

**Rehabilitation policy for terrorists**

987. SHRIMATI MAYA SINGH: Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether it is a fact that in the backdrop of the rehabilitation policy for terrorists framed in 2010 not even a single terrorist has returned *via* the routes mentioned in the policy and so not rehabilitated;

(b) if so, the details thereof;

(c) whether Government is facilitating the terrorist return through the illegal route from Nepal; and

(d) whether Government is planning a change in the rehabilitation policy for the terrorists?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI R.P.N. SINGH): (a) to (d) As per Rehabilitation Policy notified by the Government of J&K in 2010, Joint Check Post (JCP) at Wagah (Attari), Salamabad, Chakan-da Bagh crossing on the LoC besides, Indira Gandhi International Airport, New Delhi have been designated as routes for ex-militants of J&K who had crossed over to PoK/ Pakistan but have given up militant activities due to change of heart and are willing to return to the State. However, no ex-militant has been able to access these routes for return so far. The ex-militants have been coming back *via* Nepal border because there is no visa regime between India and Nepal for Indian citizen. As per report of J&K Police, in the past three years, from 2011 to 2013 (upto 15.06.2013) about 256 ex-militants have returned *via* Nepal. All persons returning *via* Nepal are being screened in Joint Interrogation Centre (JIC) and are subjected to due legal procedures through appropriate Court of Law. During the period of arrest of such returnees, all relevant agencies have access to Joint Interrogation. Those bailed out by the Court of Law are kept under regular surveillance. Till date, this Ministry has not received proposal from the Govt. of J&K for change in the extant rehabilitation policy.

**Review of criminal law procedures for undertrials**

988. SHRI RAM KRIPAL YADAV: Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether it is a fact that out of total prisoners presently in all the Jails in the country, 2/3rd prisoners are undertrials;

(b) whether it is also a fact that the review matter is pending for 1/3rd prisoners out of the remaining 1/3rd prisoners (excluding undertrials prisoners);

(c) if so, whether it is a matter of concern as undertrial and review matters pending for the prisoners may not be called as convicted according to law; and

(d) whether in this scenario, Government has any plan to review the criminal law procedures and if so, the details thereof?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI R.P.N. SINGH): (a) No Sir, as per data compiled by National Crime Records Bureau (NCRB) at the end of 2011, there were 2,41,200 undertrials out of 3,72,926 prisoners in the country comprising 64.7% of the total inmates.

(b) The sentence of a convict can be commuted by the State Government under section 433 of Cr.P.C. Data regarding number of applications seeking commutation and their disposal is not maintained centrally with this Ministry.

(c) and (d) To take up the cases of undertrials for review periodically, a Comprehensive Advisory on Prison Administration dated 17-07-2009 has been issued by the Government to the States/UTs. One of the initiatives taken by the Government of India has been the amendment of section 436 in the Cr.P.C. through the Criminal Procedure Code Amendment Act, 2005 and the insertion of a new section 436A. As a follow up an advisory dated 17.1.2013 on use of Section 436A of the Cr.P.C to reduce overcrowding of prisons has been issued by the Government of India (which can be accessed at <http://mha.nic.in/pdfs/AdvSec436APrisons-060213.pdf>) which provides for taking up cases for review of undertrials who have completed one half of their maximum possible sentence. Thus under Section 436A an under trial prisoner (UTP) has the right to seek bail on serving more than one half of the maximum possible sentence on their personal bond. No person can be detained in prison as an undertrial for a period exceeding the maximum possible sentence. This provision is, however, not applicable for those who are charged with offences punishable with the death sentence. In addition, under the Criminal Law Amendment Act, 2013 Section 309 has been amended to provide for day to day trial of cases relating to rape and sexual assault to ensure that they are completed within two months from the date of filing charge sheet.