

**GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS**

**RAJYA SABHA
UNSTARRED QUESTION NO. 376**

**TO BE ANSWERED ON THE 6TH DECEMBER 2023/ AGRAHAYANA, 15, 1945
(SAKA)**

OVERCROWDING IN JAILS

376 SMT. KANTA KARDAM:

MS. KAVITA PATIDAR:

DR. ANIL SUKHDEORAO BONDE:

SMT. DARSHANA SINGH:

Will the Minister of HOME AFFAIRS be pleased to state:

(a) the details of the scheme formulated by Government to address overcrowding and support poor prisoners;

(b) the guidelines for implementation of the scheme; and

(c) the details thereof and status of implementation of the scheme?

ANSWER

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

(a) to (c): 'Prisons'/'persons detained therein' is a "State List" subject under Entry 4 of List II of the Seventh Schedule to the Constitution of India. The administration and management of prisons and prisoners is therefore the responsibility of respective State Governments and Union Territories (UTs). The initiatives taken by the Ministry of Home Affairs to address the issue of overcrowding in prisons are as follows:

(i) The Government of India 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.

(ii) The concept of plea bargaining has been introduced by inserting a “Chapter XXIA” on “Plea Bargaining” (Sections 265A to 265L) in the Code of Criminal Procedure, 1973, which enables pre-trial negotiation between the defendant and the prosecution.

(iii) 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 efficient manner and helps them in identifying the inmates whose cases are due for consideration by the Under Trial Review Committee, etc.

(iv) The Model Prison Manual 2016 circulated to all States/ Union Territories 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 State Legal Services Authorities have established Legal Service Clinics in jails, which provide free legal assistance to persons in need. These Legal Service Clinics are managed by Empanelled Legal Services Advocates and trained Para-Legal Volunteers. These clinics have been established to ensure that no prisoner remains unrepresented and legal aid and advice is provided to them. National Legal Services Authority holds awareness generation camps in jails to generate awareness about availability of free legal aid, plea bargaining, Lok Adalats and legal rights of inmates, including their right to bail, etc.

The National Legal Services Authority had prepared a Standard Operating Procedure (SOP) for Under-Trial Review Committees, which has been circulated by MHA to all States/Union Territories for making best use of the same and provide relief to prisoners.

States/UTs have been advised to make use of the above guidelines/guidance to address the issue of overcrowding in prisons, through various advisories issued from time to time.

With the objective of providing financial assistance to poor prisoners, the Ministry of Home Affairs recently prepared a scheme namely “Support to Poor Prisoners”, which aims at providing relief to poor prisoners, who are unable to pay the fine amount or are unable to secure bail due to financial constraints.

‘Guidelines and Standard Operating Procedure’ to be followed by the States/UTs for implementation of the scheme have been shared with the State Governments and Union Territory Administrations, who have been advised to constitute an ‘Empowered Committee’ in each District of the State/UT, which will assess the requirement of financial support in each eligible case of a prisoner for securing bail or for payment of fine, etc. Based on the decision of the Empowered Committee, the District Collector/District Magistrate will draw appropriate funds made available by the Central Government under this Scheme and will provide financial assistance to the prisoner. The ‘Guidelines and Standard Operating Procedure’ for implementation of the Scheme are available on MHA’s website: www.mha.gov.in .
