

**GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS**

**RAJYA SABHA
UNSTARRED QUESTION NO. 2588**

**TO BE ANSWERED ON THE 11TH AUGUST, 2021/ 20 SRAVANA, 1943 (SAKA)
UNDERTRIAL PRISONERS IN THE COUNTRY**

2588. SHRI SANJAY RAUT:

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether an estimated 70 percent of prison inmates are undertrials and also a large percentage of those dying in prisons are not convicted of any offence;**
- (b) if so, details thereof and Government's reaction thereto;**
- (c) the details of steps taken or proposed to be taken by Government to reduce overcrowding in prisons by timely addressing issue of undertrials in the country;**
- (d) whether Government is considering the demand that police functions should be separated into investigation and law order duties by providing sufficient strength to complete investigations on time and avoid delays; and**
- (e) if so, details thereof?**

ANSWER

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

(a) to (c): 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, there were 4,78,600 prisoners in the country. Out of these, 1,44,125 were convicts and 3,30,487 were undertrial prisoners. Data on death of convicted and undertrial prisoners in prisons is not maintained separately. 'Prisons'/'persons detained therein' is

a State subject 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. However, the Ministry of Home Affairs (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 in a quick and easy manner 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 with a view to provide free legal assistance to persons in need. The Model Prison Manual 2016 circulated to all States and UTs 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>.

(d) & (e): "Police" is a State subject under List-II (State List) of the Seventh Schedule of the Constitution of India. It is the responsibility of States and UTs to adopt and implement appropriate measures to make the functioning of police more effective. The Union Government has set up various Commissions and Committees on police Reforms from time to time including a Review Committee. One of the recommendations shortlisted by this Committee was 'separation of investigation from law and order'. The recommendations of the Review Committee were forwarded to all States and UTs for taking appropriate action in this regard.
