



5 September 2019

## **JAIL MAIL: PRISONS AND PARLIAMENT – MONSOON SESSION 2019**

Dear friends,

This newsletter is in continuation of our previous [jail mail](#) on the Budget Session of Parliament that was held from 31 January 2019 to 13 February 2019 with 10 sittings.

The Monsoon Session was held from 17 July 2019 to 7 August 2019 with 37 sittings in the Lok Sabha and 35 in the Rajya Sabha. The session witnessed 57 questions on prisons and prisoners on a variety of topics including overcrowding, prison conditions and infrastructure, deaths in prisons, crimes in prisons, Indian nationals in foreign jails and foreign nationals in Indian jails, detention centers, shelter homes and child care institutions, prison manuals and vulnerable categories of prisoners. While 32 such questions were asked in the Lok Sabha, the Rajya Sabha saw 25 such questions.

The attached note contains a summary of the information received from responses to the questions asked in this session on prisons, along with links to the questions.

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

- You can suggest questions that you would like to be asked in the next session of Parliament.
- You can inform your representative about the issues and challenges that are important to you.
- You can also ask questions on these issues from your MP or other MPs who may in turn ask 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 can help you in drafting your questions. Your questions can be sent to MPs through these links: [Lok Sabha Members details](#) and [Rajya Sabha Member details](#).
- To understand the areas of work of your MP or other MPs, you can use PRS Legislative Research's
  - [MP Track](#).
- You can also send questions to Parliament using the platform [here](#) or through [Maadhyam](#) at [maadhyam.connect@gmail.com](mailto:maadhyam.connect@gmail.com).

Please feel free to write to us at [chriprisonsprog@gmail.com](mailto:chriprisonsprog@gmail.com) with your comments and suggestions.

Best regards,

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*\*This jail mail has been prepared by Vatsala Pandey, Intern, CHRI*

#### 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-governmental, non-profit organisation headquartered in New Delhi, with offices in London, United Kingdom and Accra, Ghana. CHRI works for the practical realisation of human rights across Commonwealth countries. It has specialised in the areas of Access to Justice (Police and Prison Reforms) and Access to Information for over two decades. It has special consultative status with the UN Economic and Social Council and is recognised for its expertise by governments, oversight bodies and civil society. It is registered as a society in India.

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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## **Jail Mail: Prisons and Parliament - Monsoon Session 2019**

The questions listed below were asked by Members of Parliament during the 2019 Monsoon Session.<sup>1</sup> These questions pertain to issues relating to prisons and prisoners.

DATE & QUESTION NUMBER	TOPIC	QUESTION ASKED BY	FORUM	ANSWERED BY (NAME & DESIGNATION)
<b>OVERCROWDING, PRISON CONDITIONS &amp; PRISON INFRASTRUCTURE</b>				
24.07.2019/3537	Prisoners deprived of Fundamental Right	Shri Motilal Vora	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">23.07.2019/4909</a>	Overcrowding in Jails	Smt Navnit Ravi Rana , Shri Dr. (Prof.) Kirit Premjibhai Solanki	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
26.06.2019/526	Overcrowded Jails	Shri Motilal Vohra	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">23.7.2019/4863</a>	Prisoners' Population	Shri K. Subbarayan	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">16.07.2019/3816</a>	Undertrial Prisoners	Smt. Pratima Mondal, Shri. S.R. Pratibhan	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">02.07.2019/1719</a>	Undertrial Detainees	Shri H. Vasanthakumar	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
17.07.2019/2755	Number of under-trial prisoners	Shri Derek O Brien	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">16.07.2019/3687</a>	Violation of Prison Rules	Shri Adv. Adoor Prakash	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
10.07.2019/188	Video conferencing facilities in jails	Shri Ramkumar Verma	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<b>DEATHS IN PRISON</b>				
<a href="#">02.07.2019/1641</a>	Suicide in Jails	Shri Dr. Umesh G. Jhadhav	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
26.06.2019/508	Deaths in Prisons	Shri M.P. Veerendra Kumar	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs

<sup>1</sup>Links to answers given in the Lok Sabha are hyperlinked. The Rajya Sabha website, however, does not allow hyperlinking of questions. You can access Rajya Sabha questions by putting in the question number at the required space on this [webpage](#). Please ensure that the current session no. 249 is selected.

26.06.2019/535	Custodial deaths	Shri Madhusudan Mistry	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
17.07.2019 /2736	Cases of custodial deaths	Shri D. Raja	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<b>CRIME IN PRISONS</b>				
<a href="#">25.06.2019/486</a>	Criminal Activities in Jail	Shri Sushil Kumar Singh	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">09.07.2019/2494</a>	Criminal Activities in Jails	Shri Sangam Lal Gupta	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">16.7.07.2019/3789</a>	Incidents of Rape in Police Stations and Prisons	Shri Mohammad Azam Khan	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">25.06.2019/533</a>	Sexual Abuse of Women in Jail	Dr. Umesh G. Jhadhav	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<b>INDIAN NATIONALS IN FOREIGN JAILS &amp; FOREIGN NATIONALS IN INDIA</b>				
<a href="#">03.07.2019/1928</a>	Indians in Foreign Prisons	Shri Manoj Kotak	Lok Sabha	Shri V. Muraleedharan – Minister of State in the Ministry of External Affairs
<a href="#">03.07.2019/1840</a>	Indian Prisoners in UAE	Shri Rahul Kaswan	Lok Sabha	Shri V. Muraleedharan – Minister of State in the Ministry of External Affairs
<a href="#">24.7.2019/5118</a>	Indians in Foreign Jails	Shri Chandeshwar Prasad, Smt Maneka Sanjay Gandhi, Shri Virendra Kumar, Shri K. Navasani, Shri T. N. Prathapan, Shri Mansukhbhai Dhanjibhai Vasava	Lok Sabha	Shri V. Murleedharan Minister of State in the Ministry of External Affairs
<a href="#">17.07.2019/3942</a>	Indians in Pakistani Jails	Shri Gopal Chinayya Shetty	Lok Sabha	Shri V. Murleedharan Minister of State in the Ministry of External Affairs
<a href="#">26.06.2019/72</a>	Indian Languishing in Foreign Jails	Shri Sumedhanand Saraswati	Lok Sabha	Shri Ravishankar Prasad Minister of Law and Justice, Communications and Electronics & IT.
18.07.2019/2897	Indians languishing in foreign jails	Shri Sardar Sukhdev Singh Dhindsa	Rajya Sabha	Shri V. Murleedharan Minister of State in the Ministry of External Affairs

26.07.2019/3860	Detention of Indian fishermen in foreign countries	Smt. Jharna Das Baidya	Rajya Sabha	Shri Pratap Chandra Sarangi Minister of State for Fisheries, Animal Husbandry and Dairying
<a href="#">26.06.2019/766</a>	Fishermen in Pakistan's Custody	Shri Narayanbhai Kachhadiya	Lok Sabha	Shri V. Muraleedharan – Minister of State in the Ministry of External Affairs
<a href="#">02.07.2019/1773</a>	Conditions of Foreign Prisoners	Shri Ram Mohan Naidu	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<b>DETENTION CENTERS</b>				
<a href="#">02.07.2019/1724</a>	Detention Centres	Dr. Shashi Tharoor	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">02.07.2019/ 1680</a>	Detention Centres	Shri P. C. Mohan	Lok Sabha	Shri Nityanand Rai Minister of State in Ministry of Home Affairs
<a href="#">16.07.2019/3737</a>	Detention camps in Assam	Shri. T.N Prathpan	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
24.7.2019/3551	Detention Centres in the country	Smt. Sasikala Pushpa Ramaswamy	Rajya Sabha	Shri Nityanand Rai Minister of State in Ministry of Home Affairs
<a href="#">09.07.2019/ 2660</a>	Detention Centres under NRC.	Shri Sudhakar Tukaram Shrangre	Lok Sabha	Shri Nityanand Rai Minister of State in Ministry of Home Affairs
10.07.2019/1943	Detention of foreign nationals	Shri Husain Dalwai	Rajya Sabha	Shri Nityanand Rai Minister of State in Ministry of Home Affairs
<b>SHELTER HOMES &amp; CHILD CARE INSTITUTIONS</b>				
<a href="#">12.07.2019/3268</a>	Upgradation of CCIs	Shri Sunil Kumar Mondal	Lok Sabha	Smt. Smriti Zubin Irani – Minister of Women and Child Development
11.07.2019/203	Abuse of children in shelter homes and CCIs	Shri Amar Shankar Sable	Rajya Sabha	Smt. Smriti Zubin Irani – Minister of Women and Child Development
<a href="#">12.07.2019/292</a>	Shelter Homes/Widow Homes	Shri Vijay Baghel	Lok Sabha	Smt. Smriti Zubin Irani – Minister of Women and Child Development
11.07.2019/2205	Probe of children shelter homes	Shri Rajkumar Dhoot	Rajya Sabha	Smt. Smriti Zubin Irani – Minister of Women and Child Development
<a href="#">21.06.2019/167</a>	<a href="#">Shelter Homes in States</a>	Shri Jayadev Galla	Lok Sabha	Smt. Smriti Zubin Irani – Minister of Women and Child Development
25.07.2019/ 3808	Unregistered Child	Shri Rajeev	Rajya	Smt. Smriti Zubin Irani

	Care Institutions	Chandrasekhar	Sabha	– Minister of Women and Child Development
11.07.2019/2206	Registration of child care institutions	Shri Sanjay Seth	Rajya Sabha	Smt. Smriti Zubin Irani – Minister of Women and Child Development
<a href="#">21.06.2019/174</a>	Sexual Abuse at Shelter Homes	Shri N. K. Premchandran	Lok Sabha	Smt. Smriti Zubin Irani – Minister of Women and Child Development
<b>PRISON MANUAL</b>				
17.07.2019/2756	Uniform Jail Manual	Shri Sanjay Seth	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">16.07.2019/3695</a>	Model Prison Manual 2016	Shri. Kinjarapu Ram Mohan Naidu	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">21.06.2019/117</a>	Updation of Prison Manual	Shri Asauddin Owaisi	Lok Sabha	Smt. Smriti Zubin Irani – Minister of Women and Child Development
<b>VULNERABLE CATEGORIES OF PRISONERS</b>				
17.07.2019/267	Sikh prisoners under TADA	Sardar Sukhdev Singh Dhindsa	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
26.06.2019/ 525	Report on Women in Prisons	Smt. Viplove Thakur	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
<a href="#">26.06.2019/688</a>	Free Legal Assistance to Poor & Under-trial Prisoners	Shri Ramcharan Bohra	Lok Sabha	Shri Ravishankar Prasad Minister of Law and Justice, Communications and Electronics & IT.
25.07.2019/ 3806	Welfare of Children of Prisoners	Shri Prof. M.V. Rajeev Gowda	Rajya Sabha	Smt. Smriti Zubin Irani – Minister of Women and Child Development
<a href="#">24.07.2019/5113</a>	J & K Residents in Jail	Shri Hasnain Masoodi	Lok Sabha	Shri V. Murleedharan Minister of State in the Ministry of External Affairs
<b>OTHER ISSUES</b>				
<a href="#">23.07.2019/3353</a>	National monument status to Andaman Cellular Jail	Shri Ritabrata Banerjee	Rajya Sabha	Shri Prahlad Singh Patel Minister of State (Independent charge) of Culture and Tourism
<a href="#">10.07.2019/2776</a>	Prisoners of War	Shri. Gopal Chinayya Shetty	Lok Sabha	Shri V. Murleedharan Minister of State in the Ministry of External Affairs
03.07.2019/130	Arrests made with and without warrant in Delhi	Smt. Tiruchi Siva	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs

<a href="#">16.07.2019/3824</a>	Conviction Rate	Shri Ravneet Singh	Lok Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
27.06.2019/ 721	Slow disposal of judicial cases	Shri Motilal Vora	Rajya Sabha	Shri Ravishankar Prasad Minister of Law and Justice, Communications and Electronics & IT.
<a href="#">10.07.2019/2734</a>	National Judicial Data Grid	Smt. Poonam Mahajan	Lok Sabha	Shri Ravishankar Prasad Minister of Law and Justice, Communications and Electronics & IT.
10.07.2019/1979	Social security schemes for prisoners	Shri Husain Dalwai	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
10.07.2019/ 184	Reformatory measures for jail inmates	Shri K.C. Ramamurthy	Rajya Sabha	Shri G. Kishan Reddy – Minister of State in the Ministry of Home Affairs
27.06.2019/ 758	Schemes under Nirbhaya Fund- Welfare of Women Prisoners in Punjab Jails	Smt. Jharna Das Baidya	Rajya Sabha	Smt. Smriti Zubin Irani – Minister of Women and Child Development

## **SUMMARY OF QUESTIONS AND ANSWERS**

### **I. Overcrowding, Prison Conditions & Prison Infrastructure**

*The Ministry of Home Affairs (MHA) was asked about overcrowding, deprivation of fundamental rights of the prisoners due to overcrowding and consequent lack of basic amenities inside the prisons. Also, it was asked to give total number of jails where occupancy rate is more than 100%. Further, the Ministry was asked to give state-wise, the total number of prisoners in the country including under-trials, detainees and remand prisoners along with the details of prisoners in jails for more than 5 years and steps that government plans to take to reduce prison population.*

The MHA replied that the National Crime Records Bureau (NCRB) compiles prison statistics in its publication “Prison Statistics India” wherein it is stated that there are 1412 jails in the country, lodging 433003 prisoners. However, specific information on the number of jails where the occupancy rate is more than 100 percent is not maintained by the NCRB. As of 31.12.2016 the total occupancy rate was 113.7 %. In Maharashtra, there are 154 Jails lodging 31438 prisoners amounting to the occupancy rate of 119.5%. The total number of prisoners inclusive of under-trials and women prisoners who are in jails for more than 5 years is 3927 as of 31.12.2016. The response further stated that the NCRB, at present does not maintain any specific data on remand prisoners.

The Ministry answered that ‘prisons’ and ‘persons detained therein’ are State subjects as per Entry 4 of List II of the Seventh Schedule to the Constitution of India and state government(s)/administration(s) are entitled to manage the prison population and to take any decision thereupon to reduce the population. However, the government has **issued advisory** to all the states /UT’s for **providing free legal aid to under-trials and setting up Lok Adalat/Special Courts in prisons to expedite trials**. Also,

**Model Prison Manual 2016 is circulated** to each State/UT having a chapter dedicated to ‘Legal Aid’. The response further states that, National Legal Services Authority (NALSA) **has set up legal aid camps in jails across the country** and recently it has come up with guidelines for ‘**Standard Operating Procedure (SOP) for Under-Trial Review Committees**’ which has been circulated by the MHA to all States and UTs. Under Trial Review Committees are an oversight mechanism mandated to reduce unnecessary and prolonged detention of prisoners.

*The question on deprivation of fundamental rights also asked about instances of murder in prisons and the steps taken by the government to make prisons safer.*

The MHA replied that a few incidents of murder of prisoners have been reported. The Ministry has issued various **advisories to the States and UTs on strengthening security arrangements in Jails and for improving security measures**; and on **adoption of measures for efficient prison administration to improve the condition of prisoners**. Model Prison Manual 2016 has also been circulated to all States and UTs, which has detailed guidelines on wide ranging issues like Custodial Management, High Risk Offenders, and Welfare of Prisoners, Medical Care etc. for safety, security and welfare of prison inmates. Further, Prison and Persons therein are state subjects hence; States are competent to take appropriate measures for the safety and welfare of inmates in their jurisdiction.

*The MHA was also asked about the arrangement(s) made by the government for jail visits and the scheme(s) for jail inmates after they are reformed/released, or the increase of the remuneration accorded to prisoners.*

The MHA answered that State/UT-wise details of number of jail inspections by different visitors, including officials, during 2016 is compiled and published by NCRB, in the report ‘Prison Statistics India’. A total number of 45674 visits, by different visitors took place in 2016. Further, the **MHA has advised the Ministry of Skill Development to coordinate with Skill Development Departments of States to make provision for suitable opportunities for development of skills of prison inmates to facilitate their reintegration** with society by providing them employment opportunities post-release. The **Model Prison Manual 2016, circulated by MHA to all States and UTs, also has a chapter on ‘After-care and Rehabilitation’** of prison inmates. The Model Prison Manual provides that the **wages paid to prisoners should be fair and equitable and the rates should be standardized** keeping in view the minimum wages notified by the state governments from time to time. Since Prisons is a State subject, the state governments are competent to revise or increase the wages paid to prisoners.

*The MHA was also asked about the number of under trial prisoners in country’s jails in the last three years, percentage of under trial prisoners as compared to the total number of prisoners in the last three years and the number of under trial prisoners who were in prison for less than six months.*

The MHA, in its reply, produced the following data:

Year	Total No. of Prisoners	No. of UTPs	Percentage of UTPs
2014	4,18,536	2,82,879	67.6%
2015	4,19,623	2,82,076	67.2%
2016	4,33,003	2,93,058	67.7%

Total number of under-trial prisoners confined in jails up to a period of 6 months is as follows:

Year	Number of Under-Trial Prisoner
2014	1,60,823
2015	1,61,284
2016	1,70,357

*The MHA was asked about violation of prison rules, including use of mobile phones and narcotic substances by the prisoners and the directive(s) regarding the violation of prison rules issued by the central government, if any.*

The Ministry once again reiterated that prisons and the persons detained therein are state subjects and the **central government does not maintain data regarding violation of Prison Rules**. However, the Ministry **has issued advisories** to States and UTs from time to time and has, inter-alia, advised them **to install CCTV cameras and mobile phone jammers in prisons and appoint adequate number of jail staff to manage & supervise activities of prisoners**. MHA has also circulated a Model Prison Manual 2016 to all States and Union Territories, which has chapters on 'Prison Discipline', 'Custodial Management' and 'Inspection of Prisons' etc. to address such issues.

*The Ministry of Home Affairs was also asked about the number of jails in the country equipped with the facility of video conferencing, CCTV cameras and if all the equipment related to video conferencing and CCTV cameras are updated from time to time.*

Ministry in its reply stated that as per the latest published data of NCRB which is of 2016, 462 jails in the country are equipped with the facility of video conferencing and 10,360 CCTVs are installed in various jails of the country. Further it reiterated, prisons and the persons detained therein are state subjects and the state government/administration is responsible for the updating such equipment.

## **II. Deaths in Prison**

*The MHA was asked about the major causes of deaths in the prison, total number of custodial deaths in last three years, and total number of officials convicted who were responsible for custodial deaths.*

The Ministry's response once again reiterated that prisons and persons detained therein are state subjects, and the cause for the deaths in the prisons under their jurisdiction is best known to them. However, MHA has issued **advisories to States and UTs on proper administration and management of prisons, and rehabilitation of prison inmates**. Further, as per information received from National Human Rights Commission (NHRC), then number of cases registered for deaths in prison custody in the last three years are as follows:

Year	No. of Cases Registered with NHRC
2016-2017	1616
2017-2018	1636
2018- 2019	1797

Also, NHRC has recommended **disciplinary action against 1 public servant in the last three years**. No record of conviction is maintained by the NHRC.

The MHA was also asked *about audit on the condition of prisons has been conducted in the country and the reason behind absence of legal process for the ratification of ‘Torture Convention’ even after signing it two decades ago.*

Ministry stated that state governments/administration are capable to manage and monitor the prison and prison activities under their jurisdiction and **no audit on prison conditions is convened by Central government.** Further, the 273<sup>rd</sup> Report of the Law Commission along with draft of “The Prevention of Torture Bill” was circulated to the States and UTs for their views. The Ministry has submitted a status report along with comments received from States/UTs to the Supreme Court in a related court case.

*A question was asked about the number of prisoners committing suicides/attempted to commit suicide in jails during the last three years and the corrective steps taken by the government in this regard.*

The MHA replied that, in 2014, 101 inmates, 77 in 2015 and 102 inmates committed suicide in 2016. Further, the Ministry has circulated a Model Prison Manual 2016 to all States/UTs which, inter-alia, has chapters on ‘Medical Care’ and ‘Welfare of Prisoners’ focusing on health, counseling, mental wellbeing, psychotherapy etc. It has issued various advisories to States/UTs for taking care of the psychological health and needs of the prisoners. It has further circulated the guidelines/documents to all States and UTs containing a monograph prepared by the National Human Rights Commission (NHRC) titled “Suicide in Prison - Prevention strategy and implication from human rights and legal points of view”. Apart from these steps, guidelines on custodial deaths, ‘The Nelson Mandela Rules - United Nations Standard Minimum Rules for the Treatment of Prisoners 2015’ with the Guidelines on “Investigating Deaths in Custody” issued by the International Committee of the Red Cross, is circulated by the Ministry from time to time.

### **III. Crime in Prisons**

*The MHA was asked about the increase in the criminal incidents in the jails, the details of such incidents in last three years, especially for Naini Jail in Uttar Pradesh, the guilty officials and the action taken against them. Also, MHA was inquired about steps to be taken to check operation of criminal activities from within jails in various parts of the country and deployment of additional police forces where people with serious criminal records are lodged.*

The MHA replied that NCRB, in its publication “Prison Statistics India” provides statistics about the crimes in prisons in last three years as follows:

Year	Jailbreak	Clashes/Group Clashes	Firing	Murder by Inmates	Escapes
2014	16	255	3	13	96
2015	15	187	3	11	89
2016	13	82	1	14	114

It once again reiterated that prisons and persons detained therein are state subjects and the center does not maintain any such details about guilty officials. However, the MHA **has issued advisories to States and Union Territories for strengthening security arrangements in jails and to evolve a mechanism to carefully frisk the visitors of inmates, conduct regular checks of inmates returning from courts/hospitals, surprise checks and visits by senior officers.** They have also been advised to **install CCTV cameras and mobile jammers** to manage prison security challenges and to **appoint adequate number of jail staff to manage and supervise prisoners’ activities.** One can find the advisories on MHA’s [website](#). Further, MHA has also **circulated the Model Prison Manual 2016 to all States and Union Territories, which has chapters on ‘Custodial**

**Management’ and ‘Inspection of Prisons’.** The said manual also provides for a **Quick Reaction Team (QRT)** to remain in a state of readiness to meet any emergency in all Central and District prisons.

*The MHA was asked about the number of incidents of rape that occurred in police stations and prisons during the last three years along with the number of accused arrested, offenders who are absconding after committing rape, pending cases in court, the accused acquitted and convicted.*

The response quoted the ‘Prisons Statistics India’ report by NCRB, which compiles the data on number of incidents for custodial rape wherein no. of accused arrested, pending cases, no. of accused acquitted/convicted. These are as follows:

Year	Cases Registered	Person Arrested	Person Convicted	Person Acquitted
2014	197	286	6	7
2015	95	134	14	15
2016	10	15	8	26

However, it also stated the details of offenders who are absconding after committing rape is not maintained centrally.

*Lastly, MHA was asked about reported cases of women inmates claiming of being forced into sex in jails by the authorities and the investigation by the government in such cases.*

The MHA replied that no such cases were reported.

#### **IV. Indian Nationals in Foreign Jails & Foreign Nationals in India**

*The Ministry of External Affairs was asked about the number and details of Indian prisoners in foreign jails, number of Indians repatriated from foreign jails in past ten years, details of assistance provided by Indian embassy, details of negotiation of exchanges and transfers of Indians from the prisons abroad and steps taken by the Indian government to repatriate Indians from foreign prisons.*

As per the information available with the Ministry, the number of **Indian prisoners in foreign jails as of 31.05.2019 is 8189**. However, due to strong privacy laws in many countries, particulars (gender, crime etc.) of such prisoners are not disclosed. The Government through its **Missions/ Posts abroad and during high level visits takes up and pursues grant of amnesty/ commutation** of sentences of Indian prisoners in foreign countries. Since May 2014 to present, a total of **6405 Indian nationals have been either pardoned or their term of sentence has been reduced** by foreign governments. Further, the government apart from providing consular access, also provides legal aid and representation where the number of Indians imprisoned is high.

Furthermore, India has signed a Transfer of Sentenced Persons Agreement with 31 countries. India has also acceded to the multilateral Inter-American Convention on Serving Criminal Sentences Abroad in May 2014 and the multilateral Council of Europe Convention on Transfer of Sentenced Persons in January 2018. By virtue of the bilateral agreements and accession to multilateral conventions, sentenced persons from these countries can be transferred to India and vice-versa. **Since 2010 till June 2019, total 58 Indian prisoners have been transferred to India.**

*MEA was also asked about the inter-governmental meetings for repatriation of Indian prisoners in foreign jails and the details of use of Indian Community Welfare Fund (ICWF) by Indian Missions for repatriation of Indian prisoners during last three years.*

The Ministry answered that the Inter-Ministerial meetings on this issue are also convened between Ministries of External Affairs and Home Affairs. Further, the support extended under **ICWF includes air passage to stranded overseas Indians**. However, **no specific data with regard to repatriation of Indian prisoners through ICWF is maintained in the Ministry**.

*MEA was asked about the total number of Indian prisoners in gulf countries; the agreement signed between India and UAE to allow Indian Prisoners in UAE to serve their remaining jail terms in India and; the steps taken by the government to ensure strict compliance of the agreement.*

In the reply, MEA informed that as on 31.05.2019, out of a total of 8189 Indian prisoners in foreign countries, **4206 are imprisoned in the six countries of the Gulf Cooperation Council [GCC]**, of which 1392 were imprisoned in UAE Jails.

India and UAE signed an agreement in 2011 on Transfer of Sentenced Persons. Till date, **no Indian prisoner from UAE has been transferred to India under this Agreement**. In October 2018, the Government had received a proposal from the Consulate General of India, Dubai about the transfer of 77 Indian prisoners to India under this Agreement, to serve the remainder of their sentences in India. The proposal is being processed by the authorities concerned in UAE and India in accordance with the procedures laid down in the Agreement on Transfer of Sentenced Persons between India and UAE.

*MEA was also inquired about total number of fishermen and civilians in various jails of neighboring countries especially Pakistan, number of fishermen and civilians released during last three years from Pakistan and the steps taken by the government to get released Indian fishermen and the civilians from the prisons in Pakistan.*

The Ministry in its reply stated that as per available information, 5 Indian fishermen are in Sri Lanka's custody and 1 fisherman is in Iran's custody. In Pakistan's custody there are 64 Indians and believed-to-be Indian civilian prisoners and 209 Indian and believed-to-be Indian fishermen. Pakistan has, on 1 July 2019, acknowledged the custody of 52 civilian prisoners and 209 fishermen. The details regarding Indian civilians and fishermen released from Pakistan Jails are as follows:

Year	Civilian Released	Fishermen Released
2016	410	2
2017	508	7
2018	174	5
2019	355	7

Government has secured repatriation of 2110 Indian prisoners, including fishermen, from Pakistan's custody since 2014. This includes release and repatriation of 362 Indian prisoners, including fishermen, this year, so far.

## **V. Detention centers**

*MEA was also asked about the guidelines for humane conditions in the detention centers confining foreign national prisoners pending their repatriation, the advisories issued by the governments to the states to felicitate consular access to them and use of video conferencing for ensuring contact with their families and their access to legal aid.*

The Ministry of Home Affairs answered that it has prepared a '**Model Detention Centre/Holding Centre/Camp Manual**', which is circulated to all States and UTs. The guidelines, inter-alia, provide that such Centers should be designed to provide all necessary facilities for the inmates to maintain

standard of living in consonance with human dignity. Further, State Governments are required to give immediate intimation of the arrest/detention of the foreigner in any part of the country to Ministry of External Affairs which in turn notifies the foreign embassy concerned. The Ministry of Home Affairs has issued advisories to the States and UTs on various aspects of prison administration, provision of legal aid and video conference facility to prisoners etc. The Model Prison Manual, 2016 circulated to all States and UTs also has chapters on 'Legal Aid', 'Welfare of Prisoners' and 'Repatriation of foreign prisoners' etc.

*The MHA was asked about the total number of detention centers set up to hold “doubtful voters” and “foreigners” in the State of Assam; the total number of people detained in these detention centers; the number of persons who have been kept in these detention centers for more than a year; the number of persons who have been kept in these detention centers for more than three years; the number of people who have been kept in these detention centers with access to free legal aid from the Government; the number of people who have been declared foreigners through ex-parte proceedings by the Foreigners’ Tribunals in Assam and the provision to oversee the conditions in these detention centers and the measures taken to address the concerns of mentally-ill foreign national prisoners and women detenu.*

The Ministry answered that there are six Detention Centers designated to hold “Declared Foreigners” in the State of Assam. As on 25.6.2019 the **total number of people detained in these centers is 1133, whereas the total number of persons who has been kept in the detention centers for more than one year is 769, and for more than three years is 335.** Further, free legal aid is being provided to them by the District Legal Service Authorities. Lastly, **63959 persons have been declared foreigners through ex-parte proceedings** by Foreigners’ Tribunals in Assam from 1985 to 28<sup>th</sup> February 2019.

Further, the Ministry responded that detention centers are monitored by State/UT’s and not administered centrally. However, the Model Detention Centre Manual which was circulated by the central government covers provision of medical amenities and of proper segregated accommodation for male and female detainees as well as the deployment of adequate lady security staff commensurate with the requirement of women detainees etc.

## **VI. Shelter Homes and Child Care Institutions**

*Ministry of Women and Child Development (MWCD) was asked about the total number of shelter homes and Child Care Institutions (CCIs) at present in the country along with the number of children residing in them and the number of sexual abuse cases reported during the last three years; and the steps taken by Government for protection and welfare of children of such homes/institutions.*

MWCD answered that the primary responsibility of the Juvenile Justice Care & Protection Act 2015 (the Act), lies with the States/UTs. States/UT reported on 8.01.2019 that there are **7909 CCI’s** in the country under the Act, with Tamil Nadu having highest no. of CCI’S; 1263, followed by Karnataka with 1134; whereas Andaman & Nicobar, Daman & Diu and Lakshadweep have no CCI. Further, National Commission for Protection of Child Rights (NCPCR) has registered **43 complaints regarding torture including abuse and sexual exploitation of children in the CCIs/ Shelter Homes during the last three years.** Maximum number of complaints, 16 have been received from Uttar Pradesh.

The Government through the Ministry has taken following steps for the protection and welfare of children of such homes/institutions:

- **Urging the State Governments and UT Administrations from time to time to register all the CCIs under the provisions of the Act,** so as to ensure that CCIs offer optimum services.

- Ministry asked the chief secretaries of all the States Governments and UT Administrations to issue **directions for inspection** of all CCIs under the supervision of District Magistrates in each district.
- Government has been conducting **Consultations** with all the States/UTs to discuss issues related to Child Protection and these consultations were also attended by Senior Police Officers of all the States/UTs nominated as the Nodal Officers.
- The Ministry has **also issued an advisory to the States and UTs regarding the action to be taken in case of disruption to the life of children in case of any untoward incidence of abuse in any CCI.**
- The Ministry of Women and Child Development **is implementing “Child Protection Services” (CPS) for providing financial assistance** to State Governments/UT Administrations with the objective to create a safe and secure environment for overall development and welfare of children in need of care and protection and children in conflict with law.
- The Minister, WCD has recently **drawn attention of the Chief Ministers of all the States/UTs towards the necessity of constant monitoring and evaluation of services and facilities in CCIs in their respective States** and to advice District Magistrates/District Collectors and the Superintendent of Police in each districts to regularly review the action being taken.

*The MWCD was also asked about unregistered CCI's, adoption of new schemes to upgrade CCI's and use of corporal punishment upon children at Shelter homes and CCI's.*

The MWCD replied that **S. 41 of JJ Act 2015 mandates registration of all the CCI's**. The Ministry had directed all the States/UTs to initiate steps to close down those Institutions which have declined to register.

The Central Government is implementing **Child Protection Services (CPS)** (erstwhile Integrated Child Protection Scheme) for providing financial assistance to State Governments/UT Administrations, with the objective to create a safe and secure environment for overall development of children in need of care and protection, which includes orphan/ abandoned / surrendered / rescued children.

The Ministry replied that it has conducted a national mapping exercise of Child Care Institutions (CCIs) in 2016, in order to ascertain whether CCIs being run by State Governments/UT Administrations are in line with the standards mandated by the Act and model rules framed thereunder. The analysis showed that many CCIs use varied forms of disciplining children which fall under the ambit of corporal punishment as defined by the Act. The Ministry shared the information with States/UTs drawing their attention towards the findings. The Ministry stressed upon the need for mandatory monitoring as prescribed under the Juvenile Justice (Child and Protection of Children) Act 2015 and requested states to carry periodical inspections.

***Lastly, MWCD was also inquired about proposed steps to set up shelter homes/widow homes in the country and the funds sanctioned, released and utilized by the Government in this regard during each of the last two year and the current year.***

The Ministry stated that it has implemented the **Swadhar Greh Scheme from 2016** by merging 'Swadhaar' and 'Short Stay Homes'. The Scheme largely covers the widows along with women living in difficult circumstances without social and economic support. The Scheme envisages providing shelter, food, clothing and health services as well as economic and social security for them along with facilitating their emotional and economic rehabilitation into the society. **Total there are 413 Swadhaar Greh with maximum no. in Orissa (55) followed by Karnataka (51).**

Additionally, the Ministry has constructed a Home for widows namely '**Krishna Kutir**' with a capacity of 1000 residents at Vrindavan, District Mathura, Uttar Pradesh. They aim to provide widows a safe and secure place for stay, including access to adequate health services, nutritious food, legal and counseling services.

The table below shows the total amount (in INR) sanctioned for last two years and current year with the total amount utilized by the States/UT's.

Year	Amount Sanctioned	Amount Utilized
2017-18	3670.42 L	1888.23 L
2018-19	2255.25 L	159.01 L
2019-20	1441.78 L	N/A

## **VII. Model Prison Manual**

*MHA was asked about issuing Model Prison Manual 2016, steps to check the implementation of the manual and the consideration to set up National Commission of Prisons. Also, about implementation of conjugal rights and issuing 'Uniform Jail Manual' for all the prisons in the country.*

MHA has advised all States and UTs to revise their existing Prison Manuals by adopting the provisions of Model Prison Manual, 2016 circulated by MHA in May 2016. The implementation of the manual is to be monitored by the government/administration of the State/UT. It further confirmed that there is no consideration to set up a National Commission of Prison.

Further, MHA in their reply said that there is no specific provision for conjugal rights. However, provisions of parole and furlough are provided to ensure continuity with the family and social matters.

*Ministry of Women and Child Development was asked about NCW's visit to Prisons, recommendations made by NCW thereof, the communication of the recommendations to the Ministry of Home Affairs and steps taken by MHA.*

Ministry of Women and Child Development answered in affirmative about **NCW's visit to 18 Prisons** during Nov 2017 to May 2018. NCW recommended adequate provisions for **individual bed/raised platforms to women prisoners and for improvement in other basic hygienic facilities including toilets**. The report of NCW on "Inspection of Prisons/Jails/Custodial Homes" was sent by NCW and received by Ministry of Home Affairs in August 2018 and it is taking appropriate action.

## **VIII. Vulnerable Categories**

*The Ministry of Law and Justice was asked about issuing funds to State Governments/UT's to give free legal assistance to poor and under trial prisoners, criteria for availing funds provided/utilized, if government proposes to amend the existing norms for proper utilization of said funds and any other scheme by the government to provide free legal assistance to under trials and poor persons.*

The Ministry replied that the central government, through NALSA, grants funds to State Legal Services Authorities. In addition, grants or donations could be made to the SLSAs by the respective State Government. The details of funds allotted and utilized are given below:

Year	Fund allotted	Fund utilized
2016-17	11009.96 L	9495.01 L
2017-18	11500 L	16787.85 L
2018-19	15500 L	17658.46 L

In April, 2017, Government has launched three legal empowerment initiatives, namely, **Tele-Law:-** providing free legal advice to marginalized persons under section 12 of the Legal Services Authorities Act, 1987., **Pro Bono legal services:** free legal aid including legal representation, is provided to marginalized persons under section 12 of the Legal Services Authorities and **Nyaya Mitra:** Nyaya Bandhu Mobile Application to connect registered Pro Bono Advocates with registered applicants was launched in February, 2019.

*The MEA was asked about number of residents of Jammu and Kashmir who are in prisons in other countries and country wise details of such prisoners.*

As per the information available with the Ministry, the number of residents of Jammu and Kashmir in foreign prisons as of 15.07.2019 is **22**. Due to strong privacy laws prevailing in some countries, the local authorities do not share information on prisoners, thus the numbers can be higher.

*The MHA was asked about the number of Sikh prisoners arrested under Terrorist and Disruptive Activities (Prevention) Act (TADA) who have completed their sentence long back and have not yet been released and steps being taken for their release, if any.*

The Ministry answered that the central government **does not maintain religion wise data** of the prisoners. 'Prisons' and 'Persons detained therein' are State subjects as per the Seventh Schedule to the Constitution of India. State Governments are responsible for prison administration and are competent to consider and take decision on release of prisoners as per the provisions of law.

*The MHA was asked about receiving the report on 'Women in Prisons' and the recommendations set out in the report specifically regarding separate accommodation for the mothers in post-natal stage and the steps taken by the government to implement the recommendations of that report. Also, the number of prisons in the country, exclusively for women.*

The MHA replied that they have received a report on 'Women in Prisons' prepared by the Ministry of Women and Child Development. It has been recommended in the report that mothers in postnatal stage should be allowed **separate accommodation to maintain hygiene and protect their infant from contagion for at least a year after childbirth**. As per the published information by NCRB, there are **20** exclusive prisons for women in the country. The MHA has circulated the report 'Women in Prisons' to the Home Department and Prison Department of all States and UTs for implementation of the suggestions made in the report.

*Ministry of Women and Child Development was asked about steps with regard to the welfare of children of prisoners, number of children of prisoners who were benefited by such steps and whether the Ministry has proposed to take up this issue with the State Governments.*

MWCD replied that MHA has issued an **advisory on 'Facilities to the children of women prisoners-Guidelines issued by the Supreme Court'**. The primary responsibility of execution of the JJ Act lies with the State Governments. No such data regarding number of children of prisoners is maintained centrally in the Ministry of Women and Child Development. However, Ministry of Women and Child Development is implementing a scheme namely "Child Protection Services" erstwhile Integrated Child Protection Scheme) for providing financial assistance to State Governments/UT Administrations with the objective to create a safe and secure environment for overall development of

children in need of care and protection. Once placed in a children's home the said child would receive multiple kinds of care and support including food, education, medical attention, vocational training, counseling etc. so that despite their disturbed family circumstances they can continue to develop to their full potential.

#### **IX. Other Issues**

*MHA was asked about the total number of cases where arrest was made with or without warrant in Delhi. A question regarding conviction rates in crimes committed under Indian Penal Code was also asked followed by reasons for low conviction rates and steps taken by the government to increase it.*

MHA produced following statistics as reported by Delhi Police, during the last three years and the current year (up to 31.05.2019):

<i>Year</i>	<i>Total no. of arrest</i>	<i>Arrest with warrant</i>	<i>Arrest without warrant</i>
<i>2016</i>	<i>103246</i>	<i>2539</i>	<i>100707</i>
<i>2017</i>	<i>123312</i>	<i>2307</i>	<i>121005</i>
<i>2018</i>	<i>124423</i>	<i>2665</i>	<i>121758</i>
<i>2019</i>	<i>51548</i>	<i>1115</i>	<i>50433</i>

MHA replied that the **conviction rate has increased from 42.4% in 2005 to 46.8% in 2016**. Some of the reason for low conviction rate is inadequacy of investigation officers, prosecuting officers; inadequate infrastructure, judicial delays, witness turning hostile, delay in reporting of crime resulting in loss of evidences, etc. Further police and public order is a state subject. However, the government has taken some steps to increase conviction rate including training to over 3,664 personnel, including 410 Public Prosecutors and Judicial Officers in identifying, detecting and solving cyber-crimes. Apart from this, funds have also been provided to State Governments/UT's for modernization of their Police Forces.

*Ministry of Law and Justice was asked about slow disposal of judicial cases and the steps taken by the government to expedite the disposal of judicial cases.*

The Ministry answered that as per National Crime Records Bureau (NCRB) data, a total of **2,82,879, 2,82,076 and 2,93,058 under-trial prisoners were lodged in various jails of the country at the end of year 2014, 2015 and 2016** respectively. The government has taken various initiatives to speed up pending cases like introducing **National Mission for Justice Delivery and Legal Reforms** which is a coordinated approach for phased liquidation of arrears and pendency in judicial administration through various strategic initiatives, including improving infrastructure for courts, leveraging Information and Communication Technology (ICT) for better justice delivery.

*Ministry of External Affairs was asked about Prisoners of War (PoW) taken during Indo-Pak war of 1965 and 1971, number of PoW still in Pakistan's custody and the discussions by both the countries to accord humane treatment to the prisoners in jails.*

MEA replied that as per available information, **83** missing Indian defence personnel, including Prisoners of War, are believed to be in Pakistan's custody. However, **Pakistan has not acknowledged the presence** of any Indian Prisoner of War/missing Indian defence personnel in its custody, so far. The Minister of External Affairs, India, in October 2017, suggested to the High Commissioner of Pakistan that the two sides could work to resolve humanitarian issues related to elderly, women and mentally unsound prisoners in each other's custody and consider their early release and repatriation. Pakistan responded positively on 7 March 2018. India has already shared the details of the medical experts' team and the re-

constituted Joint Judicial Committee with Pakistan with the request to organize their visit. Pakistan has not responded so far.

*Ministry of Women and Child Development was asked about proposals/ schemes received from various Ministries and State Governments under Nirbhaya Fund.*

MWCD in their reply stated that a total of 59 proposals/ schemes have been received from various Ministries and State Governments and UT Administrations under Nirbhaya Fund during the last three years 2016-17, 2017-18 and 2018-19 onwards. Of these, till date, 30 projects/ schemes have been appraised and recommended by the Empowered Committee of officers for funding under Nirbhaya Fund.