



1<sup>st</sup> March 2019

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

Dear friends,

This newsletter is in continuation of our previous [jail mail](#) on the Winter Session of Parliament that was held from 11 December 2018 to 8 January 2019 with 17 sittings.

The Interim Budget Session was held from 31 January 2019 to 13 February 2019 with 10 sittings. The short session witnessed 23 questions on prisons and prisoners on a variety of topics including Prison Infrastructure, Deaths in Prisons, Implementation of Model Prison Manual, Foreign National Prisoners (FNP) in India, Indian Nationals in Foreign Prisons and Shelter Homes. While 11 questions were asked in the Rajya Sabha, the Lok Sabha saw 12 questions on prisons and prisoners. The most questions -- 13 out of 23 -- were asked on Foreign National Prisoners (FNPs) in India and Indian nationals in foreign prisons.

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 you face or 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](mailto:maadhyam.connect@gmail.com) at [maadhyam.connect@gmail.com](mailto:maadhyam.connect@gmail.com).

Write to us at [chriprisonsprog@gmail.com](mailto:chriprisonsprog@gmail.com) with your comments and suggestions.

Best regards,

Madhurima Dhanuka  
Coordinator, Prison Reforms Programme  
Commonwealth Human Rights Initiative  
3rd floor, 55A, Siddhartha Chambers I, Kalu Sarai, New Delhi-110016  
Tel: +91-11-4318 0200, 9331127001, 9748927001

*\*This jail mail has been prepared by Siddharth Lamba, 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.

Our mailing address is: Commonwealth  
Human Rights Initiative Prison Reforms  
Programme  
55A, Third Floor, Siddharth Chambers-1  
Kalu Sarai, New Delhi 110016, India  
Tel: +91 11 43180200, Fax: +91 11 43180217  
[chriprisonsprog@gmail.com](mailto:chriprisonsprog@gmail.com)  
[www.humanrightsinitiative.org](http://www.humanrightsinitiative.org)

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

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

<b>DATE &amp; QUESTION NUMBER</b>	<b>TOPIC</b>	<b>QUESTION ASKED BY</b>	<b>FORUM</b>	<b>ANSWERED BY (NAME &amp; DESIGNATION)</b>
<b>PRISON INFRASTRUCTURE, PRISON CONDITIONS AND CENTRE'S ASSISTANCE</b>				
<a href="#">05.02.2019/22</a>	Overcrowded Prisons	Shri Rajiv Pratap Rudi	Lok Sabha	Shri Hansraj Gangaram Ahir – Minister of State in the Ministry of Home Affairs
13.02.2019/1152	Construction of New Jails	Shri P.L. Punia	Rajya Sabha	Shri Hansraj Gangaram Ahir – Minister of State in the Ministry of Home Affairs
13.02.2019/1145	Assistance to States for Prisons	Prof. M.V. Rajeev Gowda	Rajya Sabha	Shri Hansraj Gangaram Ahir – Minister of State in the Ministry of Home Affairs
13.02.2019/1161	CCTV Cameras in Prisons	Shri Husain Dalwai	Rajya Sabha	Shri Hansraj Gangaram Ahir – Minister of State in the Ministry of Home Affairs
<a href="#">12.02.2019/1457</a>	Aadhaar Card for Visitors in Jails	Shri Jagdambika Pal	Lok Sabha	Shri Hansraj Gangaram Ahir – Minister of State in the Ministry of Home Affairs
<a href="#">05.02.2019/23</a>	Deaths in Prisons	Shri Vishnu Dayal Ram	Lok Sabha	Shri Hansraj Gangaram Ahir – Minister of State in the Ministry of Home Affairs
13.02.2019/1163	Implementation of Model Prison Manual	Shri Sanjay Seth	Rajya Sabha	Shri Hansraj Gangaram Ahir – Minister of State in the Ministry of Home Affairs
<b>INDIAN NATIONALS IN FOREIGN JAILS AND FOREIGN NATIONAL PRISONERS IN INDIA</b>				
<a href="#">06.02.2019/462</a>	Indian Fishermen in Pakistani Jails	Shri Devusinh Chauhan	Lok Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External Affairs
<a href="#">13.02.2019/1703</a>	Fishermen in <b>Pakistan's Custody</b>	Shri Devusinh Chauhan	Lok Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External Affairs
07.02.2019/455	Fishermen from Andhra Pradesh in Jails in Pakistan	Shri Kanakamedala Ravindra Kumar	Rajya Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External 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. 248 is selected.

<a href="#">06.02.2019/528</a>	Indians Imprisoned in Gulf Countries	Shri Rahul Kaswan	Lok Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External Affairs
<a href="#">13.02.2019/1655</a>	Indians in Prisons of Foreign Countries	Shri Rabindra Kumar Jena	Lok Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External Affairs
<a href="#">13.02.2019/1756</a>	Indians Lodged in Jails of Gulf Countries	Shri M.K. Raghavan	Lok Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External Affairs
<a href="#">13.02.2019/1625</a>	Indians Held Hostage	Shri Chandra Prakash Joshi; Shri Ramdas C. Tadas	Lok Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External Affairs
07.02.2019/459	Repatriation of Indian Nationals in Foreign Prisons	Shri Sanjay Seth	Rajya Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External Affairs
07.02.2019/461	Release of Indian Nationals from Middle East	Shri V. Murleedharan	Rajya Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External Affairs
<a href="#">06.02.2019/659</a>	Utilisation of ICWF	Shri Rabindra Kumar Jena	Lok Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External Affairs
<a href="#">06.02.2019/544</a>	Deportation of Prisoners	Shri Rabindra Kumar Jena	Lok Sabha	Gen. (Dr.) V.K. Singh (Retd.) – The Minister of State in the Ministry of External Affairs
06.02.2019/40	Foreigners Languishing in Prisons Across the Country	Shri Majeed Memon	Rajya Sabha	Shri Hansraj Gangaram Ahir – Minister of State in the Ministry of Home Affairs
13.02.2019/1162	Repatriation of Prisoners	Shri Sanjay Seth	Rajya Sabha	Shri Hansraj Gangaram Ahir – Minister of State in the Ministry of Home Affairs
<b>SHELTER HOMES</b>				
07.02.2019/592	Exploitation of Girls in Shelter Homes in Madhya Pradesh	Shri Kapil Sibbal	Rajya Sabha	Dr. Virendra Kumar – Minister of Women and Child Development
07.02.2019/600	Inspection of Shelter Homes	Shri Rajkumar Dhoot	Rajya Sabha	Dr. Virendra Kumar – Minister of Women and Child Development
<a href="#">12.02.2019/1519</a>	Shelter Homes	Shri Jitendra Chaudhary	Lok Sabha	Shri Hansraj Gangaram Ahir – Minister of State in the Ministry of Home Affairs

## SUMMARY OF QUESTIONS AND ANSWERS

### A. Prison Infrastructure, Prison Conditions and Centre's Assistance

*The Ministry of Home Affairs (MHA) was asked about the financial assistance given by the Centre to states and UTs for setting up, maintenance and modernization of prisons or any other scheme relating to prisons or prisoners.*

The Ministry in its reply stated that it has **provided financial assistance to states and UTs for implementing the E-Prisons programme**, which aims at digitisation of records and automation of prison administration services. As per the reply, **Rs 32 crores was released in the year 2017-18 and Rs 13.84 crores in 2018-19, as on 09.02.2019**. However, **seven states and UTs** -- Gujarat, Jharkhand, Andaman & Nicobar Islands, Dadar & Nagar Haveli, Daman & Diu, Lakshadweep, and Puducherry -- **were not allotted any funds for not submitting any proposal** on implementation of the E-Prisons Project.

*The MHA was asked to respond on whether the government had conducted any assessment to check overcrowding in prisons, details on number of prisons and prisoners across the country, the number of international prisoners and steps to address overcrowding.*

The response stated that there are **4,19,623 inmates against the capacity of 3,66,781 in jails all over India as on 31.12.2015**, and that the number of **foreign national convicts and under-trials as on 31.12.2015 was 2,353 and 3,795 respectively**. On the question of steps taken to address overcrowding, the response was that the **MHA had issued advisories and forwarded the Model Prison Manual to all states**. The National Legal Services Authority (NALSA) provides free legal aid to under-trial prisoners through its **1,126 legal service clinics and 9,563 Remand Advocates**. It further states that the **E-Prisons project is equipped to generate a list of prisoners eligible for bail under section 436A of CrPC for default bail** and that NALSA has prepared **a standard operating procedure for Under-trial Review Committees (UTRCs)**.

On being asked *whether the government is aware about the overcrowding, if it has details on new jails required to be constructed, whether there is any proposal to construct new jails and the state-wise budget allotted for the improvement of jails*, the MHA stated that since prisons is a state subject matter, the **states and UTs were empowered to provide for new jails**. It further referred to the 2015 National Crime Records Bureau data to elaborate the overcrowding and the budgetary allocation for prisons as mentioned above.

*Another question to the MHA was on the number of prisons in the country, the number of prisons without CCTVs, steps taken to monitor prisons, steps taken to establish the National Commission for Prisons as recommended by Mulla Committee, and whether the government was considering a revision of the 2015 guidelines on visiting jails by NGOs, press, researchers, etc.*

The ministry stated that there are **1,401 prisons in the country and 7,133 CCTVs are installed in them as on 31.12.2015**. As per the response, there are **no CCTVs in prisons in Arunachal Pradesh, Mizoram, Nagaland and Lakshadweep**. For the issue of monitoring, the MHA said that it issued advisories from time-to-time and that the Model Prison Manual has been forwarded to all the states. It also said that there is currently **no proposal to establish a National Commission on Prisons and revise the July 2015 guidelines issued by MHA** for regulating access to prisons by individuals, NGOs, researchers, film makers, etc.

*On the question of status of implementation of the Model Prison Manual (MPM) 2016 and whether any step has been taken to monitor or study the implementation*, the MHA said that it had, **vide advisory dated 4 May 2017, asked all states and UTs to implement the Model Prison Manual 2016**. The response says that some states have indicated that they have incorporated major provisions of the MPM

2016 while some have informed that either they have formed committees to examine the MPM or are seeking the approval of authorities to revise their manuals.

*The MHA was asked to state whether Aadhaar Card has been made a mandatory Identity Document (ID) in prisons and whether it is a mandatory ID for convicts to open accounts while imprisoned or to avail other prison facilities.*

The ministry responded that **it has advised all states and UTs to use Aadhaar identification for visitors, vide advisories dated 17.2.2017 and 7.3.2017**. Further, it had also advised that prison inmates may be Aadhaar-seeded to regulate the day-to-day prison and court administration, including providing facilities like legal aid, health, parole, etc. These advisories are available at <https://mha.gov.in>.

*The MHA was asked to respond on the number and causes of deaths in prisons, the results of audits, if any, on the conditions of prisons and status of rehabilitation facilities provided. In its response the Ministry stated that it had forwarded the MPM 2016 which has chapters on 'After-care and Rehabilitation' and 'Vocational Training and Skill Development programmes' for prison inmates to all states and UTs.*

It added that since prisons is a state subject, **no such audits have been conducted**. On the question of deaths, it cited the 2015 NCRB data which said that in 2015, **1,584 deaths were recorded in prisons across the country, out of which 1,469 were deemed 'natural' and 115 were unnatural**.

#### **B. Indian Nationals in Foreign Jails and Foreign National Prisoners in India**

*The Ministry of External Affairs (MEA) was asked about the number of fishermen in Pakistan's custody who are either undergoing their jail terms or have completed their 22-month term, the efforts made to ensure the release of those who have completed their terms along with the boats in Pakistan's custody, details of financial or any other help given to the affected families and whether any warning systems or International Border demarcations are put in place. A separate question was asked on number of such fishermen from Andhra Pradesh.*

As per the Ministry's responses to these questions, there are **503 Indian fishermen believed to be in Pakistan's custody out of which Pakistan has acknowledged the custody of 483** fishermen according to the list shared on 1 January 2019. The Indian government has taken up the matter with Pakistan for seeking immediate consular access and ensuring release and repatriations. The response further states that **1,749 Indian prisoners, including 1,725 fishermen and 57 boats have been released from Pakistan since 2014**, and that in March 2016, a team of Indian fishermen representatives visited Karachi to assess the condition of the **22 other Indian fishing boats in Pakistan's custody**. However, Pakistan's response is still awaited on these 22 boats, the reply added. The Ministry further said that the "**Department of Animal Husbandry, Dairying and Fisheries (DADF) of the Ministry of Agriculture and Farmers Welfare has a non-plan scheme on Soft Loan Package for replacement of fishing vessels held captive in Pakistan**" for which the "**Marine Products Export Development Authority (MPEDA) has been designated as an implementing agency.**" The response also mentions that fishermen are guided by the Indian Coast Guard not to cross the International Maritime Boundary Line (IMBL) and closed surveillance is kept on the perceived India Pakistan IMBL.

*The MEA was asked whether Indian origin labourers are imprisoned in gulf countries due to accidents, whether any fee is charged by the Indian Embassies there for extending facilities to such persons, the number of Indians languishing in prisons in the Middle East after completing their terms and whether any steps were taken for their release, including consular access and deportation.*

The Ministry said that there are **4,705 Indian nationals in prisons of Gulf countries including Indian-origin labourers imprisoned due to accidents**, and **number of Indians who have completed their jail term but are still in prisons of gulf countries are 20 (4 in Oman and 16 in the UAE)**. Due to stringent privacy laws, authorities do not share information without the consent of concerned individuals, and even countries without such laws do not share complete information. On

questions related to steps taken for the deportation and repatriation and such Indian nationals, the Ministry said that Indian missions and posts extend support to imprisoned Indian nationals including consular access and legal aid, and maintain a local panel of lawyers where the Indian community resides in sizeable numbers. The response further stated that **“legal assistance is also available to Indian nationals abroad, including those in prison on a means tested basis through the Indian Community Welfare Fund.”** However, responses did not address the question of whether any fee is being charged to such persons.

*The MEA was asked to elaborate on the details of under-trials and convicts lodged in other foreign countries’ prisons, the efforts made to arrange inter-ministerial meetings on repatriations and the details of Indian nationals in foreign prisons even after completing their jail terms. Another question was asked on the steps taken by Indian missions for the deportation and transfer of 360 Indian nationals who were identified in nine countries as having completed their jail sentences in March 2018. A question was also asked on the number of Indian citizens repatriated to India who were kept hostage in foreign countries, on how many such Indian citizens had died in foreign jails since 2014, and on the efforts made by Indian government in this regard.*

The Ministry in its response stated that there are **8,567 Indian prisoners, including under-trial prisoners, in foreign prisons as on 08.02.2019**. As per the response, the highest number of Indian nationals in foreign prisons is in **Saudi Arabia (2,224)** followed by the **United Arab Emirates (1,606)** and **Nepal (886)**. The **total number of Indian nationals who have completed their jail term but are still in foreign jails is 434, out of which 396 are in Pakistan**. As per the response, 49 Indian nationals who were held hostage in different countries were repatriated to India between 2014 and 2018, and the mortal remains of 39 Indians who died while being held hostage by ISIS in Iraq were also brought back to India, and 42 Indian nationals died while serving their sentences in jails of foreign countries. Its response also stated that the process of deportation was dynamic and keeps changing. On the question of efforts made, apart from the details mentioned above, its answer was that the Indian missions also issue ‘**emergency certificates**’ and provide for air-fare in deserving cases from the Indian Community Welfare Fund (ICWF). The Ministry further said that consultation and coordination among relevant Ministries on the issues of repatriation of Indian nationals and bilateral agreements for Transfer of Sentenced Persons (TSP) is a regular process.

*The MEA was asked about the percentage utilisation and/or person-wise utilisation of the Indian Community Welfare Fund (ICWF) by Indian Missions for the repatriation of Indian prisoners.*

The ministry in its response stated that **between January 2014 and September 2018, over 25,000 Indians have been provided air passages from the Fund**; however, separate data on the number of repatriations made through the fund has not been maintained. The response also stated that ICWF “is aimed at assisting Indian nationals abroad in times of distress and emergency in the ‘deserving cases’ on a ‘means tested basis’” and ICWF guidelines with effect from September 1, 2017 have expanded the scope of welfare measures that can be extended through the fund.

*The MHA was asked whether it was true that of the 3,908 foreign nationals imprisoned across India, only 222 had ever received consular access.*

In response, the ministry stated that since the latest available data on the number of Foreign National Prisoners, as published by the NCRB, is from 2015, the actual number might vary owing to the prisoners getting released, acquitted or repatriated back to their countries. As per the response, **in 2018, 306 consular access permissions were given to foreign diplomatic Missions, which also included permissions for repeat visits**. These permissions include permissions for individual as well as collective access to foreign national prisoners in India.

*The MHA was also asked about the number of applications received by Indian nationals imprisoned in foreign jails for sentence transfer under the Repatriation of Prisoners Act, 2003 from 2015 to 2018 including the number of actual transfers/repatriations and number of applications under process.*

The response stated that **from 2015 to 2018, 65 such applications were received and 14 Indian nationals were transferred to India during the given period.**

### **C. Shelter Homes**

*The Ministry of Women and Child Development was asked questions on issues of violence and sexual abuse in shelter homes, and especially in Sai Viklang Anath Ashram -- a shelter home in Awasthi, Madhya Pradesh where physically challenged girls were exploited and three girls had succumbed to physical torture. The ministry was asked whether there was a proposal for inspecting of shelter homes across the country by women commissions and bodies of children, whether any surprise surveys were carried out by the government and for details on the action taken against culprits, where 539 out of 8244 Child Care Institutions (CCIs) were closed for various reasons.*

As per the response, **there were reports of violence and abuse in "Sewa Sankalp Evam Vikas Samiti" shelter home in Muzaffarpur (Bihar) and the "Ma Vindhyaasini Mahila Prashikshan Evam Samaj Sewa Sansthan" shelter home in Deoria (East Uttar Pradesh)**, after which the respective state governments were asked to submit reports on the incidents and the actions taken. In another incident, where nine female residents from the Sanskar Ashram for Girls, Dilshad Garden escaped on 1 December, 2018, the Department Women and Child Development, Delhi had commissioned a fact-finding enquiry. The Ministry further stated that **the responsibility of execution of JJ Act rests with the state governments/UT administrations and the Ministry does not supervise shelter homes directly**. However, after the abovementioned incident in Bihar, the Ministry had asked all the chief secretaries to inspect all institutions claiming to be CCIs and submit their reports to the Ministry. With regard to the closed CCIs, the **Ministry's response** was that States and UTs had informed it that due action was being taken against culprits. The Ministry has also asked the States and UTs to conduct regular inspections under the supervision of District Magistrate or District Collector of the Shelter Homes and had issued an advisory on actions to be taken "in case of disruption to the life of children in case of any untoward incidence of abuse in any CCI."

*The MHA was asked to respond on the number of cases of sexual abuse in the shelter homes, the number of cases registered under the Protection of Children from Sexual Offences (POCSO) Act and the action taken by the government in this regard.*

The Ministry stated that the NCRB did not maintain on the number of cases of sexual abuse in shelter homes, however, **as per the 2016 NCRB data, 36,022 cases were registered under the POCSO Act for crimes against children**. Responding to the question on action taken, the Ministry stated that it had asked all the States/UTs to ensure the timely completion of investigation in cases registered under section 376 of the Indian Penal Code and sections 4 & 6 of the POCSO, vide advisory dated 05.12.2018. The response further said that the National Commission for Protection of Child Rights (NCPCR) and State Commission for Protection of Child Rights (SCPCRs) are mandated to monitor the implementation of the POCSO Act, 2012.