

Source: Spectrum Rajiv Ahir: A Brief History of Modern (2018) India Ch:9 A General Survey of Socio-Cultural Reform Movements

Q.6) Consider the following statements:

1. Ministry of Home Affairs is the nodal government body for extradition matters in India.
2. The provisions of Indian Extradition Act, 1962 applies in both extraditing persons to India and from India to foreign countries.
3. In Extradition process, principle of Dual Criminality means that punishment for a particular crime should not be excessively harsh or inhuman upon the fugitive.
4. Rule of specialty, states that the extradited person can only be punished for the offence for which he is being extradited.

Which of the following statements given above is/are correct?

- a) 1 and 2 only
- b) 1 and 3 only
- c) 2 and 4 only
- d) 3 and 4 only

Ans) c

Exp) Option c is correct.

Statement 1 is incorrect. The Ministry of External Affairs (and not Ministry of Home Affairs) is the nodal body for extradition matters in India. At present, India has bilateral extradition treaties with 43 countries and extradition arrangements with 10 countries. Extradition arrangements are non-binding and do not impose any legal obligations on party states. On the other hand, treaty mechanisms are binding.

Statement 2 is correct. In India, the extradition of a fugitive criminal is governed under the Indian Extradition Act, 1962.

This is for both extraditing persons to India and from India to foreign countries.

Section 2(d) of The Indian Extradition Act 1962 defines an 'Extradition Treaty' as a Treaty, Agreement or Arrangement made by India with a Foreign State, relating to the extradition of fugitive criminals which extends to and is binding on India. Extradition treaties are traditionally bilateral in character.

Statement 3 is incorrect. of Dual Criminality requires that the offence, the fugitive is alleged to have committed, should be an offence both in the requesting as well as the requested state.