

CRAMPED PRISONS: ON NEED FOR DECONGESTION

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With an average occupancy rate of 115% of their capacity, Indian jails continue to remain congested and overcrowded, numbers in the National Crime Records Bureau's "Prison Statistics India – 2017" report have revealed. In 16 of the 28 States covered in the report, occupancy rate was higher than 100% with States and Union Territories such as Uttar Pradesh (165%), Chhattisgarh (157.2%), Delhi (151.2%) and Sikkim (140.7%) faring the worst. Despite the Supreme Court and other institutions regularly raising the issue of prison reforms and decongestion in jails, it is evident that the measures taken have been piecemeal in most States. While overall occupancy rates have come down from 140% in 2007 to 115% in 2017, only a few States have, in this period, gone about building more jails or increasing capacity in prisons in line with the changes in inmate population. Some States such as Tamil Nadu have reduced their prison occupancy rate (to 61.3%) by increasing the number of jails and their capacity besides reducing arrests for actions unless there is a cognisable offence made out. Rajasthan and Maharashtra have not managed to augment jail capacity to fit in the increased inmate population in the past decade, while States such as U.P. continue to have high occupancy rates because of increased inmate population despite a relative increase in prison capacity.

More than 68% of those incarcerated were undertrials, indicating that a majority were poor and were unable to execute bail bonds or provide sureties. There were a series of recommendations made by the Law Commission of India in its 268th report in May 2017 that highlighted the inconsistencies in the bail system as one of the key reasons for overcrowding in prisons. Clearly, expediting the trial process for such prisoners is the most important endeavour, but short of this there are ways to decongest prisons by granting relief to undertrials. The Commission recommended that those detained for offences that come with a punishment of up to seven years of imprisonment should be released on completing one-third of that period and for those charged with offences that attract a longer jail term, after they complete half of that period. For those who have spent the whole period as undertrials, the period undergone should be considered for remission. It also recommended that the police should avoid needless arrests, while magistrates should refrain from mechanical remand orders. It is imperative that these recommendations are incorporated into law soonest. A system of holding undertrials for too long without a just trial process in overcrowded prisons that suffer problems of hygiene, management and discipline, is one that is ripe for recidivism. There is a greater chance of prisoners hardening as criminals rather than of them reforming and getting rehabilitated in such jail conditions.

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