

Extradition Act, 1962

Preamble 1 - Extradition Act, 1962

EXTRADITION ACT, 1962 EXTRADITION ACT, 1962 34 of 1962 15th September, 1962 STATEMENT OF OBJECTS AND REASONS At present, the law of extradition applicable to India is to be found scattered in the United Kingdom Extradition Act, 1870 to 1932, the Fugitive Offenders Act, 1881, and the Indian Extradition Act, 1903. The United Kingdom Extradition Act, 1870, in its application to India, authorised the extradition of fugitive offenders between India and 'foreign States', a term which meant States to which that Act was made applicable by Her Britannic Majesty's Order in Council. The Fugitive Offenders Act, 1881, on the other hand, provided a method whereby extradition of fugitive offenders could be effected between the British dominions and possessions by a simplified form of procedure. The Indian Extradition Act, 1903, modified and supplemented the other laws by- (a) prescribing the procedure for the surrender of fugitive criminals in the case of 'Foreign States'; (b) providing a special machinery for the surrender of fugitive criminals in case of States other than 'Foreign States'; and (c) specifying the officers in India who may exercise the powers conferred by the Fugitive Offenders Act, 1881. 2. The Indian Extradition Act, 1903, was not extended to Part B States in 1951 when Part B States (Laws) Act, 1951, was enacted as it was felt even then that this should be done by a separate law after a proper examination of the position. The result is that the legal position relating to the surrender of fugitive criminals to 'foreign States' and Commonwealth countries under the existing law from the erstwhile Part B States is somewhat doubtful. 3. The purpose of this Bill is to remove all such anomalies and fill in the lacunae that exist at present in the law relating to extradition and enact a consolidated and amended law for the extradition of fugitive criminals to all foreign States and Commonwealth countries. 4. A Bill on the subject was introduced in the Lok Sabha on the 7th August, 1961. The Bill was referred to a Joint Committee and the Committee presented the Report on 30th November, 1961. The Bill, as reportedly the Joint Committee, could not be taken up for consideration in Parliament for want of time and it lapsed on the dissolution of the Lok Sabha. The present Bill incorporates all the recommendations made by the Joint Committee and the opportunity has been taken to make certain minor changes. 5. The notes on clauses explain in detail the various provisions of the Bill.- S.O.R.Gaz. of Ind., 19-6-1962, Pt. II, S. 2, Extra, p. 418. Act 66 of 1993.- At present, the Law of Extradition in India is contained in the Extradition Act, 1962 (Act 34 of 1962). The 1962-Act made a distinction between commonwealth countries and foreign States and considered only foreign States as treaty States. The extradition with Commonwealth countries was separately governed by the second Schedule of the Act and the Central Government was given powers under Chapter III to conclude special extradition arrangements with respect to Commonwealth countries only. Such distinction made in the Extradition Act, 1962 between foreign States and Commonwealth countries does not hold good in view of the change of time and rapid developments in Extradition Law at international level. Commonwealth countries are concluding extradition treaties among themselves. India has in recent years concluded separate extradition treaties with Canada and U K.. Moreover, the Civil Law countries have specific requirements for purposes of extradition with them. In addition; terrorism and drug trafficking as two most heinous crimes affecting innocent lives, have thrown new challenges necessitating changes in the EXTRADITION ACT, existing Extradition Law to effectively deal with these new crimes. Many International Conventions dealing with these and other crimes have laid down specific obligation on State parties to extradite or prosecute a fugitive offender. India is a State party to many of these International Conventions. 2. The purpose of the Bill is to amend the Extradition Act, 1962, to suitably incorporate in it the above noted changes and to achieve, inter alia, the following objectives: (a) to enable India to conclude extradition treaties with foreign States including the Commonwealth countries without treating them structurally different; (b) to provide for extra-territorial jurisdiction over foreigners for crimes committed by them outside India; (c) to incorporate composite offences in the definition of extradition offence; (d) to exclude political offence as a defence in cases of offences of a serious nature; (e) to cover extradition requests on the basis of international Conventions within the scope of the Act. (f) to enable

Central Government to make and receive requests for provisional arrest of fugitives in urgent cases pending the receipt of the formal extradition request; (g) to enable the Central Government to give assurance pursuant to a treaty obligation to the requested State for the non-execution of death penalty. 3. The Bill seeks to achieve the above objects. -Gaz. of Ind., 29-7-1993, Pt. II, S. 2, Ext., p. 7 (No. 33). An Act to consolidate and amend the law relating to the extradition of fugitive criminals 1[and to provide for matters connected therewith or incidental thereto.] CHAPTER 01 PRELIMINARY OBJECTS AND REASONS Sub-clause (b).- Certain foreign laws like the French provide for the condemnation of the accused person pur coniumance but such condemnation is annulled if the accused person appears before the Court, when his trial begins afresh. Such a person is correctly described as an accused person and not as a convicted person for the purposes of extradition law. This sub-clause is intended to clarify this position and follows similar definitions in the United Kingdom and Canadian Acts. Sub-clause (c).-The expression 'extradition offence' is so defined as to mean, in relation to a foreign State being a treaty State, an offence provided for in the extradition treaty with that State and in relation to a foreign Slate other than a treaty State or in relation to a Commonwealth country, an offence which is specified in, or which may be specified by Notification under the Second Schedule. Sub-clause (d).- The definition of 'extradition treaty' covers even pre independence treaties."- S.O.R.OBJECTS AND REASONS "Clause 3.- This clause covers all States outside India including Commonwealth countries to which Chapter 111 does not apply. The Act can become operative in relation to such States only on the issue of a notified order. Provision has been made in clause whereby it may be possible to make this Act effective only in relation to certain parts of India. In regard to a treaty State, power has also been taken to render the application of the Act subject to such modifications. exceptions, conditions and qualifications as may be deemed expedient for implementing the treaty with that Stale." S.O.R.

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