

**GOVERNMENT OF INDIA  
LAW AND JUSTICE  
LOK SABHA**

STARRED QUESTION NO:111

ANSWERED ON:26.11.2009

JUSTICE TO UNDERTRIALS/CONVICTS

Shekhar Shri Neeraj;Singh Shri Sushil Kumar

**Will the Minister of LAW AND JUSTICE be pleased to state:**

- (a) whether a large number of under-trials spend years in various jails in the country for periods exceeding the term of their probable sentence while convicts wait for their appeals to be heard;
- (b) if so, the details thereof and the reasons therefor;
- (c) whether there is need for enactment of a law to compensate such victims;
- (d) if so, the action being taken by the Government for rendering justice to such undertrials/convicts; and
- (e) the concrete steps contemplated by the Government to reduce the number of undertrials in various jails in the country?

**Answer**

MINISTER OF LAW AND JUSTICE (Dr. M. VEERAPPA MOILY)

(a) to (e): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLIES TO PARTS (a) TO (e) OF LOK SABHA STARRED QUESTION NO.111 DUE FOR ANSWER ON 26-11-2009

(a) & (b): Information on the time spent by under-trial prisoners, while their cases are under the process of adjudication in the courts, as against the period of their respective probable sentences is not maintained centrally. However, as per the information available 2,50,727 under-trial prisoners were under detention at the end of 2007. Out of these, 1,03,624, i.e. 41.3% of the total number of under-trial prisoners in jails were under detention for a period up to three months.

(c) to (e): Conducting trial expeditiously to render justice to the under-trials is a matter within the domain of the judiciary and the facilitation of such trials is primarily the responsibility of the State Governments. While there is no proposal with the Central Government at present to enact a law to compensate under-trials who spent longer time in the jails than their probable sentences, the Central Government has taken a number of steps for facilitating delivery of justice to the under-trials and also to provide that under-trials do not spend long periods in jail.

These steps are:

i) A new section viz 436A of the Code of Criminal Procedure, 1973 has been inserted in the Code to provide that where an under-trial prisoner other than the one accused of an offence for which death has been prescribed as one of the punishments, has been under detention for a period extending to one-half of the maximum period of imprisonment provided for the alleged offence, he should be released on his personal bond, with or without sureties. It also provides that in no case will an under-trial prisoner be detained beyond the maximum period of imprisonment for which he can be convicted for the alleged offence.

Section 436(1) of the Code of Criminal Procedure, 1973 has also been amended to make a mandatory provision that if the arrested person is accused of a bailable offence and he is an indigent and cannot furnish surety, the Court shall release him on his execution of a bond without sureties.

ii) In 2006, the Government of India introduced the system of 'plea bargaining', primarily to reduce pendency of cases in trial courts and overcrowding in prisons.

iii) For disposal of long pending sessions and other cases, Government of India has also set up 1562 Fast Track Courts for speedy disposal of cases including those of under-trial prisoners.

iv) The facility of legal aid is available to the under-trials.