



Detailed News Articles: 26 June 2019

June 26, 2019 Shiksha IAS Academy

1. [The state of Indian prisons](#)

Analysis:

- Experts that in the midst of the election process this year (2019), the release of the data-driven report, the **Prison Statistics India 2016**, published by the National Crime Records Bureau (NCRB) went largely unnoticed.
- It is important to note that this edition of the report is different from its earlier versions on account of its omission of certain key demographic data.
- However, despite these gaps, **the report raises a number of red flags signalling the rot in India's prison system.**
- However, having said this and before we go forward, a simple question needs to be asked. **Who are our prisoners?**

What does the report tell us?

- The report tells us that at the end of 2016, there were 4,33,033 people in prison; of them 68% were undertrials, or people who have yet to be found guilty of the crimes they are accused of.
- It is important to note that **India's under-trial population remains among the highest in the world and more than half of all undertrials were detained for less than six months in 2016.**
- This suggests that the high proportion of undertrials in the overall prison population may be the result of unnecessary arrests and ineffective legal aid during remand hearings.

a. Failure to include demographic details:

- Experts point out that the most significant shortcoming of the report lies in the NCRB's failure to include demographic details of religion and the Scheduled Caste and Scheduled Tribe status of prisoners, which are crucial to understanding India's prison population.
- As a matter of fact, this information was consistently published for the last 20 years and instrumental in revealing the problematic overrepresentation of Muslims, Dalits and Adivasis among under-trials in prisons.
- The report of 2015, for instance, said that **Muslims, Dalits and Adivasis accounted for 55% of the under-trial population even though they made up only 50% of the convict population and 38% of the total Indian population.**
- Another disturbing point is the rise in the number of people held under administrative (or 'prevention') detention laws in Jammu and Kashmir (a 300% increase), with 431 detainees in 2016, compared to 90 in 2015.



- It is important to note that Administrative, or ‘preventive’, detention is used by authorities in J&K and other States to unfairly detain persons without charge or trial and circumvent regular criminal justice procedures.
- b. Looking at data on prisoner release:**
- It is also important to note that a new and important addition to the report is the number of prisoners eligible to be released and actually released, under Section 436A of the Code of Criminal Procedure, which allows undertrials to be released on a personal bond if they have undergone half of the maximum term of imprisonment they would have faced if convicted.
 - In 2016, out of 1,557 undertrials found eligible for release under Section 436A, only 929 were released.
 - Furthermore, **research by Amnesty India has found that prison officials are frequently unaware of this section and unwilling to apply it.**
 - In 2017, **the Law Commission of India had recommended that undertrials who have completed a third of their maximum sentence for offences attracting up to seven years of imprisonment be released on bail.**
 - Perhaps the NCRB should consider including the number of such undertrials in its upcoming report for informing the policy on the use of undertrial detention.
 - The 2016 prison statistics do not mention the number of prison visits by official and non-official visitors which typically include district magistrates and judges, social workers and researchers.
 - Experts point out that this number, while not as disaggregated as it should be, must nevertheless be used to provide some information on independent monitoring of prisons.
 - As a matter of fact, **this is essential to uncover torture and other forms of ill-treatment, increase transparency and balance the power asymmetry in prisons.**
- c. Looking at Mental health concerns:**
- The relevance of prison visits is underlined by the number of “unnatural” deaths in prisons, which doubled between 2015 and 2016, from 115 to 231.
 - The rate of suicide among prisoners also increased by 28%, from 77 suicides in 2015 to 102 in 2016.
 - For context, **the National Human Rights Commission in 2014 had stated that on average, a person is one-and-a-half times more likely to commit suicide in prison than outside, which is an indicator perhaps of the magnitude of mental health concerns within prisons.**
 - The NCRB has said that about 6,013 individuals with mental illness were in jail in 2016.
 - It does not provide information on whether these prisoners were diagnosed with mental illness before entering prison, making it difficult to determine whether prison conditions worsened their plight.



- Crucially, **the report states that there was only one mental health professional for every 21,650 prisoners in 2016, with only six States and one Union Territory having psychologists/psychiatrists.**
- Odisha, Uttar Pradesh and Madhya Pradesh, the three States with the most prisoners with mental illness, did not have a single psychologist or psychiatrist.

Concluding Remarks:

- All things considered, the report has important information which can be used to facilitate a dialogue on improving prison policies.
- However, these conversations will be limited and the public's right to know about the functioning of the criminal justice system thwarted if critical information is delayed inordinately or withheld without credible reason.
- In conclusion, experts point out that the NCRB's apparent reluctance to be prompt and open about its prison statistics does not bode well for the democratic discourse in India.

2. [A city gone dry: on Chennai water crisis](#)

Analysis:

- Experts point out that Chennai's aspirations to grow into a global economic hub appear considerably weakened as it struggles to find water.
- The shadow of drought from 2018 has stretched into the torrid summer this year (2019), evaporating not just the city's reservoirs, but also, the prosperity of its residents who are forced to hunt for tankers, pay bribes and spend hours even at night waiting for trucks to dispense some water.
- Ironically, Chennai, which is Tamil Nadu's capital, gets in a normal year anything between 1,300 mm and 1,400 mm of rainfall.
- However, the city has been impacted negatively by the indifference of successive governments.

Proof of the neglect of water governance:

- **That fact that residents are now given minimum piped water and meagre tanker supplies totalling a third of the installed capacity of 1,494 million litres a day, that too mainly from desalination plants, faraway lakes and farm wells, is proof of the neglect of water governance.**
- Yet, even searching questions posed by the Madras High Court to the AIADMK government have elicited only vague assurances on meeting basic requirements and restoring 210 waterbodies to augment future storage, rather than a firm timeline.
- Experts point out that Chief Minister Edappadi K. Palaniswami was wrong to dismiss reports on water scarcity as "an exaggeration", and he must end this business-as-usual approach.

The Way Forward:

- A time-bound plan is needed to augment the resources in the Greater Chennai region encompassing the neighbouring districts of Thiruvallur and Kancheepuram.



- As a matter of fact, this plan should be tasked to a Special Officer, to be framed by officials in consultation with credentialed experts in research and academia, and public comments invited before it is finalised.
- Next, given the large base of tanks and reservoirs in Greater Chennai — over 4,000 waterbodies of significance — prudent rainfall management can help it through withering summers and weak monsoons.
- **A white paper with a full assessment of these wetlands and their storage potential should be a priority for the State's Sustainable Water Security Mission.**
- Deepening storage in the four major reservoirs must get priority.
- Such a project must quantify the increase in storage and set an early deadline of a year.
- As a matter of fact, these measures can harvest the bulk of the rain in a good year, and prove superior to the fire-fighting approach of installing expensive desalination plants and bringing small quantities by rail from another district.
- It is also important to note that **Tamil Nadu made rainwater harvesting mandatory quite early, but failed to follow it up with an institutional mechanism to help citizens implement it.**
- Going forward, **the government should give monetary incentives to NGOs, as NITI Aayog proposed in its Water Index report, to encourage them to install systems and show quantifiable recharge outcomes.**
- Lastly, on the consumer side, devices and practices to reduce wastage should be promoted, especially on commercial premises.
- **Droughts are bottlenecks for profit, and several actors have developed a vested interest in transferring water to the city at high cost. Long-term solutions can end this cycle.**

3. [Lynching redux: on Jharkhand mob lynching](#)

Analysis:

- Experts opine that the assault on Tabrez Ansari follows a recognisable pattern.
- The victim was Muslim and came under the suspicion of a mob, which chose to mete out vigilante justice, and someone in the crowd recorded trophy footage.

Vigilante Justice and Mob lynching mentality:

- **This one was not motivated by cow vigilantism or suspicion of transporting cattle for slaughter or possessing beef.**
- **Yet, the communal angle was on display, with the crowd forcing him to shout 'Jai Sri Ram' and 'Jai Hanuman', confirming that vigilante justice and mob lynch mentality are invariably accompanied by a sectarian motive in the present context.**
- Following a public outcry, some of the villagers allegedly involved were arrested on suspicion of murder.

Mob Justice: A Way of Life?



- Experts opine that the conduct of the police typifies the official apathy and tacit acceptance of mob justice as a way of life in some parts of the country.
- As a matter of fact, Ansari was tied to a tree and beaten for hours before the police came to his aid.
- The police merely took him into custody based on a complaint of theft, and neither recorded his injuries nor mentioned in the FIR that he was assaulted.
- **It was only after his condition worsened in jail that he was taken to hospital, where he died.**
- It is distressing that lynching, as a consequence of vigilantism, communal bigotry and the dissemination of hate messages and rumours on social media, has acquired the status of a preponderant social trend.

Observations by the Supreme Court:

- The Supreme Court observed in a judgment last year (2019) that **“rising intolerance and growing polarisation expressed through [a] spate of incidents of mob violence cannot be permitted to become the normal way of life or the normal state of law and order”**.
- As a matter of fact the Honourable Supreme Court of India **directed States to take specific preventive, punitive and remedial measures.**
- It mooted a special law to deal with lynching and the appointment of a nodal officer in each district to combat the threat.
- While these measures are not yet in place, the latest incident must be thoroughly investigated and the perpetrators brought to book.
- Having said this, the larger issue has to be faced squarely by the political leadership.
- Organised vigilantism by cow protection groups was initially behind a wave of lynchings; rumour-mongering through social media platforms came next.

Concluding Remarks:

- The Ansari incident shows that the problem has transmogrified into a sinister form of enforcing the chanting of Hindu slogans by citizens professing other religions.
- Some have pointed out that it may well be that the unseemly political use of the religious chant of ‘Jai Shri Ram’ in Parliament by some ruling party members to heckle those in the Opposition ranks is finding its echo on the streets.

4. [An indecent settlement](#)

Analysis:

- It is important to take a look at the **Acetabular Surface Replacement (ASR) hip implant** case.
- In this, Johnson & Johnson has been accused of selling its faulty ASR hip implants to approximately 4,700 Indian patients between 2004 and 2010.
- The company announced a global recall of the ASR hip implants in 2010 after doctors in the U.K. and Australia reported an extremely high failure rate for the implant.



What was wrong with the implants?

- The metal in the implant was apparently degenerating, causing damage to the bone and tissue, apart from leaching dangerous metals like cobalt and chromium into the blood stream of the patient.
- **By 2013, J&J announced a \$4 billion settlement to cover the claims raised by 12,000 patients in the U.S.**

Cases filed from India:

- Meanwhile, in India, individual patients filed cases against the company before consumer courts.
- There was no governmental response till 2017 when the Drug Controller General of India (DCGI) set up a committee of experts to probe the matter.
- This committee stated that J&J, as part of its global recall, had published advertisements in two English language newspapers informing patients that it was effecting a recall of the ASR hip implants and would pay for the revision surgery of those patients who required the implant replaced.
- Apparently 1,032 Indian patients contacted the company in response to these advertisements. And of these patients, the company paid for revision surgeries of 254 patients, while another 774 patients were kept on monitoring.
- Experts point out that **the remaining 3,600 patients are likely not even aware of the issues with their hip implants because J&J did not contact each patient individually.**

The challenge before court:

- In 2018, **an expert committee under Dr. R.K. Arya recommended that J&J be ordered to pay each patient a baseline compensation of ₹20 lakh and additional compensation based on the age of the patient and disability suffered by him.**
- However, when the DCGI ordered J&J to pay compensation as per the formula laid down by the expert committee, its order was challenged before the Delhi High Court on April 8, 2019 by J&J which argued, and rightly so, that **only courts of law and not regulators like the DCGI could order payment of compensation.**
- Later in the month of May, 2018, the company struck an entirely different chord, claiming that it was willing to pay ₹25 lakh to patients who had a revision surgery and approached the government's committee, provided that the payment was not construed as an acceptance of any liability.
- As per the court's order, this settlement offer would not affect the patient's right to claim further compensation subject to the fact that any possible future award of compensation from a court would have to be adjusted with the ₹25 lakh already paid.
- The order records that J&J was in effect extending this offer to merely 67 of the 289 patients who had approached the 'expert committee' of the Central



government because only these 67 patients had been “verified” and had received revision surgeries.

Problems with the settlement

- Experts point out that there are several problems with this settlement.
 - a. The first is that the patients who are the most important stakeholders are not party to this litigation. **One of the fundamental tenets of law is that no order, not even one that is perceived to be a favourable order, should be passed by a court of law without hearing the parties who are going to be impacted by the order.** As a matter of fact, the only way patient interests can be protected is to invite patients to be part of the process. This is not merely an issue of abstract theory but one of practical implications. For instance, if there was even one lawyer for the patients present in court, he or she would have informed the court that most patients have not approached the expert committee of the government because it was as clear as day that the committee did not have any legal powers to award damages. Instead, most patients moved consumer courts seeking compensation. Thus, dealing with the claims of only the 289 who contacted the committee is pointless.

The same lawyers would have also informed the court that as per the expert committee report, J&J has knowledge of at least 254 patients who have had revision surgery. Important questions arise: Why then is J&J prepared to pay only 67 patients who had the revision surgery?

Also, what of the remaining 3,600 patients who have not been informed of problems with the implant?

- b. The second problem with this payment of ₹25 lakh per patient is that there is no theory of damages supporting the payment of this amount.

Normally damages are split under different heads such as loss of future earnings and solatium for hardship — all of which will be calculated on the basis of the age of the patient.

A 40-year-old patient who has a much higher earning potential than a 60-year-old patient deserves to be compensated at a higher rate.

J&J needs to explain the basis of treating all the patients equally.

The expert committee had recommended ₹20 lakh as a baseline compensation to which more could be added as per a formula it proposed.

Going by this formula, the compensation payable to these patients would depend on age and disability and would be far in excess of the ₹25 lakh proposed by J&J.



Experts opine that **the High Court needs to guarantee some transparency in this regard since there are pending cases before the consumer courts which will be dealing with similar questions.**

c. The third tragedy with this settlement is that it provides the perfect smokescreen to both J&J and the DCGI who have so far had to deal with intense media scrutiny over their failure to take care of patient interests.

By presenting to the media a deal that has the blessings of the Delhi High Court, both J&J and the DCGI will get away with the appearance of having taken care of patients even when it is clear that ₹25 lakh is a pittance of a compensation.

Lastly, the image of this settlement which costs J&J a paltry sum of ₹16.75 crore will end the public pressure on the company despite no justice being done to the patients.

5. [The loss is not just Istanbul](#)

Analysis:

- Turkish President Recep Tayyip Erdogan has often said, **“Whoever wins Istanbul wins Turkey.”** This must have come to haunt him recently when **Ekrem Imamoglu**, the Opposition CHP (Republican People’s Party) nominee, defeated Binali Yildirim, the AKP (Justice and Development Party) candidate, decisively in **Istanbul’s mayoral election.**
- Experts opine that what must have added insult to injury was the fact that Mr. Imamoglu garnered close to 55% of the votes.

The beginning of the end?

- An important question arises: **Does this mean the beginning of the end of Mr. Erdogan’s semi-authoritarian rule in Turkey?**
- As a matter of fact, if one accepts the fact that the Istanbul verdict is a bellwether for what could happen in the rest of the country when the national election is held, then it is good news for the Opposition.
- Experts opine that **the verdict is very important because one-fifth of the Turkish population lives in Istanbul and the city contributes over 30% of the national wealth to the country’s GDP.** Moreover, Istanbul is not alone in sending the signal that large segments of the population are disenchanted with Mr. Erdogan and the AKP.
- The second and third largest cities in the country, Ankara and Izmir, also elected Opposition candidates in the March 31st election, as did several other urban concentrations.
- **It is the Anatolian (Turkish) heartland with its conservative and religious orientation that has so far stood by the AKP.** But even there Mr. Erdogan’s popularity seems to be waning.



Reasons why Mr. Erdogan's popularity seems to be waning:

- One of the main reasons for this is the very visible downturn in the economy and the precipitate fall of the Turkish currency over the past year.
- Some of this is the result of Mr. Erdogan's continuing feud with the U.S.
- More important, the AKP government has grossly mismanaged the economy by spending unwisely on giant and prestigious projects like a new airport in Istanbul, which is slated to be the world's largest, and constructing bridges and gigantic mosques that have depleted resources and driven the government into debts of huge proportions.
- **With the building boom turning into bust and inflation rising, the average voter has been hit hard.**
- Experts opine that this has also begun to alienate the religiously observant bourgeoisie in the towns and cities of interior Anatolia who had formed the financial backbone of the AKP and the engine of growth during Mr. Erdogan's long tenure first as Prime Minister and then as President.
- Simultaneously, **Erdogan has alienated a section of his Islamist base by constantly quarrelling with Fethullah Gulen, the leader of the Gulen movement.**
- Following the abortive military coup of July 2016, thousands of Gulen supporters, the most educated and skilled among the religiously observant population, are in jail and thousands of others have been sacked from their jobs.
- Several universities and schools run by the Gulen movement have been closed and this has affected the quality of education in the country.

Alienating the Kurds:

- Erdogan's popularity has also diminished because his recently cultivated ultranationalism seems to have boomeranged.
- This ultranationalism was intended to placate his allies in the Nationalist Movement Party (MHP), which provides the AKP government crucial support in Parliament, but it seems to have driven many moderates to side with the Opposition instead.
- **This is particularly true of the Kurdish population — and Istanbul with about three million Kurds is the largest Kurdish city in the world — that has been alienated by Mr. Erdogan's stridently anti-Kurdish rhetoric and the resurgence of conflict between the state and the PKK (Kurdistan Workers' Party).**
- Furthermore, Mr. Erdogan's military campaign against the Syrian Kurdish enclave has added to Kurdish disenchantment with him.

Involvement in the Syrian Civil War:

- Also, it is important to point out that Turkey's ill-conceived involvement in the Syrian civil war has cost it hugely.
- A massive inflow of refugees and an expanding defence budget have added to its economic woes.



- At the same time, the Turkish government has been engaged in a running feud with its principal NATO ally, the U.S., over trade issues, differences regarding the Syrian Kurds, and the Turkish decision to buy the S-400 anti-missile systems from Russia.
- **The U.S. has threatened economic sanctions if Ankara acquires the S-400 systems.**
- Turkey has been defiant on this issue, and the first S-400 deliveries are scheduled for July 2019.
- Experts believe that these sanctions will kick in automatically under the CAATSA (Countering America's Adversaries Through Sanctions Act), which is a 2017 Congressional law penalising any country that has purchased military equipment from an American foe.
- The continuing spat with the U.S. threatens to negatively affect the Turkish economy further, with the lira plummeting to new lows following the U.S.'s threats of sanctions.

Concluding Remarks:

- While all these factors point to a gradual but certain weakening of Mr. Erdogan's hold on power, it is too early to say that it will lead to him being unseating in the next election.
- Parliamentary and presidential elections are more than four years away and much can happen in between to reverse the Istanbul verdict, especially given the way Mr. Erdogan has concentrated power in his hands and misused it to muzzle the media and harass opponents of all hues.
- Nonetheless, the Istanbul election does indicate that the President's semi-authoritarian rule has not been successful in quashing the democratic spirit among Turkey's voters. This is good news.

Thank you!