



Following an increase in [prison overcrowding in India](#), critics are calling for new reforms to the judicial process, to decrease the length of trials and reduce the number of inmates.

Three out of every four people held in India's prisons are undertrial inmates, which means they are currently on trial or awaiting trial. That number is according to the latest official data by the country's National Crime Records Bureau (NCRB) in its Prison Statistics India report for 2020. Meanwhile, an average district jail runs at an occupancy rate of 136%.

In total, the country has over 488,500 prisoners held across 410 district jails.

Human rights watchdog Amnesty International noted that [India's number of undertrials](#) is "far higher than in other democracies around the world," and as of 2017, the country had the third highest number of undertrial inmates in Asia.

PRISON OVERCROWDING ON THE RISE

Although the number of convicts in prisons fell by 22% in 2020, compared to the previous year, the number of undertrial inmates increased.

However, another study by the Commonwealth Human Rights Initiative (CHRI) in December of last year showed prison occupancy increased by 23% over the last two years, with over 900,000 more arrests made during the pandemic alone. Prison occupancy on average increased from 115% to 133%.

“The number of unsentenced prisoners is increasing every day. The time they spend in prison awaiting trial has also increased over the past five years. The increasing prison population necessitates immediate



THE LEAFLET

CONSTITUTION FIRST



only been released temporarily and were called back to prison.

Experts argue that courts must step in to lay down criteria to further liberalize bail, particularly in cases where trials are prolonged, and where the accused have been in prison for years.

CALLS TO REDUCE TRIAL TIME

“We have no institutions or mechanisms by which the voices of the inmates may be heard. Technically, jail inmates are entitled by law, international and domestic, to human rights and the right to dignity and well-being,” Uma Chakravarti, a historian and filmmaker, told DW.

“In my view, the writ of the Indian constitution stops at the gates of the jail,” she added.

Statistics also show that more than 70% of such undertrial prisoners are from marginalized classes, castes, religions and genders.

Delhi and Jammu & Kashmir reported the highest share of undertrial inmates, followed by Bihar, Punjab and Odisha and Maharashtra. Many of these states reported an occupancy rate well over 100% in prisons.

Pratiksha Baxi, an associate professor at Jawaharlal Nehru University’s Center for the Study of Law and Governance, who has worked on prison reforms, pointed out that rates of deaths in custody increased by 7% in 2020.

‘THE COURT MUST ISSUE DIRECTIVES’

So-called unnatural deaths, which include suicides, accidents, and murders in prisons, increased by more than 18%, she pointed out.

“There is no information on why 56 inmates died in 2020. These figures prove that the lockdown rules in prisons increase custodial violence and disease,” Baxi told DW.

“It is high time that governments and courts adopt a public health and gender-sensitive approach to the question of mass incarceration of undertrial prisoners. The participation of prison watchdogs in bringing accountability to these dark custodial spaces must be restored,” she added.

Many have now called on the Supreme Court to explore measures to release prisoners on regular bail so that decongestion can be made possible.



need be, switch to day-to-day trials so that cases which have been tried for more than five years are concluded at the earliest point,” said Dhanuka.

Over the last year, the courts have heard many prisoner petitions pertaining to the denial of medical treatment, food, legal documents, home-cooked food, denial of video conferencing and prison visits by families, and confiscation of letters.

While overcrowding in prisons is a given, activists have also found that it has a serious gendered dimension which is often neglected, especially when it relates to bail, parole, furlough and detention.

“Our research shows that women make up less than 5% of all prisoners. We strongly believe that no grave enough threat is posed to society by undertrial prisoners belonging to sexual and gender minorities that non-custodial alternatives cannot be found for them, while they wait for investigations and trials to be over,” Navsharan Singh, a feminist researcher told DW.

Singh believes that alternatives to the prison system need to be offered to all women and gender minorities.

Authorities have in the past admitted that overcrowding was a problem in jails, but said that it would require a “systemic change” to free up the population of undertrials.

“This decision has to be taken at the highest political level and state governments also have to conduct a review of prison populations and effectively address the issue of prison overcrowding,” a senior Home Ministry official told DW.

Edited by: Leah Carter

First published by [Newsclick](#).