



25 November 2020

Jail Mail: Prisons and Parliament- Monsoon Session 2020

Dear Friends,

Greetings from CHRI!

This Jail Mail* documents the responses to questions asked by Parliamentarians in the Monsoon session 2020, on various issues relating to prisons and persons held in detention.

The Monsoon Session commenced on 14th September and was adjourned sine die on 23rd September 2020 on account of COVID-19. In view of the pandemic, in both houses had only 10 sittings, making it the third shortest session of the upper house¹ till date and the shortest parliament session of the last 20 years.

In this **252nd parliament session**, the Government of India responded to a total of 17 questions on topics like prison population, overcrowding in prisons, under-trials, legal aid, release of prisoners due to the spread of COVID-19, detention of political prisoners among others. **Eleven of these questions were answered in the Rajya Sabha and six questions in the Lok Sabha.**

The attached note contains a summary of the information received through responses to the questions raised in the Monsoon Session on prisons and prisoners, 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 through your MP or other MPs who may in turn ask the relevant ministry. The admissibility of the question in the Parliament is

¹ There have been a total of 69 monsoon sessions for the Rajya Sabha till date. In July 1979, the 110th session and the 187th session in 1999 had only six sittings. Compared to this, the current session of the Rajya Sabha had 10 sittings.

governed by the Rules and Procedures and Conduct of Business in the [Lok Sabha \(Rule 41\)](#) and [Rajya Sabha \(Rule 47\)](#). You could also search for previous questions asked in the Lok Sabha and [Rajya Sabha](#), to help you in draft questions to the relevant ministries.

- Your questions can be sent to MPs through these links: [Lok Sabha Member details](#) and [Rajya Sabha Member details](#).
- To understand the areas of work of your MP or other MPs, you can go through the [MP Track page of PRS Legislative Research](#).
- You can also send questions to Parliament using the platform here or by sending your questions to Maadhyam at maadhyam.connect@gmail.com

Please feel free to write to us at chriprisonprog@gmail.com with your comments and suggestions.

With best regards,

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The questions are categorized into various themes and presented in the form of a table for better understanding. The questions and respective responses may also be accessed by keying in the question number on the official websites of the [Lok Sabha](#) and [Rajya Sabha](#).

S.No.	Question Number & Date	Topic	Question Asked by	Forum	Answered by (Name & Designation)
Prison Conditions					
1.	289; 15th September 2020	Capacity of prisons	Sh. Ashok Kumar Rawat (BJP)	Lok Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)
2.	1161; 21st Sep, 2020	Condition of prisons	Sh. Jyotiraditya M. Scindia (BJP)	Rajya Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)
3.	374; 16 Sep. 2020	Overcrowding of Prisoners in jails	Smt. Phulo Devi Netam (INC)	Rajya Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)
4.	1155; 21st Sep, 2020	Communications to States/UTs regarding Parole	Sh. Sushil Kumar Gupta (Aam Aadmi Party)	Rajya Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)
Detention Centres					
5.	1150; 21st Sep, 2020	Release of foreigners from detention centres	Sh. Vaiko (MDMK)	Rajya Sabha	Sh. Nityanand Rai (MoS, Ministry of Home Affairs)
COVID 19 and Prisons					
6.	1164; 21st Sep, 2020	Release of prisoners during lockdown due to the COVID19 pandemic	Sh. Kanakamedala Ravindra Kunar (Telugu Desam Party)	Rajya Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)
Legal Aid					
7.	472; 16 th Sep 2020	Legal assistance	Dr. Shrikant Eknath Shinde (Shiv Sena) Dr. Sujay Radhakrishnan Vikhe Patil (BJP) Sh. Umesh Bhaiyasaheb Patil (BJP) Sh. Dhairyasheel Sambhajirao Mane (Shiv Sena)	Lok Sabha	Sh. Ravi Shankar Prasad (Minister of Law and Justice, Communications and Electronics and Information Technology)

			Sh. Hemant Shriram Patil (Shiv Sena)		
8.	582; 17th Sep, 2020	Free legal assistance to poor and under-trial prisoners	Dr. Bhagwat Karad (BJP)	Rajya Sabha	Sh. Ravi Shankar Prasad (Minister of Law and Justice, Communications and Electronics and Information Technology)
9.	1817; 21 st Sep 2020	Legal services	Dr. Amol Ramsingh Kolhe (NCP) Dr. DNV Senthilkumar S. (DMK) Dr. Subhash Ramrao Bhamre (BJP) Sh. Kuldeep Rai Sharma (INC) Smt. Supriya Sule (NCP) Sh. Manickam Tagore B. (INC)	Lok Sabha	Sh. Ravi Shankar Prasad (Minister of Law and Justice, Communications and Electronics and Information Technology)

Lawyer Inmate Communication

10.	1167; 21st Sep, 2020	Consultation through video conferencing	Sh. M. Shanmugam (DMK)	Rajya Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)
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Political Prisoners

11.	393; 16th Sep, 2020	Political prisoners lodged in jails	Sh. Binoy Viswam (CPI)	Rajya Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)
12.	247; 15th Sep, 2020	Detention of Political Prisoners in J&K	Prof. Saugata Ray (AITC)	Lok Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)
13.	1405; 20th Sep, 2020	Detention under Public Safety Act	Sh. Rahul Gandhi (INC)	Lok Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)
14.	389; 16th Sep, 2020	Arrests made under Public Safety Act	Smt. Chhaya Verma (INC) Ch. Sukhram Singh Yadav (Samajwadi Party) Sh. Vishambhar Prasad Nishad (Samajwadi Party)	Rajya Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)

Custodial Deaths					
15.	292; 15th Sep, 2020	Custodial Deaths	Sh. Karti P. Chidambaram (INC)	Lok Sabha	Sh. G. Kishan Reddy (MoS, Ministry of Home Affairs)
NALSA					
16.	1378; 22nd Sep, 2020	Vision Document by NALSA	Sh. Satish Chandra Dubey (BJP)	Rajya Sabha	Sh. Ravi Shankar Prasad (Minister of Law and Justice, Communications and Electronics and Information Technology)
Video Conferencing in Courts					
17.	1377; 22nd Sep, 2020	Uniform Video Conferencing platforms for all District Courts in a State	Sh. Vivek K. Tankha (INC)	Rajya Sabha	Sh. Ravi Shankar Prasad (Minister of Law and Justice, Communications and Electronics and Information Technology)

A. Prison Conditions:

A total of four questions were raised on prisons conditions, prison population and the provision of parole. Directed towards the Ministry of Home Affairs (MHA), it was asked if the Ministry had taken steps to release inmates who have “spent most of their lives in jails and are now senior citizens” and “prisoners who have completed half of their sentence period and can be released on bail and parole”. In response to these questions and to address the issue of overcrowding the Ministry stated that they have time and again issued advisories to the states and have also circulated the Model Prison Manual 2016 that can be followed by states for effective management of prisons. The Minister of State, Sh. Kishan Reddy, in his response cited the National Crime Records Bureau’s Prison Statistics India 2019 (PSI) data, for all three questions and presented the state-wise [tabular information on](#) capacity and population of prisons, number of undertrials and convicts lodged in prisons across the country as on 31 December 2019.

One of the tables also mentioned **that as many as 1,031 convicts (with a state-wise breakup) remained in jail after the completion of their sentence sinc they had not paid their fines.** Further, it was asked about how many prisoners were released during the lockdown period, but the Ministry had no such data to present.

Another question was raised on the [recent advisory by MHA](#) regarding grant of parole, furlough and pre-mature release to convicted inmates. As per the advisory, a special committee of officers and behavioral experts may decide who should be granted parole, furlough and pre-mature release, and it may not be a matter of routine. While the Government attributed increased recidivism after release as the reason behind this advisory, on the question if the Ministry has received any reports indicating prisoners indulging in crimes after temporarily being released during the coronavirus pandemic, interestingly, the Ministry stated that “no such specific incident has been reported to the MHA”.

B. Prisoners in detention centers:

Sh. Vaiko asked the MHA, whether the Supreme Court has directed release of persons from the detention centers of Assam and the total number of releases. He also asked if any deaths have occurred in these detention centers in the last two years and if yes, then the reasons for it.

Sh. Nityananda Rai, MoS, Ministry of Home Affairs in his response cited the 'Suo Moto Writ Petition (Civil) No.1/2020 in RE: CONTAGION OF COVID 19 VIRUS IN PRISONS' dated 13th April, 2020. Under this order, prisoners including detainees who have been under detention for two years shall be entitled to release subject to fulfillment of stipulated conditions including furnishing a bond of Rs. 5000. The minister further stated that **a total of 350 detainees had been released so far in compliance to the orders of the Supreme Court.** On the matter of deaths in detention centers, it was stated that **15 detainees died in different detention centers in Assam in the last two years (till 16.9.2020) while undergoing treatment in various hospitals.**

C. COVID-19 and prisons:

Sh. Kanakamedala Ravinder Kumar asked a question concerning the release of prisoners in the wake of the COVID-19 pandemic.

Sh. Kishan Reddy in his response cited the Supreme Court's order, dated 23rd March, in the matter of 'Contagion of Covid 19 virus in prisons', under the Suo Motu Writ Petition (Civil) No. 1 of 2020. Under this order, the SC directed all states/UTs to form High Powered Committees (HPCs) to determine which class and category of prisoners can be released on parole or interim bail. On the question about the total number of such releases, the minister stated that NCRB has compiled data under PSI till 2019. Hence, **the data on the total number of prisons released due to the outbreak of COVID-19 is not available.**

D. Legal Aid:

Three detailed questions were asked on the appointment of panel lawyers, remuneration given to panel lawyers and legal aid provided to under-trial prisoners. All these questions were directed towards the Ministry of Law and Justice.

Dr. Bhagwat Karad asked whether the Government provides financial assistance to states/UTs to give free legal assistance to poor and undertrial prisoners and the utilisation of these funds in the last three years. Sh. Ravi Shankar Prasad, Minister of Law and Justice in his answer stated that the Centre provides funds to the National Legal Service Authority (NALSA), which then directs the funds to State Legal Service Authorities (SLSAs). While furnishing details on state-wise allocation and utilisation of funds in the last three years (2017-2020), the Minister also mentioned the indicators based on which funds are allocated:

- a) Utilisation of funds during the previous year
- b) Projected demand of the SLSA for carrying out various legal aid programmes
- c) Prioritisation of legal service activities

The Minister further stated the steps taken to provide free legal aid to poor and under-trial inmates, which include – regular visits to jails to identify prisoners who require legal aid; conducting legal awareness camps inside jails to make inmates aware about the provisions of legal aid plea bargaining, lok adalats, etc. and; setting up of Undertrial Review Committees to review cases of under-trial prisoners.

Other two questions were on setting up of legal aid clinics, the appointment of panel lawyers by

legal services authorities, current vacancies, the remuneration given to them and whether a minimum fee is decided by NALSA for the panel lawyers. The Minister of Law and Justice in his response stated that the NALSA's Regulation of 2010, 'Free and Competent Legal Services', decides for the criteria and procedure of empanelment of the panel lawyers for providing free legal aid. **A total of 56,402 lawyers have been empanelled at state and district level across the country** and as of now the required number of lawyers are already appointed. Apart from this, a total of 23,000 Legal Services Clinics have been set up in jails, Juvenile Justice Boards (JJB), courts, community centers, villages and law colleges/universities.

On the remuneration of panel lawyers the minister stated that fees payable to lawyers is fixed by each SLSA. The fee varies from State to State depending upon the fee charged by the lawyers in that State and also, the fee payable to Government Advocates, Special Prosecutor, Amicus Curiae, etc. It further stated that **"a Committee appointed by NALSA made its recommendations for a minimum fee to be paid to panel lawyers which was adopted by Central Authority of NALSA in its meeting dated 9th April, 2016.** All the SLSAs were asked to adopt the same". Details of the fees structure were also provided in the answer.

E. Lawyer inmate communication:

Sh. M. Shanmugam asked the MHA about the communication between inmates and their lawyers during the pandemic. He further asked whether the ministry proposes to provide funds to states to build necessary infrastructure in jails for video conferencing. Sh. Kishan Reddy, in his answer, stated that **during the COVID-19 pandemic NALSA had directed all states to provide free legal aid to jail inmates via video conferencing.**

On the matter of extending funds to states to develop the infrastructure for video conferencing inside jails, the minister stated that since prisons is a state subject as per "Entry 4 of List II of the Seventh Schedule to the Constitution of India and therefore, states/UTs are competent to provide necessary infrastructure for video conferencing facilities in jails under their respective jurisdictions". Additional information was provided on the 'e-courts Mission Mode Project' being developed by the Department of Justice for which **"an amount of Rs. 69.30 crore has been released to all High Courts for providing video conferencing facilities between 3240 Court complexes and 1272 corresponding jails"**.

F. Political prisoners:

Questions on the detention of political prisoners and persons under special laws were directed towards the Ministry of Home Affairs. One of these questions was on the number of political prisoners, including those convicted, currently lodged in jails across the country. However, the **MHA responded that the National Crime Records Bureau maintains no information on political prisoners.**

Two questions were specifically put on the number of **political leaders detained, under the Public Safety Act (PSA) in Jammu and Kashmir** since the abrogation of the state's special status. The ministry responded with a number of **223 persons who were under detention as on 11.09.2020.**

Another detailed question was asked on the number of arrests made under the National Security Act (NSA) in the last five years in the country. The question also included details on the type of charges imposed, number of persons who are still in jail, state-wise breakup of these cases, number of cases withdrawn and number of acquittals under NSA in the last five years. Stating

that 'Police' and 'Prisons' are a state subject, the ministry responded with data maintained in the NCRB for NSA detentions for the year 2017 and 2018. As per the information, in 2018, 697 persons were detained, while 406 were released by the Board, 291 continued in custody or detention.

G. Custodial Deaths:

This question was in relation to the number of custodial deaths, number of deaths in police encounters, number of incidents of rapes in police custody, action taken against the accused police officials and the details of any special redressal measures taken by the Government. Information was sought from the Ministry of Home Affairs for the period of last one year.

The Ministry shared data that is maintained by the National Human Rights Commission (NHRC) wherein a state-wise breakup of cases was provided. **A total of 113 and 1584 cases of custodial deaths were registered in police and judicial custody respectively.** State wise breakup of cases registered for encounter deaths was also provided in the answer, this was a total of 112 cases for a period of 01.04.2019 to 31.03.2020. The response stated that **while the NHRC recommended monetary relief to the tune of Rs. 4.44 crore in cases of custodial deaths and Rs. 88 lakh in cases of encounter deaths, it did not make any recommendation for action against the erring police personnel.** The Ministry had also issued an advisory 13.07.2020 to all states and UTs "requesting them to sensitize and direct all the functionaries at State, district and below level to follow and adhere to law of the land and the guidelines issued by NHRC on custodial deaths, and to act firmly against any abuse of law in respect of Custodial Deaths".

H. NALSA:

A specific question was asked on whether the Government is considering to implement the Vision Document brought out by the National Legal Services Authority (NALSA) in order to provide expeditious legal aid to the poor and whether the Government is considering to strengthen legal aid clinics in prisons. The Ministry of Law and Justice responded by stating the features of the vision document and the steps being taken by the legal services authorities to implement the same. It was further stated that **"around 23,000 Legal Services Clinics have been set up in Jails, courts, Juvenile Justice Boards (JJBs), community centres, villages/rural areas and law colleges/universities"**.

I. Video Conferencing in Courts:

A question was directed towards the Ministry of Law and Justice on the usage of video conferencing by District Courts to conduct hearings and whether the Ministry plans to bring about uniformity on this matter. In its response the Ministry stated that **"a centralized and upgraded cloud based Video-Conferencing infrastructure with latest features including robust data security and facility to support a larger number of concurrent users has been approved by the e-Committee of the Supreme Court of India, which can be usable for district and subordinate courts also"**.