

**GOVERNMENT OF INDIA  
MINISTRY OF HOME AFFAIRS**

**RAJYA SABHA  
UNSTARRED QUESTION NO. 1997**

**TO BE ANSWERED ON THE 6<sup>TH</sup> AUGUST, 2025/ SRAVANA 15, 1947 (SAKA)**

**PRISON CAPACITY, UNDERTRIALS AND JUDICIAL PROCESS**

**1997 #      SHRI RAMJI LAL SUMAN:**

**Will the Minister of Home Affairs be pleased to state:**

- (a) whether it is a fact that there are more prisoners in jails than their capacity;**
- (b) the number of undertrial prisoners in jails at present;**
- (c) the steps taken by Government in view of the increasing number of undertrial prisoners in jails; and**
- (d) the number of undertrial prisoners proved innocent and released from jails in the last five years?**

**ANSWER**

**MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS**

**(SHRI BANDI SANJAY KUMAR)**

**(a): The National Crime Records Bureau (NCRB) compiles prison statistics reported to it by the States and Union Territories and publishes the same in its annual publication "Prison Statistics India." The latest published report is of the year 2022. As on 31.12.2022, the total available capacity of all prisons in the country was 4,36,266 as against which 5,73,220 prisoners were lodged therein.**

**(b): There were 4,34,302 undertrial prisoners lodged in the jails of the country as on 31.12.2022.**

**(c): "Prisons"/persons detained therein" is a "State-list" subject as per Entry 4 of List II of the Seventh Schedule of the Constitution of India. The**

**administration and management of prisons and prisoners therefore falls exclusively under the jurisdiction of respective State Governments. However, the Ministry of Home Affairs has taken several steps to supplement the efforts of the State Governments in this regard. Some of these are mentioned below:**

**(i) Section 479 (1) of the Bharatiya Nagarik Suraksha Sanhita (BNSS) provides that 'Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail.'**

**The Proviso under Section 479 (1) of the BNSS provides further relief to first time offenders/undertrial prisoners and provides that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law.**

**(ii) Chapter XXIII of the Bharatiya Nagarik Suraksha Sanhita, 2023 enables pre-trial negotiation between the defendant and the prosecution. This is a means by which the defendant can receive a lighter sentence and is cost effective, saves time of both defendant and the Court and the case gets quickly disposed of.**

**(iii) The State Legal Services Authorities have established Legal Service Clinics in jails to provide free legal assistance to individuals in need. These clinics aim to ensure that no prisoner remains unrepresented and that legal**

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**aid and advice are readily available to them. Additionally, the National Legal Services Authority (NALSA) conducts awareness camps in jails to generate awareness about the availability of free legal aid, plea bargaining, Lok Adalats, and the legal rights of inmates, including their right to bail.**

**(iv) The Model Prison Manual 2016 circulated to all States/UTs has specific chapters on “Legal Aid” and “Undertrial Prisoners”, etc, which provide detailed guidelines on the facilities which may be provided to undertrial inmates, namely legal defence, interview with lawyers, application to Courts for legal aid at Government cost etc.**

**The Ministry of Home Affairs has issued several advisories to States/UTs from time to time bringing the above to their notice and have requested them to adopt these measures for addressing the issue of undertrials/overcrowding in prisons. These advisories are available on MHA’s website.**

**(d): Specific information in this regard is not maintained centrally.**

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