



18 July 2019

## **JAIL MAIL: NELSON MANDELA DAY An Analysis of Prison Statistics India 2016**

Dear Friends,

Greetings from CHRI!

Today marks the 101<sup>st</sup> birth anniversary of former South African President Nelson Mandela, which is celebrated as the International Nelson Mandela Day. Nelson Mandela devoted his life to the service of humanity as a human rights lawyer, a prisoner of conscience, an international peacemaker and the first democratically elected president of a free South Africa. He spent 27 years in prison during his struggle for global human rights, equality, democracy and the promotion of a culture of peace.

In 2015, the United Nations General Assembly decided to extend the scope of the International Nelson Mandela Day to be also utilised in order to promote humane prison conditions of imprisonment, to raise awareness about prisoners being a continuous part of society and to value the work of prison staff as a social service of particular importance. This coincided with the exercise to revise and update the United Nations Standard Minimum Rules (SMR) for the Treatment of Prisoners in 2015. In recognition of Mandela's major support to the revision process and to honor his legacy, the rules were named **Mandela Rules**.

Rule 10 of these rules, emphasises on the generation of reliable data about trends relating to and characteristics of the prison population, including occupancy rates, in order to create a basis for evidence-based decision-making.

The *Prison Statistics India* report, which is collated and published by the Government of India's National Crimes Record Bureau (NCRB), is the only national source of data on prisons. There is also the *National Prison Information Portal* ([www.eprisons.nic.in](http://www.eprisons.nic.in)) which publishes some basic real-time information such as total number of prisoners, number of admissions, number of visits, etc. Additionally, some states proactively disclose further information on prisons on their websites, although most of these are rarely updated.

Some more data on Indian prisons can also be accessed via CHRI's '[Indian Prison Data Map](#)' which graphically indexes for each state basic information on key criminal justice institutions,

the Board of Visitors, Under Trial Review Committees, Legal Aid Services for Persons in Custody and Foreign National Prisoners in each state.

In April this year, the NCRB released its *Prison Statistics India 2016*, which contained relevant statistics and analysis on Indian prisons for the year 2016. This publication is marked by a number of additions to the content as well as by the absence of caste-segregated prison demographics. A useful addition has been the section on ‘methodology’, which clarifies the process through which the data is collated and compiled by the bureau; some other useful additions are the inclusion of 6-year trends in some chapters, the revision of data proformas for deaths in prisons, the inclusion of inflow data on prisons, the status of undertrial prisoners under section 436A CrPC, state-wise data on the number of NGOs working for welfare of prisoners, and data on construction and renovations of prisons, etc.

As of 2016, there were 4,33,003 prisoners confined across 1,412 prisons in India. The occupancy rate of prisons was 113.7% -- having come down from 114.4% in 2015. CHRI’s analysis of the prison statistics on 10 key aspects – proportion of undertrial prisoners, period of detention of undertrial prisoners, deaths inside prisons, prisoners by type of offence, educational qualification of prisoners, prison officials and staff, women prisoners, prison inspections, expenditure on a prisoner per day and foreign national prisoners – is attached with this newsletter.

### **What you can do**

1. Individuals and organisations working on prisons may,
  - a. access the data on prisons in their state and conduct trend analysis on key aspects to produce evidence-based research, and/or
  - b. write to appropriate authorities to bring to their notice any disturbing trends or data that warrants immediate action such as vacancies in staff, occupancy rates, custodial deaths etc.
  
2. Prison administrators may,
  - a. ensure that a standardised prisoner file management system is maintained in their prison/s, which would guarantee accuracy of national prison statistics, and
  - b. make efforts to proactively disclose data on their websites, preferably every quarter.

You can also write to us at [chriprisonsprog@gmail.com](mailto:chriprisonsprog@gmail.com) with comments and suggestions. Please send us an email if you wish to unsubscribe from these updates.

With best regards,

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# CHRI

Commonwealth Human Rights Initiative

working for the practical realisation of human rights in the countries of the Commonwealth

## TEN THINGS YOU SHOULD KNOW ABOUT INDIAN PRISONS\* Prison Statistics India 2016



2/3rds of the prison population is still awaiting trial. Only 16 countries in the world have a higher % of undertrial prisoners



At 1,655 deaths in prisons during the year, there has been a death in an Indian prisons every 5.5 hours



85% of the convicts are sentenced for offences affecting the human body



The population of women prisoners in India has increased by 61% in the last 15 years



On an average, Indian prisons spend Rs. 81.5 per prisoner per day – Goa spent Rs. 262, and Rajasthan just Rs.40 per prisoner per day



1/4th of all prisoners awaiting trial have already spent more than a year behind bars



There are 621 correctional staff out of a total of 53,370 staff members to manage 1,412 prisons: Not even one correctional staff per prison



On average, an Indian prison was visited only twice every month by prison inspectors



59% percent of the 6,370 foreign national prisoners in India are from Bangladesh



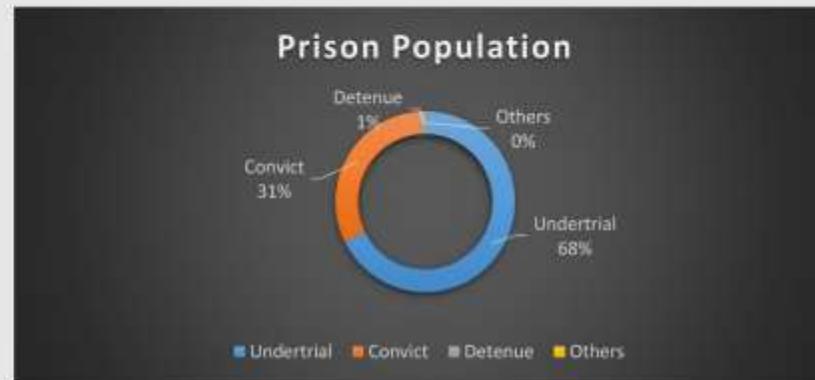
70% of prisoners are either illiterate or have studied to a level below class 10

\*prepared by Siddhartha Lamba, Raja Bagga and Madhurima Dhanuka, Prison Reforms Programme, CHRI

## I. PROPORTION OF UNDERTRIAL PRISONERS

### Findings of the PSI 2016 Report:

- ❖ 10,74,353 prisoners were admitted in prisons across India in 2016; 60,035 of them were female prisoners.
- ❖ There has been no improvement in the national undertrial-to-convict ratio for more than a decade. Seven out of 10 prisoners are still awaiting trial in India, according to the report.
- ❖ Uttar Pradesh has the highest number of undertrial prisoners and comprised 23.4% of the total undertrial population of the country.
- ❖ Meghalaya is at the worst position with 89% of its prison population being undertrials, followed by Manipur and Bihar with 84% each.
- ❖ Mizoram, Tripura and Andaman & Nicobar Islands are the only three states and Union Territories with less undertrials than convicts. Chandigarh has as many undertrials as convicts.



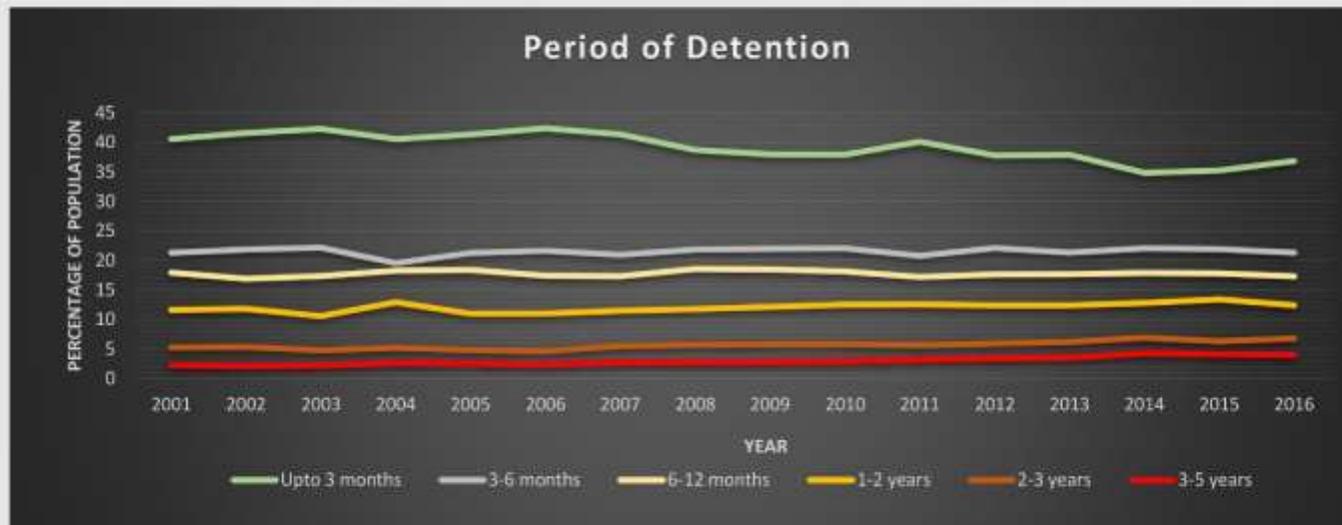
**CHRI's comments:** There has been an increase of 21.5% in the undertrial population between 2011 and 2016, against a total increase of 16.1% in overall the prison population for the same period. These continuing high numbers reflect the failure of a more than decade-long attempt to reduce it with initiatives such as bail on personal bond, fast-track courts, etc. The impact of reviewing mechanisms such as Undertrial Review Committees (UTRCs), however, remains unclear, and one hopes to find answers from the

Prison Statistics India reports for 2017 and 2018. According to the [World Prison Brief](#), in 2017 India's position among 217 countries has risen from 18<sup>th</sup> (in 2015, out of 211) to 17<sup>th</sup> in terms of high proportion of undertrial prisoners. Among 28 Asian countries, India ranks 5<sup>th</sup> with only Pakistan, Cambodia, Philippines and Bangladesh above it, in the order on this parameter. The reasons behind this inexorable undertrial-to-convict ratio are complex but not unidentified. Unnecessary arrests, sluggish pace of criminal trials, deliberate delays to suit administrative convenience, lack of effective legal representation and vacancies in the magistracy are the primary culprits. The consequences are overcrowded prisons and sub-human prison conditions.

## II. PERIOD OF DETENTION

### Findings of the PSI 2016 Report:

- ❖ One-fourth of undertrial prisoners have been inside prisons for more than a year.
- ❖ Six out of every 10 undertrial prisoners have spent more than three months behind bars.
- ❖ 3,927 undertrial prisoners have spent more than five years awaiting trial behind bars.

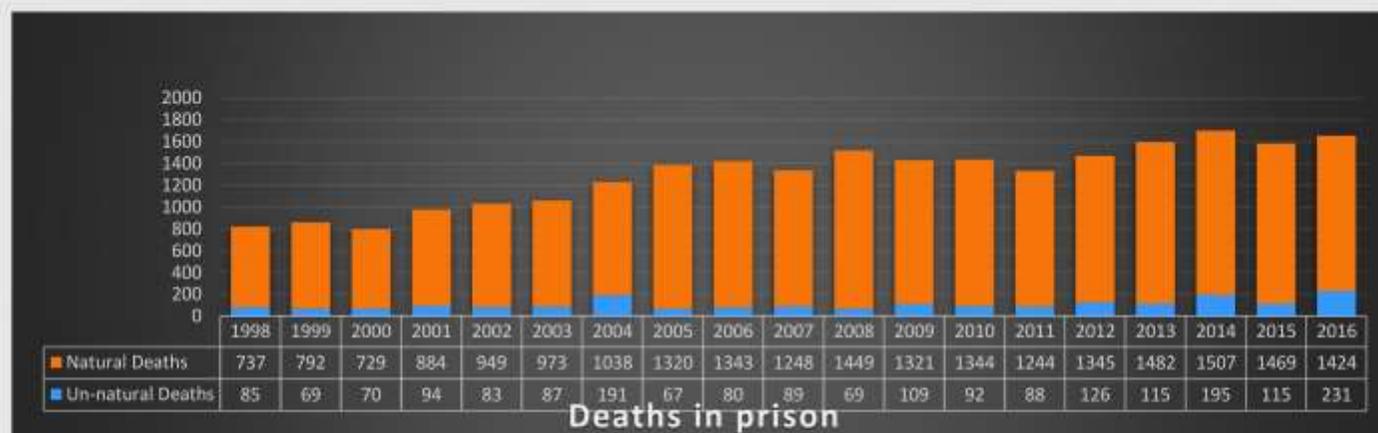


**CHRI's comments:** Comparative data from 2001 to 2016 shows that the percentage of prisoners spending shorter periods of time behind bars without being held guilty has decreased, while the percentage of undertrials spending longer periods in prisons has increased. There is a fall of 4 percentage points in the number of undertrials spending less than three months in prison from 41 to 37 between 2001 and 2016. The percentage of prisoners incarcerated for more than a year while awaiting trial has increased from 19% in 2001 to 25% in 2016. This means that trials are taking longer to complete and more prisoners now spend longer in jail than ever before. This also means that the frequent orders from the Supreme Court insisting on liberal bail have gone unnoticed and that there is an increased emphasis on imprisonment instead of releases on bail.

### III. DEATHS INSIDE PRISONS

#### Findings of the PSI 2016 Report:

- ❖ There was a death within Indian prisons every 5-and-a-half hours.
- ❖ One suicide took place in Indian prisons every four days. According to 2015 NCRB data, there were 10.6 suicides for every 1 Lakh people in India; compared to this, in 2016, there were 102 suicides in Indian prisons against a total population of 4.3 Lakh.
- ❖ Since 1998, 2016 recorded the second highest number of deaths in Indian prisons (1,655 deaths) after 1,702 in 2014.
- ❖ Since 1998, 2016 recorded the highest number of unnatural deaths in prisons (231 death). 103 of these have been categorised as 'pending final approval' and are yet to be confirmed as unnatural or natural deaths.



**CHRI's comments:** A prisoner is under the state's custody and its continuous watch, which implies that the health and safety of a prisoner is the state's prerogative. Nevertheless, deaths in Indian prisons continue to rise. 2016 recorded the highest number of unnatural deaths in prisons since 1998. "Natural" deaths in prisons is a problematic categorisation as it includes preventable illnesses leading to death, lack of treatment or negligence during treatment.

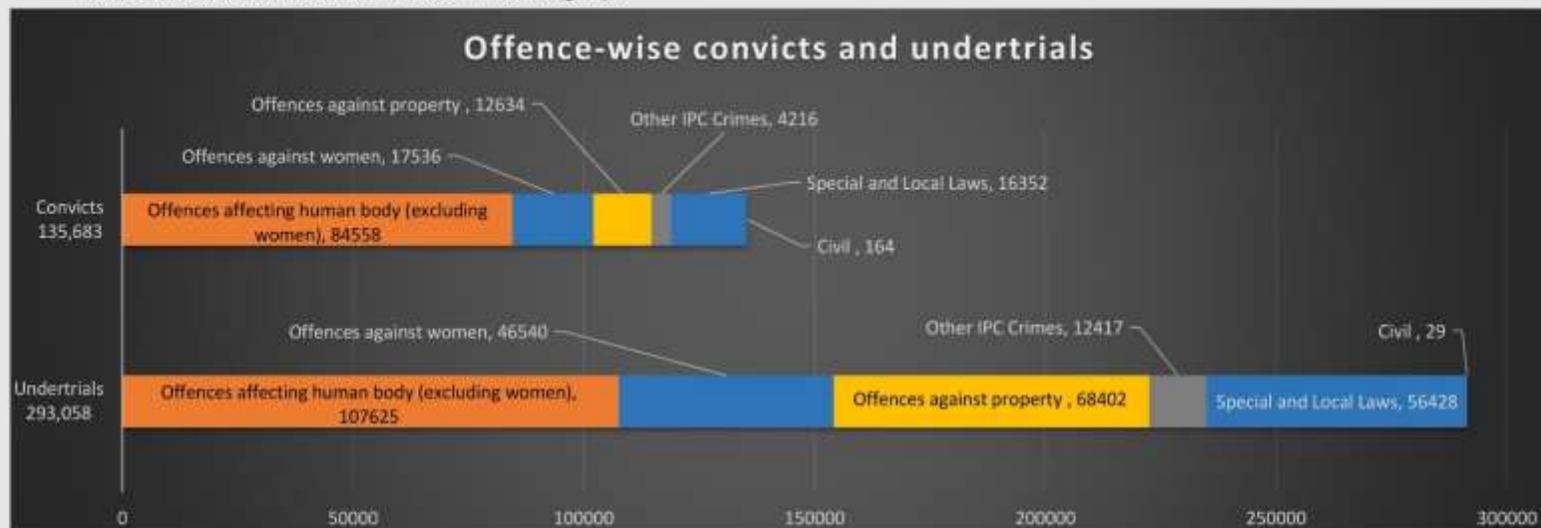
Suicides account for 44% of unnatural deaths in prison in 2016 -- an alarming proportion. Another concern is that the "others" sub-category in unnatural deaths has been a part of the PSI for a long time, but has always remained unexplained. In 2016, there were two "other" unnatural deaths, the reasons for which still remain unknown. These figures point to the lack of adequate medical healthcare in prison, including a lack of mental healthcare. They also point to a lack of effective oversight mechanisms in prisons, which can ensure periodic checks on the quality of healthcare through official and non-official visitors.

#### IV. PRISONER BY TYPE OF OFFENCES

##### Findings of the PSI 2016 Report:

- ❖ 85% of convicts were sentenced for offences affecting the human body. Of the 1,00,790 convicts who fall within this category, two-thirds were sentenced for murder, followed by 10% for rape and 7% for attempt to murder.

- ❖ 15% of convicts were sentenced for committing offences against women, while 20% of undertrials were accused of committing offences against women.
- ❖ 50% of all convicts and undertrials convicted/charged under Special and Local Laws were under offences related to liquor and narcotic drugs.
- ❖ 29% of undertrial prisoners were accused of offences against property, but convicted prisoners under this category made up only 11% of the total number of convicts.
- ❖ There were 5,492 undertrials accused of committing offences of cruelty against women or insulting the modesty of women. 1,304 convicts fall under this category.



**CHRI's comments:** Eight out of 10 convicted prisoners were sentenced for offences affecting the human body, which included charges of murder, rape, dowry deaths, culpable homicide, kidnapping and abduction, and assault on women. 70% of these convicts were sentenced for murder. This is the only category of offences for which the percentage share of prisoners convicted is more than the share of undertrials accused of committing these offences. The highest variation in share of convicted prisoners against undertrials is for offences against property with only

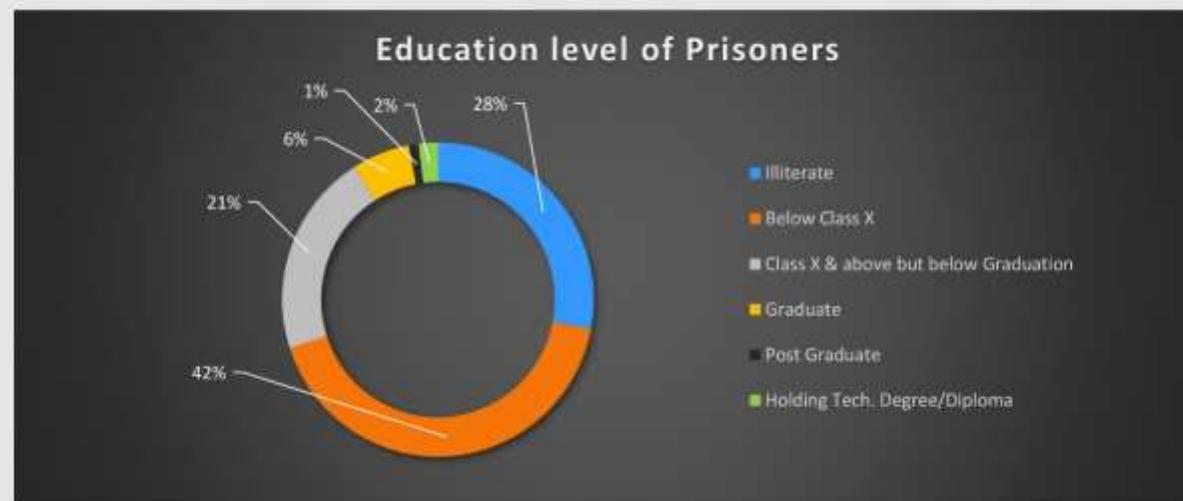
12,634 convicts against 68,402 undertrials. Special and Local Laws consist of offences under state laws for crimes related to liquor and narcotics, foreigners & passport, arms/explosives, special laws on crimes against women, railways, caste-based crimes, etc. 52% of convicts and 50% of undertrials accused under the Special and Local Laws were for liquor and narcotics/drugs-related offences.

[Note: NCRB calculates its data on the offence-wise break-up of prison populations based on the gravest offence a person is accused of or is convicted for]

## V. EDUCATIONAL QUALIFICATION OF PRISONERS

### Findings of the PSI 2016 Report:

- ❖ 28% of the prison population was illiterate.
- ❖ Only 6% were graduates and a mere 1% were post-graduates.
- ❖ 70% of all convicts had not passed their matriculation exams – the 10<sup>th</sup> standard or high school exams.
- ❖ 71% of all undertrials had not passed matriculation exams.



**CHRI's comments:** An illiterate person is one who cannot read and write in any language. According to the report, 28% of the total prison population was illiterate, which means that three out of 10 prisoners in India are unable to read FIRs, arrest memos, etc., that they are required to sign and acknowledge before being produced before a magistrate. This, coupled with an overburdened system, makes them especially vulnerable to torture and unbalanced trials. Only 30% of those behind bars have are educated beyond the level of class 10, indicating that those deprived of education comprise over two-thirds the incarcerated in India.

## VI. PRISON OFFICIALS AND STAFF

### Findings of the PSI 2016 Report:

- ❖ There are 81,568 sanctioned posts for prison officials and staff to manage Indian prisons.
- ❖ However, the actual strength of prison officials and staff was only 53,370, indicating a shortage of 35% human resources.
- ❖ There are 1,011 sanctioned correctional staff for 1,412 prisons, but their actual strength is only 621. Notably, the sanctioned correctional staff is less than the actual number of prisons in the country.
- ❖ With only 2,024 actual medical staff against the sanctioned strength of 3,109, there is only one medical staff per 214 inmates in India.
- ❖ There are 20 psychiatrist/psychologists available for the entire prison population in the country – one for every 21,650 inmates.
- ❖ Jharkhand ranks the worst with 70% vacancies in prison officials and staff. Only Chandigarh reports 100% appointment of staff.

**CHRI's comments:** Prison officials and staff include officers, cadre staff, correctional staff, medical staff, ministerial staff and others. Jail cadre forms more than 70% of the force. The correctional staff includes probation officers, psychologists/psychiatrists and social workers who are primarily responsible for the rehabilitation and reformation of prisoners. The Model Jail Manual 2016 recommends one-guarding staff for every six inmates. In reality, the number is almost half the standard, with 10 prisoners per guarding staff. An unbalanced guard-to-inmate ratio means that guards have to monitor more inmates than their capacity, which leads to a culture

of unlawful practices being carried out in prison. Higher workloads also imply poor and exploitative work conditions, thus causing severe distress among prison officials and staff. A shortage of staff impacts accountability as excuses of being overburdened become normal in the prison administration. Low levels of sanctioned and actual strength of correctional staff is a major impediment in advancing rehabilitation and reformatory developments in Indian prison services. In reality, short-staffing in Indian prisons could be far worse than reflected in the PSI figures as the report does not take into account suspensions and other factors such as absence on leave or additional administrative duties.

PSI data further states that a meagre 15% of the total prison officials and staff received training in 2016. Lack of training can affect both prisoners and staff as the conditions experienced by both remain far from the objectives of prison services in a modern-day civilised state. Further, senior decision-making positions are usually filled by high-ranking police officers, who may or may not have any experience in running prisons. There are no provisions for the training of such personnel, which means that they often spend the first few years understanding the system before they can initiate changes or improvement. Just as soon as they begin to do this, their tenures approach their end.

## VII. WOMEN PRISONERS

### Findings of the PSI 2016 Report:

- ❖ Women prisoners formed 4.3% of the prison population.
- ❖ There were 1,22,88 women undertrial prisoners and 5,923 women convicts.
- ❖ There were 1,649 women prisoners with 1,942 children inside prisons as on 31 December 2016.
- ❖ The 3.58% increase in women behind bars is more than the overall increase of 3.09% in the prison population from 2015 to 2016.
- ❖ Chhattisgarh has an alarmingly high female occupancy rate of 186%, followed by Uttarakhand at 142%, Delhi at 138%, West Bengal at 121%, Goa at 120% and Uttar Pradesh at 117%. The remaining states and UTs have a female occupancy rate that is lower than 100%.

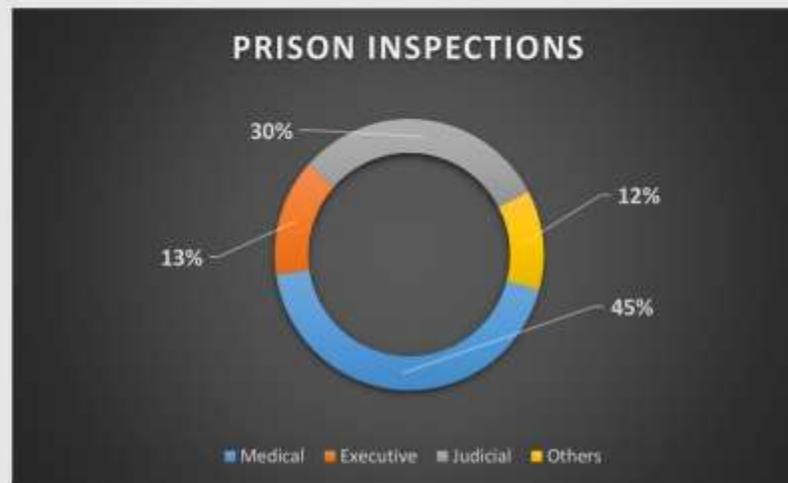
**CHRI's comments:** There has been a 61% increase in the number of female prisoners in India since 2010. In view of this, the Ministry of Women and Child Development [report](#) on women prisoners released in June 2018 recommends measures to avoid the incarceration of women. While the PSI 2015 reported the deaths of 51 women prisoners, PSI 2016 does not report separate data on

their deaths. With inadequate staff trainings on gender sensitisation, an insufficient number of exclusive women jails, inadequate management and prevalence of regressive prison practices, women prisoners remain vulnerable to gender-based violations behind bars, in addition to other rights violations.

## VIII. PRISON INSPECTIONS

### Findings of the PSI 2016 Report:

- ❖ According to the report, there were only two inspections per prison per month -- including inspections from Medical, Executive, Judicial and other categories of prison inspectors and visitors.
- ❖ Medical inspections form 45% and judicial inspections form 30% of the total inspections.



**CHRI's comments:** As per PSI data, there were two visits per prison every month, on an average. However, this figure does not indicate the real situation, since visits without proper reports and full inspections are not effective. NCRB data does not mention the number of reports submitted by the visitors/inspectors. Further, this figure is deduced from the data that there were 45,174

prison visits in 2016, on the assumption that all 1,412 prisons were visited every month. Although the total number of inspections have increased, it is important to note is that the monthly rate of inspections has remained the same since 2005.

Prison inspections ensure that they are administered in accordance with the law in letter and spirit. Prison visits are governed by state acts, state prison manuals or any special notification by the state home department. There is also a Board of Visitors which comprises official as well as non-official visitors required to meet regularly to discuss issues of concern and recommend solutions. CHRI's first national report on prison monitoring in 2016 'Looking into the Haze' found that prison visiting boards were not operational in most prisons and that states performed very poor on their state-wise mandates on prison monitoring. The report reflects on the poor rate of appointments of visitors in prisons across the country. CHRI will be releasing the second edition of this report in 2019, which shows that the appointments of these visitors remain low, Boards do not meet at all in some states, and that non-official visitors do not visit the prisons as per their mandate. So poor is the oversight of prisons that the Supreme Court has taken upon itself the task of monitoring them through the judiciary, as well as directing the rectification of the system through an ongoing case aptly named "Inhuman Conditions in 1,382 Prisons".

## **IX. EXPENDITURE ON A PRISONER PER DAY**

### **Findings of the PSI 2016 Report:**

- ❖ The prison department, on an average, spent Rs. 81.5 per prisoner every day in 2016, which is Rs. 5 less than what it spent last year.
- ❖ 10% of the total budget for the financial year 2016-17 remained unused (Rs. 518.7 crore).
- ❖ There was an increase of 5.9% in the annual budget for prisons in the financial year 2016-2017.
- ❖ Only Rs. 5 per prisoner per day was spent on medical matters.
- ❖ 26.1% of the annual budget for prisons was spent on inmates.
- ❖ Madhya Pradesh spent the highest share of its budget on inmates -- 51.4% -- while Arunachal Pradesh spent the least, at 5.3% of the state's total budget.
- ❖ Hardly any amount was spent on vocational training and education of inmates. 24 states and UTs did not spend anything on vocational training and education; 19 did not spend on welfare activities.

**CHRI's comments:** There was an increase of 20% in the annual budget for prisons in the financial year 2015-16, while in 2016-17, the increase was only 5.9%. However, the utilisation of prison budgets needs more attention as the distribution of expenditure has large unexplainable variations among the states. Further, expenditure on inmates need to be increased as more than 60% of this goes to food, leaving meagre amounts for medical usage, etc. Data shows that education, medical care and welfare receive the lowest financial allocations. Without adequate financial resources for these areas, the correctional objectives of prison services cannot be achieved.

## X. FOREIGN NATIONAL PRISONERS

### Findings of PSI 2016 Report:

- ❖ There are 6,370 foreign national prisoners (FNPs) in Indian Prisons. 2,366 are convicted, 43 are detainees and the remaining 3,258 await trial. 703 FNPs are categorised as "others".
- ❖ There is a 5.8% increase of FNPs in India from 2011 to 2016; however, the increase in the "others" category behind bars is 165%.
- ❖ 60% of all FNPs in India are in West Bengal.
- ❖ 60% of all FNPs in India are from Bangladesh, followed by Nepal and Nigeria at 10 and 6% respectively.



**CHRI's comments:** The PSI 2016 Report does not offer data on the nationality of the 43 detainees and 703 "others". 37 out of the 43 detainees are incarcerated in prisons of Jammu and Kashmir, 656 "others" are incarcerated in West Bengal, followed by 45 in Punjab, and one each in Bihar and Nagaland. These two categories combined form 12% of the foreign national prisoners either awaiting repatriation or whose nationalities are yet to be established. Further, the report puts 63 foreign national convicts and 91 foreign national undertrials in the category of "other foreign national prisoners", which leaves ambiguity on whether the nationalities of these prisoners are known. The 2019 CHRI report on foreigners in Indian prisons, "[Strangers to Justice](#)" documented the challenges and issues faced by FNPs in India. The report was based on information received through Right to Information (RTI) requests to state prison headquarters for the year 2017. It shows that there is a huge variation in the PSI figures and data received through RTI responses on the number of FNPs. Further, it revealed that only 5.7% percent of FNPs had ever received consular access. The RTI responses also showed that 522 out of 3,908 such prisoners were "persons whose nationality is not provided". The NCRB data on FNPs does not offer any such figures, and thus, presents only a partial picture of the actual situation of these prisoners.

Despite bilateral agreements for repatriation, a lack of diligent consular assistance, restrictions on making international calls to family, the lack of implementation of agreements on the transfer of prisoners between India and Bangladesh, sketchy applications of deportation/repatriation procedures, and the absence of alternative facilities to house released prisoners contribute to this enormous humanitarian and administrative problem. CHRI believes that a more expansive documentation of foreign national prisoners can help these prisoners who often face linguistic and procedural challenges in accessing justice.

### **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 activities of the programme

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