



Commonwealth Human Rights Initiative
55A, Third Floor, Siddhartha Chambers – I
Kalu Sarai, New Delhi – 110016
Website: www.humanrightsinitiative.org
Tel: 91-11-43180200
Fax: 91-11-43180217

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CHRI celebrates the release and repatriation of Khan Zaman, an Afghan National lodged in Jodhpur Central Jail for the last 14 years

Commonwealth Human Rights Initiative Press Statement, 11th April, 2015

On 9th April, Commonwealth Human Rights Initiative (CHRI) succeeded in expediting the release and repatriation of Khan Zaman, an Afghan National who was in detention for the last 14 years at Jodhpur Central Jail. Facilitating the repatriation of Khan Zaman has been an arduous task, taking CHRI over 3 months to move all the agencies, after he completed his sentence on 24th December, 2015.

Foreign prisoners belonging to countries with poor rule of law almost always fall prey to the situation of 'overstay' i.e., they continue to spend their lives in jails even after the completion of their sanctioned sentence. They are released yet they suffer imprisonment either in jails or detention centres. This is an additional punishment, absolutely inconsistent with Article 21 of the constitution that guarantees protection of liberty to both citizens and non-citizens. The unnecessary detention of these prisoners creates the burden of overcrowding on prisons. According to the latest NCRB data, there are 6746 foreign prisoners languishing in Indian prisons mostly belonging to impoverished countries. CHRI has earlier faced challenges in the repatriation of Meer Vize, Khan Zaman's accomplice and other Bangladeshi juveniles and adults.

CHRI believes that the reason behind such gross human rights violation is lack of standard operating procedures and operational guidelines governing the process of repatriation which results in no or uncoordinated efforts by all the agencies involved in the process. The violation is also attributed to the under-utilization of Repatriation of Prisoners Act, 2004 which allows for foreign prisoners to serve the remainder of their sentence in their native country.

Khan Zaman's case is an unfortunate illustration of procedural justice over substantial justice. His release was secured only after his relative flew all the way from Afghanistan to India to pay a fine of Rs. 1100 because the Prison Department would not accept the payment from

Khan Zaman's lawyers. Despite the payment of fine and official completion of his sentence, extricating Khan Zaman out of unnecessary detention was an extremely long and tedious process, involving 'clearance' after 'clearance'.

Right up to the point of his departure involving police escorts provided by the arresting authorities, Khan Zaman's case hurtled from the Jail Superintendent to the State Home Department for transfer to Deportation Center, and from the Home to Embassy of Afghanistan and Ministry of External Affairs which finally rolled out his travel documents and tickets. The stretch of time between all these steps was as long as 1 month mostly due to the confusion over placement of responsibilities at each level.

Khan Zaman has finally returned home after 14 years in jail but his family of 3 daughters and a son have in the meantime scattered over Afghanistan and been reduced to rag-pickers.

CHRI's Director, Maja Daruwala says, "We are delighted that Khan Zaman is united with his family. It has taken 3 months and the efforts of an organization to make this happen. There are too many like Mr. Zaman still in our prisons and reliant on bureaucracies on both sides of the border for their release. The system must be able to repatriate foreigners who have completed their sentences immediately. Strict protocols for immediate release must be in place and acted on every time. Everything else is illegal and unjust."

About CHRI and its Prison Reform Programme: The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organization mandated to ensure the practical realization of human rights in the countries of the Commonwealth. Commonwealth Human Rights Initiative was founded in 1987 by Commonwealth professional associations; it is headquartered in New Delhi, India since 1993, and has offices in Accra, Ghana and London, UK.

CHRI advocates for better respect for protection and promotion of international human rights standards and ensuring greater adherence to Commonwealth Harare principles. Issues relating to accountability and participation in governance – access to justice and access to information – are at the heart of CHRI's work. It also overviews the human rights situation in countries of the Commonwealth, looking especially at human rights defenders, compliance with international treaty obligations and monitoring the performance of Commonwealth members of the United Nations Human Rights Council.

The *Prison Reforms Programme* of CHRI has its focus on early safeguards against unnecessary detention and addresses overcrowding of prisons. Currently the programme is working collaboratively with the West Bengal and Rajasthan Prison Departments and the respective State Legal Services Authority to provide legal assistance to various categories of undertrial prisoners for availing early access to counsel, legal aid safeguards and suitable non-custodial measures.