titled ‘Training of Jail Officers/Staff’ provided information on training cumulatively as ‘Refresher/Specialised/Re-orientation courses. There is no information about the number of new prison staff recruited during the year and their training. This is especially important given the huge shortage of prison staff and frequent incidents of prison unrest and escapes.</p> |
| <p>11</p> | <p>CHAPTER 12: PRISON BUDGET AND EXPENDITURE</p> | <p>Inclusion of information on prison expenditures such as (but not limited to): i. Expenditure on prison staff and officials ii. Expenditure on prison infrastructure and maintenance</p> | <p>This chapter provides information about two things: i) Actual budget and Expenditure ii) Expenditure on Prisoners. Information on other prison expenditures are not provided.</p> |
| <p>12</p> | <p>MISCELLANEOUS</p> | <p>In Table M.3. , inclusion of a column to account for the number of occasions the court ordered the inmates to be produced in court. This would help assess the gap between the movement ordered and the actual movement.</p> | <p>Table M.3 titled ‘Movement of inmates outside the jail premises during the year’ provides information about the movement of inmates to court and for medical attendance. Adding a column to account for the number of occasions the court ordered the inmates to be produced in court would help assess the gap between the movement ordered and the actual movement. CHRI’s experience shows that many undertrials are not produced in court for their hearing.</p> |

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| | | Table M.1 titled 'Number of complaints received from NHRC & SHRC and their disposal during the year' provides the number of complaints received and disposed. However it is not clear who are sending these complaints to NHRC & SHRC. Also it is unclear which authority is disposing these complaints. | Please provide clarification. |
| | | Miscellaneous Table M9 & M10: Inclusion of gender wise classification of Foreign Inmates. | This would ensure completeness of information and would assist in policy development. |
| | | Number of jails where video Conferencing facilities have been operationalized | While this information has been made available as an annexure, as this information is available jail-wise it is difficult to compute the national aggregate statistic. |
| 13 | 'OTHERS' | Most of the tables have an 'others' column. In order to ensure completeness of information, the details of the sub-categories constituting the 'others' should be provided under each table. In any case the data under the 'others' category should not ideally exceed 10% of the total data. | |

SUGGESTED ADDITIONAL TABLES/ CHAPTERS

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| 14 | UNDERTRIAL REVIEW COMMITTEES (URC) | <p>A new chapter on Under Trial Review Committees (UTRC) must be added covering the below data sets.</p> <ul style="list-style-type: none"> i. Number of prisoners whose cases were recommended for release by the UTRC ii. Number of prisoners released due to the recommendation of the UTRC | UTRCs are established in every district based on the directions of the Hon'ble Supreme Court ¹ in April 2015. Since this is fairly a new mandate on judicial oversight it would be good to track the functioning of these committees from the very onset. |
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¹ Re - inhuman conditions in 1382 prisons Writ petition (civil) no.406/2013

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| <p>15</p> | <p>LEGAL AID FOR PERSONS IN CUSTODY</p> | <p>A new chapter/tables on legal aid covering:</p> <ul style="list-style-type: none"> i. Number of Undertrials provided legal aid ii. Number of Convicts provided legal aid iii. Number of Jails with legal aid clinics constituted and jail visiting lawyers and community and convict paralegal volunteers appointed. iv. Number of visits of jail visiting lawyers | <p>The PSI report provides information on Legal Aid for persons in custody under table M 6 titled 'Rehabilitation of prisoners during the year' under the column 'Number of persons to whom legal aid was provided'. Legal Aid Clinics are expected to be setup in prisons and the working of the clinic is recorded by the prisons Therefore we recommend that information on the legal aid clinics must be provided by the prisons. Also classification of legal aid provided to undertrials and convicts would be important.</p> |
| <p>16</p> | <p>CHANGES IN PRISON POPULATION</p> | <ul style="list-style-type: none"> i. A new table/chapter which takes into account some factors which lead to changes in prison population during the year: ii. Number of undertrials admitted to the prison during the year: It is significant to have this information as it would provide for the inflow of undertrials in prisons during the year which would particularly assist the state governments in allocation of funds and human resource accordingly. iii. Non- Appearance during Bail: Inclusion of the data on the number of undertrials rearrested and sent to judicial custody because they did not fulfil the conditions of bail (jumped bail). iv. Prisoners who were extradited from other countries to Indian prisons v. Prisoners who were repatriated from foreign prisons to Indian prisons vi. Inclusion of prisoners released on remission vii. Inclusion of data on deportation & repatriation of prisoners to other countries | <p>i, iii, iv, v and vi The PSI report provides detailed information about undertrials who are in prison as on 31st December. However it does not take into account multiple factors which lead to fluctuation/ changes in the prison population during the year.</p> <p>ii. The Supreme Court has time and again reiterated the principle of 'Bail as the norm and jail the exception' However there seems to be a wide gap between the principle and reality. Flight risk is an important consideration while deciding bail applications. Currently there is no available data of the number of undertrials who have not appeared in court after bail being granted.</p> |

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| 17 | PRISONERS SERVING LIFE IMPRISONMENT | <p>A new chapter titled ‘State-wise information on Prisoners serving life imprisonment at the end of the year’ on prisoners serving life imprisonment including :</p> <ul style="list-style-type: none"> i. Classification of prisoners serving life imprisonment by offence type ii. Number of prisoners serving life imprisonment released prematurely during the year iii. Period of detention of prisoners serving life imprisonment iv. Demographic details of prisoners serving life imprisonment | <p>Prisoners serving life imprisonment are a distinct category of prisoners and a separate chapter providing details about these set of prisoners would help make policy decisions</p> |
| 18 | FOREIGN NATIONAL PRISONERS | <p>A new chapter on foreign national prisoners including :</p> <ul style="list-style-type: none"> i. Number of foreign national prisoners detained beyond the completion of their sentence ii. Number of foreign national prisoners detained on preventive charges beyond the completion of their sentence iii. Number of foreign convicts deported or sent to deportation centres during the year iv. Number of foreign national prisoners provided consular access (visited by consular representatives) v. Number of foreign convicts transferred to their countries | <p>The PSI Report does not account for foreign prisoners who remain in prison for want of assistance and means to return to their own countries. These are Foreign National Prisoners (FNPs) who have completed their term but continue to be lodged in prisons awaiting repatriation to their homes. Many of them continue to be detained in prison under preventive laws. The delay is underpinned by various factors one of which is lack of consular access.</p> |
| 19 | DETENUES | <p>A separate table for detenues must be provided segregating detenues arrested under a) preventive provisions in Chapter VIII and Section 151 of the Code of Criminal Procedure (CrPC) and b) other preventive /national security legislations.</p> | <p>CHRI’s experience shows that a considerable number of prisoners are arrested every year under Chapter VIII – Security For Keeping The Peace And For Good Behaviour and S. 151 of the Code of Criminal Procedure, 1973. There is a need to segregate these from the number of undertrials under national security laws in order to check arbitrary abuse of power by police.</p> |
| 20 | SOLITARY CONFINEMENT | <p>A new chapter/ table on use of solitary confinement in prison including :</p> <ul style="list-style-type: none"> i. Number of occasion inmates were kept under solitary confinement during the year ii. Number of inmates kept under solitary confinement during the year iii. Time-period wise distribution of number of inmates kept in solitary confinement | <p>Prisons are mandated to maintain a record of the use of solitary confinement. However the information on the use of solitary confinement is not available in public domain</p> |

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| 21 | HEALTH & HYGIENE | Inclusion of Inmates suffering from health related problems like Diarrhea /Dysentery, fever, injuries, skull ailments/ mental depression, heart disease, T. B, dental Problem, Alcoholic / Drug addiction, HIV / AIDS, Eye related problems, Skin problems Delivery/Pregnancy related issue. | This would assist in policy development. |
| | | Inclusion of details of Drug addiction among inmates & rehabilitation. | This would assist in policy development. |
| | | Inclusion of data collection on prisoners sent to mental hospital or mental asylum. | This would assist in policy development. |
| | | Inclusion of information on toilets and bathrooms in prison : i. Number of a) Toilets and b) Bathrooms in the jail. ii. Number of a) Toilets per prisoner and b) Bathrooms per prisoner | To keep a check on the availability of the adequate infrastructure to provide decent living conditions to prisoner staying in overcrowded prisons. This has also been one of the primary concerns highlighted by the Comptroller & Auditor General. |
| | | Inclusion of state-wise information on the sanctioned calorie/nutrition intake per prisoner | To understand the variance in the quantity/type of food provided in different states. This would assist policy development. |
| | | Inclusion of the information of the provision of sanitary napkin | This would assist in policy development. |
| 22 | SECURITY | Inclusion of information on the number of seizure reported in prison during the year: Cell phone/Mobile phone, SIM card, Narcotics drugs, number of Contraband Article and others in Seizure in Jails. | This would assist in policy development. |
| 23 | PRISON ADVISORY BOARD | i. Number of times the Prison Advisory Board/State Sentence Review Board (for Premature Release of prisoners) has met. ii. Number of inmates considered for release iii. Number of inmates released prematurely | This would assist policy development. |
| 24 | JAIL RULES | State-wise list of updated rules governing prisons | To ensure information on list of updated jail rules of all the states are readily available. |