

EXTRADITION ACT, 1989 (1991)

WHEREAS it is expedient to introduce national legislation for extradition of fugitive offenders;

NOW therefore, the National Assembly of Bhutan enacts this legislation.

I.. Preliminary

- A.. This Act may be called the Extradition Act, 1989 (1991)
- B.. This Act shall come into force immediately.
- C.. This Act shall apply to the return of persons to, and to persons returned from a treaty state.
- D. This Act may also apply to non-treaty state where the Royal Government of Bhutan considers it expedient to surrender the suspected fugitive offender to that state notwithstanding that there is no extradition treaty with that state, subject to modifications, exceptions, conditions and qualifications, if any, as may be made by the Royal Government of Bhutan.

II.. Definitions :

In this act, unless there is anything repugnant in the subject or context :

- A.. "Court" means High Court of Bhutan unless it is specified otherwise.
- B. "Extradition Offence" means an offence included in the Schedule to this Act constituting an offence against the law of Bhutan, or an offence specified in the extradition treaty or arrangement with the foreign state.
- C.. "Treaty State" means a foreign state with which an extradition treaty is in operation.
- D.. "Extradition Treaty" means a treaty or agreement between Bhutan and foreign state for the

extradition to or from such state of a person accused or convicted of an extradition offence.

E.. "Fugitive offender" means a person who, being accused or convicted of an extradition offence within the jurisdiction of a foreign state is, or is suspected to be, in Bhutan.

F.. "Requesting state" means a treaty state which requests another treaty state for extradition of a fugitive offender.

III..Request for extradition or punishment:

A.. Request for extradition or punishment of the fugitive offender who, after committing an offence, has absconded to the Kingdom of Bhutan may be made in writing through the diplomatic mission of the foreign country in Bhutan or through the Bhutanese diplomatic mission in that country. If such a request cannot be made through these channels, the foreign country may make the request directly to the Royal Government of Bhutan.

B.. While making the request for extradition or punishment pursuant to sub-section 3.1 above, the requesting state shall provide all relevant evidence and information about the fugitive offender including those submitted by him and state the location of his stay in Bhutan.

IV.. Proceedings :

A.. On receipt of the request for extradition or punishment of a fugitive offender, the Royal Government may, if it thinks fit, order the High Court to investigate the matter.

B.. The Court, after receiving the Government order, shall issue a summon or warrant for arrest of the fugitive offender.

C.. When the fugitive offender appears or is produced before the Court, the Court shall inquire into the case and take such evidence as if it were a similar case triable under its jurisdiction.

D.. On completion of the inquiry, the Court shall

submit a report to the Royal Government on the results of its inquiry and its recommendations. The report shall include all pertinent information and evidence received in connection with the inquiry including other submissions as may be requested by the fugitive offender.

- E.. Pending the decision of the Royal Government on the report, the fugitive offender shall remain under police custody for a period not exceeding thirty days from the day of the submission of the report by the Court to the Royal Government of Bhutan.

V.. Extradition of fugitive offender :

- A.. If the Royal Government decides to extradite any fugitive offender on the basis of the recommendations made by the Court, it shall inform the requesting state of its decision. The Royal Government shall also issue an order specifying the place where the fugitive offender is to be handed over and the name of the person who is to receive him.
- B.. While extraditing the fugitive offender pursuant to sub-section 5.1. above, the cash or kind seized from him shall also be handed over to the person who received the fugitive offender if such cash or kind is not claimed by any other person.
- C.. If a fugitive offender who has been detained for extradition under sub-section 5.1. above, has not been taken out of Bhutan within 60 days after issuing the order for extradition, the High Court upon receipt of petition submitted by the fugitive offender or on his behalf, may acquit him unless a reasonable case is made out on the contrary.

VI.. Restriction on extradition :

- A.. The Royal Government shall not extradite the fugitive offender for whom a request has been made for extradition on the following conditions :
- B.. If such fugitive offender is deemed to have committed a political offence on the basis of the evidence received from the requesting country or on the basis of evidence produced by the fugitive offender during the course of the investigation by

the Court or if it is found that the fugitive offender is being demanded for punishment on political offence.

- C.. If it appears to the Royal Government that by reason of the trivial nature of the case or by reason of the request for surrender or return of a fugitive offender not being made in good faith or in the interest of justice or for any other reasons deemed important by the Royal Government, it is unjust or inexpedient to extradite the fugitive offender.
- D.. If the fugitive offender is undergoing a trial or punishment in Bhutan for offence committed within the kingdom till the trial or punishment is over.
- E.. If the prosecution for the offence in respect of which the surrender is sought, is according to the law of the requesting state, barred by time.

VII.. Punishment within Bhutan :

- A.. If the Royal Government finds it reasonable to punish than extradite any fugitive offender on the basis of the report submitted by the Court, it may order the Court to initiate the proceedings for punishment. In such a case, the Royal Government shall inform the requesting state of the intention to punish the fugitive offender in Bhutan.
- B.. Although an appeal under the prevailing law may lie against the decision made by the Court, the fugitive offender may plead for clemency to His Majesty the King of Bhutan.

VIII.. Special provision :

- A.. Notwithstanding the provisions of the law of Bhutan the evidence, proof and documents received from the requesting state in connection with the case whose proceedings have been initiated under this Act may be admitted as evidence by the Court.

IX.. Jurisdiction of the High Court for purposes of criminal proceedings :

A.. If any person whether a citizen of Bhutan or not, commits in a treaty state any of the extradition offenses under this Act, such person shall be guilty in Bhutan of the offence constituted by commission of the act in Bhutan.

X.. Surrender of fugitive offender to Bhutan :

A.. A requisition for the surrender to Bhutan of a person who being accused or convicted of an extradition offence, is or is suspected to be in a treaty state may be made by the Kingdom of Bhutan in the same manner as specified in Article 3 above.

B.. Any person accused or convicted of an extradition offence who is surrendered or returned by a treaty state may be brought into Bhutan and delivered to the authority specified in the warrant of arrest or surrender issues by the treaty state for facing charges in accordance with the law of Bhutan.

C.. A person surrendered or returned to Bhutan by a treaty state in pursuance of provision 9.1. of this Act shall not be tried in Bhutan for an offence committed prior to the surrender or return, other than the offence proved by the facts for which he has been surrendered.

D.. The Royal Government may arrange for the person surrendered to Bhutan by the treaty state to be sent back at the cost of the Royal Government if the proceedings against him have not begun within ninety days from the date of his surrender or return to Bhutan and if he is acquitted or discharged after trial.

XI.. Power to frame rules :

A.. The Royal Government may frame rules, as required, for implementing the provisions of this Act.

B.. The Royal Government may amend this Act.

Schedule

(Alternative 1)

The following list of extradition offenses is to be construed according to the law in force in Bhutan on the date of the alleged offence :

1. Culpable homicide

2. Attempt to murder
3. Causing miscarriage and abandonment of child
4. Kidnapping, abduction, slavery and forced labour
5. Rape and unnatural offenses
6. Theft, extortion, robbery and dacoity
7. Criminal misappropriation and criminal breach of trust.
8. Cheating
9. Mischief
10. Forgery, using forged documents and other offenses relating to false documents
11. Offenses relating to coins and stamps
12. Sinking or destroying a vessel at sea or attempting or conspiring to do so.
13. Damaging or destroying an aircraft in the air or attempting or conspiring to do so.
14. Assault on board a vessel on the high seas or an aircraft in the air outside Bhutan or the Bhutanese air space with intent to destroy life or to do grievous bodily harm.
15. Revolt or conspiracy to revolt by two or more persons on board a vessel on the high seas or an aircraft in the air outside Bhutan or the Bhutanese air space against the authority of the master or the pilot in command.
16. Smuggling of gold, gold manufactures, diamonds and other precious stones or of any narcotic substance.
17. Immoral traffic in women and girls.
18. Any offence which is committed in Bhutan would be punishable under any other section of the law of Bhutan.

(Alternative 2)

Any offence which, in accordance with law of the Kingdom of Bhutan, is punishable with death or imprisonment for life or a term exceeding twelve months shall be treated by the Court as an extradition offence under this Act.