



January 19, 2018

JAIL MAIL: PRISONS AND PARLIAMENT

Dear Friends,

Greetings from CHRI for a Happy New Year!

This newsletter is in continuation of our earlier Jail Mail (view [here](#)) on questions asked in the Monsoon Session of the Parliament. You may recollect that in that session, which was held in July-August 2017, the Members of Parliament asked 24 questions relating to prisons and prisoners. In response to our Jail Mail, we even received some suggestions on questions that could be asked, we applaud and welcome such contributions from our readers.

The winter session of parliament was held from 15th December 2017 to 05th January 2018 with 13 sittings. This was the shortest parliament session in the last 20 years. This session saw 16 questions on prisons which ranged from prison deaths, overcrowding, access to legal aid for prisoners, and bail and repatriation of prisoners. Eight questions were asked each in the Lok Sabha and the Rajya Sabha. Out of the 16 questions asked, 10 were directed towards the Ministry of Home Affairs, three each to the Ministry of External Affairs, and Ministry of Law and Justice. 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. Also during the session, the Committee on Empowerment of Women submitted its report '*Women in Detention and Access to Justice*'. The link to the report can be found [here](#). PRS's summary on the same can be viewed [here](#).

What can you do?

- You can suggest us questions that you would like to be asked in the next session of the parliament.
- You can appraise your representative about the issues and challenges that you face or are important to you.
- You can 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](#).
- In order to understand the areas of work of your MP/ other MPs, you can use PRS Legislative Research's [MP Track](#).
- There is another platform where questions can be sent to the parliament. You can view it [here](#).

Write to us at 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 2017-18 Winter Session. These questions pertain to issues relating to prisons and prisoners. Eight of the 16 questions have been asked by BJP (4) and Congress (4) MPs and the rest by MPs from regional parties.

Date and Question Number	Topic	Question Asked by	Forum	Answered by (Name & Designation)
Prison Conditions & Prisons Monitoring				
19.12.2017/504	Installation of CCTV Cameras	Shri Maheish Girri	Lok Sabha	Ministry Of Home Affairs/Shri Hansraj Gangaram Ahir
27.12.2017/1037	Death of undertrials and convicts in prison *	Smt. Vandana Chavan	Rajya Sabha	Minister Of State In The Ministry Of Home Affairs/ Shri Hansraj Gangaram Ahir
27.12.2017/100	Inhuman condition of jails in the country *	Shri Rajeev Shukla	Rajya Sabha	Minister Of State In The Ministry Of Home Affairs/ Shri Hansraj Gangaram Ahir
27.12.2017/102	Deaths in various jails *	Shri Vishambhar Prasad Nishad	Rajya Sabha	Minister Of State In The Ministry Of Home Affairs/ Shri Hansraj Gangaram Ahir
Legal Aid For Prisoners				
22.12.2017/918	Prisoners benefited from legal aid by NALSA *	Shri Harshvardhan Singh Dungarpur	Rajya Sabha	Minister Of State For Law & Justice And Corporate Affairs/Shri P.P.Chaudhary
22.12.2017/913	Provision of legal aid at police stations *	Smt. Vandana Chavan	Rajya Sabha	Minister Of State For Law & Justice And Corporate Affairs/Shri P.P.Chaudhary
Women Prisoners				
19.12.2017/462	Rehabilitation of Women Undertrials/Convicts	Shri. A.P. Jithender Reddy	Lok Sabha	Ministry Of Home Affairs/ Shri Hansraj Gangaram Ahir
03.01.2018/1820	Women prisoners in the country *	Shri A.U. Singh Deo, Smt. Vandana Chavan	Rajya Sabha	Minister Of State In The Ministry Of Home Affairs/ Shri Hansraj Gangaram Ahir
27.12.2017/1004	Women undertrials and convicts in prisons *	Shri Husain Dalwai	Rajya Sabha	Minister Of State In The Ministry Of Home Affairs/ Shri Hansraj Gangaram Ahir
Bail & Hearing Of Cases				
19.12.2017/496	Bail Applications	Shri Ninong Ering	Lok Sabha	Ministry Of Home Affairs/Shri Hansraj Gangaram Ahir
27.12.2017/1453	Hearing of High Profile Cases	Smt. Riti Pathak	Lok Sabha	Minister Of State For Law And Justice And Corporate Affairs/Shri P. P. Chaudhary
19.12.2017/662	Report on Bails	Shri Gaurav Gogoi, Shri Anurag Singh Thakur	Lok Sabha	Ministry Of Home Affairs/Shri Hansraj Gangaram Ahir
SC & ST Prisoners				
27.12.2017/997	SC and ST prisoners *	Shri K. Somaprasad	Rajya Sabha	Minister Of State In The Ministry Of Home Affairs/ Shri Hansraj Gangaram Ahir
Foreign National Prisoners				
03.-1.2018/2601	Repatriation of Prisoners	Shri A.P. Jithender Reddy, Shri Kalikesh Narayan Singh Deo, Shri Ninong Ering	Lok Sabha	The Minister Of State In The Ministry Of External Affairs/Shri M. J. Akbar
20.12.2017/814	Talks on Fishermen Issue	Shri. Bhairon Prasad Mishra	Lok Sabha	The Minister Of State In The Ministry Of External Affairs/Gen. (Dr) V. K. Singh (Retd)
03.01.2018/2579	Fishermen in Pak Jails	Shri. PR. Senthilnathan, Shri P. Kumar	Lok Sabha	The Minister Of State In The Ministry Of External Affairs/Shri M. J. Akbar

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

SUMMARY OF QUESTIONS & ANSWERS

1. Prison Conditions & Prisons Monitoring

Few Ministers asked questions with respect to inhuman prison conditions, prison overcrowding and the steps being taken by the Government to remedy the same. In particular questions were asked on the number of deaths that have taken place inside the prison within the last three years- whether under-trial or convict, natural or unnatural; cases in which families of the inmates complained of inhuman treatment; number of magisterial enquiries conducted and their outcomes; installation of CCTV cameras; and steps taken to implement the recommendations made in NHRC's (National Human Rights Commission) "Suicide in Prison" report.

Information about the number of deaths in prison was provided stating data from NCRB (National Crime Records Bureau). No central data had been maintained regarding the number of magisterial inquiries conducted, therefore the information provided by NHRC in this matter with respect to inquiry reports, the cases closed, cases pending, disciplinary actions (36 cases) taken and monetary compensation (7.997 crores in 486 cases in the last few years) were provided. **The data regarding the overcrowding in prisons was also provided stating that against the total capacity of 3,80,876 prison inmates in various jails of the country, 4,33,003 inmates were lodged in various jails.**

The Minister further stated that prisons is a state subject and the Government of India has been issuing several guidelines and advisories on prison administration to the States and Union Territories from time to time. The minister also provided NCRB data of the number of CCTVs available in the prisons. Also, NHRC guidelines on 'Prevention of Suicide in Prisons' and the 2016 Model Prison Manual prepared have been circulated to all States and UTs.

2. Legal Aid for Prisoners

Enquiries were made regarding the steps taken by the Government to provide legal aid to persons at police stations and also, by National Legal Services Authority (NALSA) to poor prisoners in various jails. Further enquiry was made regarding the schemes/ regulations formulated by the Government for this purpose along with the number of persons who have benefitted. A question was also asked regarding the total number of persons languishing in jails due to lack of legal assistance.

The Minister responded by stating that under Article 39A, legal aid is provided by legal services authorities to eligible persons at police stations as and when request for such services are received. However, no specific scheme/regulation has been formulated to provide legal aid to persons at police stations. The persons in need of legal aid are provided the same through lawyers whose panel is maintained by State and District Legal Services Authorities.

Data from NALSA was taken to state that 7.41 lakhs persons in custody have received legal aid. The Minister further responded that 25 legal assistance establishments have been set-up by NALSA and persons currently lodged in various jails are provided legal assistance as per their eligibility and requirement. Such persons are identified through Under-trial Review Committees set up by the District Legal Services Authority and through legal aid clinics and regular visits by panel lawyers to jails.

3. Women Prisoners

Questions were asked regarding the number of women prisoners, both convicts, and under-trials in various States and UTs, in the year 2010 and 2017. Further inquiries were made regarding the policies made for rehabilitation of such women and the social security schemes framed for their benefit. Policies framed regarding the education and care of children of women prisoners, whether below six years of age and residing within the prison with their mothers or otherwise and social security schemes formulated for such children, was also asked.

Information about the number of women prisoners in various States and UTs were provided stating data from NCRB. The Government further responded to most inquiries stating that prisons is a state subject but it has been providing guidance to the States in prison management through various advisories issued from time to time. The Ministry of Home Affairs has undertaken various initiatives to reduce the number of prison inmates in the jails of the country citing the 2005 Amendment of CrPC to insert Section 436A and the 2016 Model Prison Manual.

The Minister also stated that the recommendations of the National Expert Committee on Women Prisoners and an advisory regarding the best practices adopted all over India in the matter of female prisoners and welfare of their children were also shared with all States and UTs.

4. Foreign National Prisoners

Two Ministers made inquiries regarding the details of Indian nationals (convicts and under-trials) lodged in foreign countries' prisons. Enquiries were also made regarding the number of applications for repatriation under the

Repatriation of Prisoners Act, 2003, and the number of prisoners repatriated thereunder. The number of countries with which India has signed bilateral treaties, the details of the inter-ministerial process of interaction and the details of the average time taken to process requests for this purpose was also asked.

Regarding repatriation, as per the information available with the Ministry, **the number of Indian prisoners in foreign jail is 7,985**, and a detailed country-wise list was also provided. However, it was stated that due to strong privacy laws of some countries, the details of the prisoners are not provided by the countries unless the prisoners themselves consent to the same. **It was further stated that 170 applications for repatriation have been received and 62 Indian prisoners have been repatriated from foreign prisons since the enactment of the Repatriation of Prisoners Act, 2003.** Further, India has signed bilateral treaties with 30 countries in regard to the repatriation of prisoners. India has also acceded to the Inter American Convention and hence, India can receive and send requests to the member countries as well as those countries who have signed/ratified the Inter American Convention for repatriation of prisoners, said the Minister.

Two Ministers enquired regarding the number of fishermen, civilians, and prisoners of war released by Pakistan and Sri Lanka, and steps being taken by the Government to ensure further release. Information regarding the number of Indian fishermen apprehended and released, and the number of civilian prisoners released by the Governments of Pakistan and Sri Lanka was provided. It was further stated that while Sri Lanka has released information regarding the number of fishing boats in custody, Pakistan has not acknowledged the number.

5. Bail & Hearing of Cases

A Member of the Parliament asked questions regarding the number of under-trials admitted to Indian prisons during the last year- gender and state-wise. Enquires were made regarding the number of bail applications filed by them, a number of applications granted and the number of inmates actually released. Two Ministers also enquired regarding the status of the implementation of the 268th Law Commission report on bails, especially on the proposed amendments to the Criminal Procedure Code, and the details thereof. Another Member enquired whether the Government was considering the proposal of conducting all trials in high-profile cases through video conferencing - if so, the benefits thereof.

The Minister for Ministry of Home Affairs stated NCRB data regarding the number of under-trials in Indian prisons and details of inmates released on bail in the last year. The Minister, however, stated that there was no central compilation of data for the number of bail applications and a number of applications granted, as prisons is a state subject. Regarding the implementation of the 268th Law Commission report on bails, the Minister responded that criminal laws and criminal procedure being a part of the Concurrent list, the Report has been forwarded to all State/UTs for their views and comments on the recommendations made in the Report.

The Minister for Ministry of Law and Justice responded to the inquiry regarding conducting trials in high-profile cases through video conferencing stating that it is part of the larger plan to check delays and deficiencies in the investigation into serious crimes and by ensuring progress of trials without hindrances and hurdles. **The Minister further stated data from the Supreme Court that Video Conferencing equipment have been provided to 493 court complexes and 347 central and district Jails and that funds have been allocated to equip 2,747 court complexes and 928 jails with such equipment.**

6. SC & ST Prisoners

An inquiry was made regarding the number of Schedule Caste and Schedule Tribe prisoners in the jails of the country- and the number of under-trials and convicts therein.

The Minister responded that there was 93,933 Scheduled Caste (SC) and 51,761 Scheduled Tribes (ST) prison inmates at the end of the year 2016. The number of under-trials and convicts therein, both State and UTs wise and age-group wise was also stated.

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-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights across the Commonwealth. CHRI was founded in 1987 by Commonwealth professional associations; it is headquartered in New Delhi, India since 1993, and has offices in Accra, Ghana and London, UK.

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 activities of the programme.

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