

**GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS**

**LOK SABHA
UNSTARRED QUESTION NO. 408**

TO BE ANSWERED ON THE 30th NOVEMBER, 2021/AGRAHAYANA 9,1943 (SAKA)

REPORT OF NCRB ON OVERCROWDED PRISONS

408. SHRI MANISH TEWARI:

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether it is a fact that according to the latest Prison Statistics published by NCRB, there is a trend of overcrowding in prisons with an occupancy rate of 118 percent at the end of 2019;

(b) if so, the reasons for not constructing any prisons to accommodate the increasing number of prisoners;

(c) whether the Government is aware of reports of COVID-19 positive cases in several prisons which can be aggravated by the overcrowding, if so, the details thereof; and

(d) whether the Government is aware of the fact that according to the report, around percent of the prisons are occupied by undertrials, if so, the measures underway to remedy the situation thereof?

ANSWER

**MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI AJAY KUMAR MISHRA)**

(a): National Crime Records Bureau (NCRB) compiles prison statistics reported to it by States and Union Territories (UTs) and publishes the same in its annual publication "Prison Statistics India". The latest published report is of the year 2019. As on 31.12.2019, as against the available capacity of 4,03,739, there were 4,78,600 prisoners in the jails of the country, with a national occupancy rate of 118.5% .

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(b): ‘Prisons’/‘persons detained therein’ are “State-List” subjects under Entry 4 of List II of the Seventh Schedule to the Constitution of India. Administration and management of prisons and inmates is the responsibility of respective State Governments, who are competent to provide more accommodation for inmates as per local need and requirement.

(c): In view of the Covid-19 pandemic, the Ministry of Home Affairs (MHA) had issued an advisory to all States and UTs on 12th March, 2020 advising them to take appropriate precautions and steps for preventing the spread of Covid-19 in prisons. MHA issued another comprehensive advisory on management of COVID-19 in prisons on 2.5.2020 whereby detailed guidelines and protocols to be followed in prisons were shared with all States and UTs. Hon’ble Supreme Court of India had also issued directions to all States and UTs in March 2020 and again in May 2021 to constitute High Powered Committees to determine which class of prisoners can be released on parole or interim bail in view of the Covid-19 situation with a view to reducing overcrowding in prisons.

(d): MHA has been taking various initiatives to address the issue of undertrial prisoners and to reduce overcrowding in prisons. The Government of India had inserted Section 436A in the Code of Criminal Procedure (CrPC), which provides for release of an under-trial prisoner on bail on undergoing detention for a

period extending up to one half of the maximum period of imprisonment specified for an offence under any law. The concept of plea bargaining was also introduced by inserting a new “Chapter XXIA” on “Plea Bargaining” (Sections 265A to 265L of CrPC) which enables pre-trial negotiation between the defendant and the prosecution. E-prisons Software, which is a Prison Management Application integrated with Interoperable Criminal Justice System provides facility to State Jail authorities to access the data of inmates and helps them in identifying inmates whose cases are due for consideration by the Under Trial Review Committee. State Legal Services Authorities have established Legal Service Clinics in Jails and have deployed Para Legal Volunteers to provide free legal assistance to persons in need. The Model Prison Manual 2016 also has a Chapter on Legal Aid which provides the details of facilities which may be provided to undertrials. MHA has also issued various advisories to States & UTs for adopting various measures to address the issue of undertrials and to reduce overcrowding in prisons. These advisories are available on MHA’s website at: <https://mha.gov.in>.
