



NOTES ON USING THIS PROFILE

- Sources for the data provided in this report are available online at: <https://www.globaldetentionproject.org/countries/asia-pacific/india>
- "Observation Dates" indicate the timeframe statistical data correspond to or other data were last validated. More than one statistical entry for a year indicates contrasting reports.

STATISTICS

Detention, expulsion, and incarceration statistics

		Observation Date			Observation Date
Total number of immigration detainees by year	Not Available	2019	Total number of detained minors	Not Available	2017
Criminal prison population	419,623	2015	Percentage of foreign prisoners	1.5	2015
	385,135	2012		1.7	2012
	372,296	2011			
	376,969	2009			
	376,396	2007			
	358,368	2005			
	326,519	2003			
	313,635	2001			
281,380	1999				
Prison population rate (per 100,000 of national population)	33	2015			
	30	2012			
	30	2011			
	31	2009			
	32	2007			
	31	2005			
	29	2003			
	29	2001			
27	1999				

Demographics and immigration-related statistics

		Observation Date			Observation Date
Population	1,380,000,000	2020	International migrants	5,154,737	2019
	1,311,051,000	2015		5,241,000	2015
International migrants as a percentage of the population	0.6	2015	Refugees	195,103	2019
				195,891	2018
				197,146	2017
				197,823	2016
				201,381	2015
				199,937	2014
Ratio of refugees per 1000 inhabitants	0.15	2014	Total number of new asylum applications	7,593	2019
				8,642	2016
				7,426	2014
Refugee recognition rate	15.5	2014			

DOMESTIC LAW

LEGAL TRADITION

Legal tradition	Name	Observation Date
	Common law	
	Muslim law	
	Customary law	

LAWS AND REGULATIONS

Constitutional guarantees?	Yes/No	Constitution and Articles	Year Adopted	Last Year Amended
	Yes		The Constitution of India, Part III, Fundamental Rights, Articles 14, 21 and 22	1949

	Update Status	Observation Date
<p>Latest Update</p>	<p>In mid-April, India’s Supreme Court directed the government to release “illegal foreigners” detained in Assam for more than two years in order to avoid overcrowding. Assam has become a hotspot for immigration detention in India, as scholar Sujata Ramachandran reported in a 2019 Working Paper for the Global Detention Project: “The country’s detention and deportation policies have begun to receive widespread international attention in the wake of a recent crackdown on purported “illegal” residents in the Indian state of Assam, which is located in the far northeastern corner of the country. Sharing borders with Bhutan, Bangladesh, Myanmar, and a few other small Indian states, Assam is connected to the rest of the Indian mainland only by a narrow strip of land. Here, the process of identifying and removing ‘irregular Bangladeshis’ has gained considerable momentum as the state updates its ‘National Registry of Citizens,’ which threatens millions of Assam residents with imminent statelessness, in particular Bengali-speaking Muslims who have been targeted as part of a Bharatiya Janata Party (BJP)-led campaign against Muslim-majority and Bengali-speaking Bangladeshis, including many who were born in India but lack documentation.” (For more on detention in Assam during the pandemic, see our 10 April update.)</p> <p>Indian law does not distinguish between refugees and illegal immigrants and the central government grants asylum and provides assistance only for certain refugee populations. India is nonetheless host to a large population of refugees and the Government allows UNHCR recognised refugees to apply for visas. The country has set up quarantine facilities for those returning from abroad. However, it has been reported that these facilities have poor hygiene levels and limited access to healthcare. People who arrived at New Delhi airport in March reported that after being screened at the airport, they were loaded into a bus packed with other passengers who had travelled from abroad and sent to an isolation facility in Dwarka. In that facility, more than 40 people were held with only three washrooms and three bedrooms. Similar reports arose from quarantine facilities in Kashmir where around 1,800 people were placed in similar facilities. One person who was quarantined in Kashmir stated that authorities had not provided them with liquid soaps and sanitisers and that they were forced to use a dirty washroom. People detained in prisons, correctional homes, or immigration detention centres are at high risk owing to the closed setting and proximity in common living space. In India, this risk was acknowledged by the Supreme Court on 16 March: “The bitter truth is that our prisons are overcrowded, making it difficult for prisoners to maintain social distancing. ... like any other viral diseases susceptibility of Covid-19 is greater in over-crowded places, mass gatherings, etc. Studies indicate that contagious viruses like Covid-19 proliferate in closed spaces such as prisons. Studies also suggest that prison inmates are highly prone to contagious viruses. The rate of ingress and egress in prisons is very high, especially since persons (accused, convicts, detainees etc.) are brought to the prison on a daily basis. Apart from them, several correctional officers and other prison staff enter the prison regularly, and so do visitors (kith and kin of prisoners) and lawyers. Therefore there is a high risk of transmission of Covid-19 virus to the prison inmates... we are of the opinion that there is an imminent need to take steps on an urgent basis to prevent contagion of Covid-19 virus in our prisons.” On 11 May 2020, the National Commission for women announced that more than 1,700 women on remand had been released since 25 March. On the next day, the High Power Committee appointed for the emergency release on parole or bail of prison inmates, decided to release around 17,000 out of 35,239 prisoners from prisons in the state of Maharashtra. In the whole of India, 61,100 prisoners have been released. However, these releases have not necessarily included detained foreign nationals - rising numbers of whom are being held in Indian prisons. In the state of Odisha for example, where almost one thousand prison inmates have been released, the group of persons denied release include those convicted for rape and sexual offences, and foreign nationals. Similar guidelines are also in place in Jammu and Kashmir. As of 19 May 2020, 388 positive cases of Covid-19 have been identified among prisoners and three prisoners have died from the disease.</p>	<p>2020</p>
	<p>In the Indian state of Assam, more than 800 persons are being held indefinitely in six detention centres within prisons. Defined by Indian authorities as “foreigners,” these detainees - many of whom are Indian citizens who have been declared “illegal immigrants” by the Foreigners Tribunal on account of poor documentation or poor legal assistance and lack of resources - are forced to live in overcrowded facilities that lack appropriate medical and sanitary facilities. Since 2016, 29 detainees have died due to various ailments - ten of them between 1 March 2019 and 20 February 2020. On 23 March, India’s Supreme Court ordered all states to release “convicts and undertrials [remand prisoners] awaiting trial for offences entailing a maximum sentence of seven years.” While Assam state took steps to release over 700 prisoners, no such steps seem to have been taken to release or protect detained “declared foreigners”. Speaking to Al Jazeera, the deputy commissioner of Assam’s Sonitpur district stated, “We have stopped taking in new inmates. Everyone is being screened by the doctors on a regular basis and there does not seem to be any such possibility of a virus outbreak.” However, reports from detainees’ families suggest otherwise: according to the daughter of one detainee, at least 50 people are kept in one room. Some families have sought to secure bail for detainees, but with courts suspending operations in March, there is uncertainty regarding options. On 7 April, the country’s Supreme Court heard a petition filed by a detainee in Assam, which sought the release of people who have spent more than two years in detention. The court also heard pleas by the Justice and Liberty Initiative (JLI), which urged authorities to extend the prisoner release to declared foreigners. Further hearings are scheduled for 13 April. “As human beings, they also have at least basic human rights to live and not to die of COVID-19 in the precincts of a prison, which has despicable living conditions,” said a JLI advocate. Concerns have also been raised concerning persons confined in India’s network of prisons, where measures such as the cancellation of visits prompted some prisoners to riot. Although some have been released since the Supreme Court’s order on 23 March, others remain in facilities renowned for their poor living conditions. Foreigners are amongst those detained inside Indian prisons, however the GDP has not been able to determine whether they were amongst those released. Arundhati Roy, Professor Gilbert Achcar, and other leading intellectual figures signed an appeal urging for authorities to release political prisoners, who were not included in the 23 March order. They note that many persons who have been arbitrarily detained have been in prison for years awaiting trial and, as a result of prolonged confinement, suffer from a wide array of health conditions which leave them particularly vulnerable to the virus. Similar concerns could be expressed for immigration detainees, many of whom have been subjected to lengthy detention.</p>	<p>2020</p>

INTERNATIONAL LAW

Relevant international treaties and date of ratification

International treaties	Name	Ratification Year
	CTOCTP, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	2011
	CTOCSP, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	2011
	CRPD, Convention on the Rights of Persons with Disabilities	2007
	CEDAW, Convention on the Elimination of All Forms of Discrimination against Women	1993
	CRC, Convention on the Rights of the Child	1992
	ICCPR, International Covenant on Civil and Political Rights	1979
	ICESCR, International Covenant on Economic, Social and Cultural Rights	1979
	VCCR, Vienna Convention on Consular Relations	1977
	ICERD, International Convention on the Elimination of All Forms of Racial Discrimination	1968
Ratio of relevant international treaties ratified	9/19	

Relevant international treaties and date of ratification

Ratio of complaints procedures accepted	Number	Observation Date
	0	2017

Relevant international treaties and date of ratification

Relevant recommendations issued by treaty bodies	Name	Recommendation Excerpt	Recommendation Year
	Human Rights Committee	§78 [...] (c) Release asylum-seeking and refugee children held in detention and enable them to access the Office of the United Nations High Commissioner for Refugees (UNHCR); ensure that unaccompanied and separated children, refugee and asylum-seeking children are not detained because of illegal entry/stay in the State party; and grant them the right to seek asylum and to stay in the State party until the completion of asylum procedures;	2014

Non treaty-based international human rights mechanisms

Relevant recommendations of the UN Universal Periodic Review	Recommendation Issued	Year Issued	Observation Date
	No	2008	2017
	No	2012	2017

INSTITUTIONAL INDICATORS

Institutions responsible for immigration detention

Custodial authority	Agency	Ministry	Ministry Typology	Observation Date
		Foreigners Regional Registration Office		2008
		Foreigners Regional Registration Office		2006
		Foreigners Regional Registration Office		2006

Institutions responsible for immigration detention

Detention Facility Management	Entity Name	Entity Type	Observation Date
	Police	Governmental	2009
	Police	Governmental	2008

More information about immigration detention in India is available at the website of the Global Detention Project (www.globaldetentionproject.org)