



Treaty Series No. 13 (1933)

EXTRADITION TREATY
BETWEEN
HIS MAJESTY IN RESPECT OF THE
UNITED KINGDOM
AND
HIS MAJESTY THE KING OF IRAQ

Bagdad, May 2, 1932

[Ratifications exchanged at Bagdad, January 25, 1933]

*Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty*

LONDON

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KING OF IRAQ.

Bagdad, May 2, 1932.

[*Ratifications exchanged at Bagdad, January 25, 1933.*]

His Majesty the King of Great Britain, Ireland, and the British
Dominions beyond the Seas, Emperor of India,

And His Majesty the King of Iraq,

Desiring to make provision for the reciprocal extradition of
criminals,

Have resolved to conclude a Treaty for that purpose, and to that
end have appointed as their plenipotentiaries :

His Majesty the King of Great Britain, Ireland, and the British
Dominions beyond the Seas, Emperor of India :

For Great Britain and Northern Ireland,

Lieutenant-Colonel Sir Francis Henry Humphrys, Knight
Grand Cross of the Most Distinguished Order of Saint
Michael and Saint George, Knight Grand Cross of the Royal
Victorian Order, Knight Commander of the Most Excellent
Order of the British Empire, Companion of the Most
Eminent Order of the Indian Empire, High Commissioner
of His Britannic Majesty in Iraq ;

His Majesty the King of Iraq :

General Ja'far Pasha al Askari, Order of Al Rafidain, Second
Class, Companion of the Most Distinguished Order of Saint
Michael and Saint George, Minister for Foreign Affairs ;

Who, having communicated their full powers, found in good and
due form, have agreed as follows :—

ARTICLE 1.

The High Contracting Parties engage to deliver up to each other,
under certain circumstances and conditions stated in the present
Treaty, those persons who, being accused or convicted of any of the
crimes or offences enumerated in Article 3, committed within the
jurisdiction of the one party, shall be found within the territory of the
other party.

ARTICLE 2.

For the purposes of the present Treaty—

- (i) The territory of His Britannic Majesty shall be deemed to be
Great Britain and Northern Ireland, the Channel Islands
and the Isle of Man, and all parts of His Britannic Majesty's

dominions overseas other than those enumerated in Article 18, together with the territories enumerated in Article 20 and any territories to which it may be extended under Article 21. It is understood that in respect of all territory of His Britannic Majesty as above defined other than Great Britain and Northern Ireland, the Channel Islands and the Isle of Man, the present Treaty shall be applied so far as the laws permit.

- (ii) The nationals or natives of any British Protectorate or British-protected State or of any territory in respect of which a mandate on behalf of the League of Nations is held by His Britannic Majesty shall be deemed to be British subjects.

ARTICLE 3.

Extradition shall be reciprocally granted for the following crimes or offences :—

1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder.
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge, of a girl under 16 years of age.
6. Indecent assault.
7. Kidnapping or false imprisonment.
8. Child stealing, including abandoning, exposing or unlawfully detaining.
9. Abduction.
10. Procuration.
11. Multiplication of spouses contrary to law.
12. Maliciously wounding or inflicting grievous bodily harm.
13. Assault occasioning actual bodily harm.
14. Threats, by letter or otherwise, with intent to extort money or other things of value.
15. Perjury, or subornation of perjury.
16. Arson.
17. Burglary or housebreaking, robbery with violence, larceny or embezzlement.
18. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, or fraudulent conversion.
19. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.
- 20.—(a) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.

- (b) Knowingly and without lawful authority making or having in possession any instrument, tool, or engine adapted and intended for the counterfeiting of coin.
21. Forgery, or uttering what is forged.
 22. Crimes against bankruptcy law.
 23. Any malicious act done with intent to endanger the safety of any persons travelling or being upon a railway.
 24. Malicious injury to property, if such offence be indictable.
 25. Piracy and other crimes or offences committed at sea against persons or things which, according to the laws of the High Contracting Parties, are extradition crimes or offences.
 26. Dealing in slaves in such manner as to constitute a crime or offence against the laws of both High Contracting Parties.

Extradition is also to be granted for participation in any of the aforesaid crimes or offences: provided that such participation be punishable by the laws of both High Contracting Parties.

Extradition may also be granted at the discretion of the High Contracting Party applied to in respect of any other crime or offence for which, according to the laws of both the High Contracting Parties for the time being in force, the grant can be made.

ARTICLE 4.

Each High Contracting Party reserves the right to refuse or grant the surrender of its own subjects to the other High Contracting Party.

ARTICLE 5.

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial in the territories of the High Contracting Party applied to, for the crime or offence for which his extradition is demanded.

If the person claimed should be under examination or under punishment in the territories of the High Contracting Party applied to for any other crime or offence, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

ARTICLE 6.

The extradition shall not take place if, subsequently to the commission of the crime or offence or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the High Contracting Party applying or applied to.

ARTICLE 7.

A fugitive criminal shall not be surrendered if the crime or offence in respect of which his surrender is demanded is one of a political

character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for a crime or offence of a political character.

ARTICLE 8.

A person surrendered can in no case be kept in custody or be brought to trial in the territories of the High Contracting Party to whom the surrender has been made for any other crime or offence, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning, to the territories of the High Contracting Party by whom he has been surrendered.

This stipulation does not apply to crimes or offences committed after the extradition.

ARTICLE 9.

Subject to the provisions of Articles 18 and 19, the requisition for extradition shall be made through the diplomatic agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority in the territories of the High Contracting Party requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime or offence had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent court in the territories of the High Contracting Party who makes the requisition for extradition.

A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

ARTICLE 10.

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities in the territories of the High Contracting Party applied to shall proceed to the arrest of the fugitive.

ARTICLE 11.

A criminal fugitive may be apprehended under a warrant issued by any police magistrate, justice of the peace, or other competent authority in the territories of the High Contracting Party applied to on such information or complaint and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime or offence had been committed or the person convicted in that part of the territories of such High Contracting Party in which the magistrate, justice of the peace, or other competent authority exercises jurisdiction. He shall, in accord-

ance with this article, be discharged if within the term of two months a requisition for extradition shall not have been made by the diplomatic agent of the High Contracting Party claiming his extradition in accordance with the stipulations of this Treaty. The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either High Contracting Party which may come into a port of the other.

ARTICLE 12.

The extradition shall take place only if the evidence be found sufficient, according to the laws of the High Contracting Party applied to, either to justify the committal of the prisoner for trial, in case the crime or offence of which he is accused had been committed in the territory of such High Contracting Party, or to prove that the prisoner is the identical person convicted by the courts of the High Contracting Party who makes the requisition, and that the crime or offence of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the High Contracting Party applied to under this Treaty.

ARTICLE 13.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the High Contracting Party applied to shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the territories of the other High Contracting Party, or copies thereof, and likewise the warrants and sentences issued therein, or copies thereof, and certificates of, or judicial documents stating the fact of a conviction, providing the same are authenticated as follows :—

(1) A warrant, or copy thereof, must purport to be signed by a judge, magistrate, or officer of the other High Contracting Party, or purport to be certified under the hand of a judge, magistrate, or officer of the other High Contracting Party to be a true copy thereof, as the case may require.

(2) Depositions or affirmations, or the copies thereof, must purport to be certified, under the hand of a judge, magistrate, or officer of the other High Contracting Party, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.

(3) A certificate of, or judicial document stating the fact of a conviction, must purport to be certified by a judge, magistrate, or officer of the other High Contracting Party.

In every case such warrant, deposition, affirmation, copy, certificate or judicial document must be authenticated, either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other High Contracting Party,

or by any other mode of authentication for the time being permitted by the law of the High Contracting Party to whom application for extradition is made.

ARTICLE 14.

If the individual claimed by one of the High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers on account of other crimes or offences committed within their respective jurisdictions, his extradition shall be granted to the Power whose claim is earliest in date, unless such claim is waived.

ARTICLE 15.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the High Contracting Party applied to, or the proper tribunal of such High Contracting Party, shall direct, the fugitive shall be set at liberty.

ARTICLE 16.

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, and any articles that may serve as a proof of the crime or offence, shall be given up when the extradition takes place, in so far as this may be permitted by the law of the High Contracting Party granting the extradition.

ARTICLE 17.

Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may have consented to surrender in pursuance of the present Treaty.

ARTICLE 18.

His Britannic Majesty may accede to the present Treaty on behalf of any of His Dominions hereafter named—that is to say, the Dominion of Canada, the Commonwealth of Australia (including for this purpose Papua and Norfolk Island), the Dominion of New Zealand, the Union of South Africa, the Irish Free State, and Newfoundland—and India. Such accession shall be effected by a notice to that effect given by His Britannic Majesty's representative at Bagdad, which shall specify the authority to which the requisition for the surrender of a fugitive criminal who has taken refuge in the Dominion concerned, or India, as the case may be, shall be addressed. From the date when such notice comes into effect the territory of the Dominion concerned or of India shall be deemed to be territory of His Britannic Majesty for the purposes of the present Treaty.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of the above-mentioned Dominions or India, on behalf of which His Britannic Majesty has acceded, shall be made by the appropriate diplomatic or consular officer of Iraq.

Either High Contracting Party may terminate this Treaty separately in respect of any of the above-mentioned Dominions or India. Such termination shall be effected by a notice given in accordance with the provisions of Article 22.

Any notice given under the first paragraph of this article in respect of one of His Britannic Majesty's Dominions may include any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, and which is being administered by the Government of the Dominion concerned; such territory shall, if so included, be deemed to be territory of His Britannic Majesty for the purpose of the present Treaty. Any notice given under the third paragraph of this article shall be applicable to such mandated territory.

ARTICLE 19.

The requisition for the surrender of a fugitive criminal who has taken refuge in any territory of His Britannic Majesty other than Great Britain and Northern Ireland, the Channel Islands, or the Isle of Man, or the Dominions or India mentioned in Article 18, shall be made to the Governor, or chief authority, of such territory by the appropriate diplomatic or consular officer of Iraq.

Such requisition shall be dealt with by the competent authorities of such territory: provided, nevertheless, that if an order for the committal of the fugitive criminal to prison to await surrender shall be made, the said Governor or chief authority may, instead of issuing a warrant for the surrender of such fugitive, refer the matter to His Majesty's Government in the United Kingdom.

ARTICLE 20.

This Treaty shall apply in the same manner as if they were Possessions of His Britannic Majesty to the following British Protectorates, that is to say, the Bechuanaland Protectorate, Gambia Protectorate, Kenya Protectorate, Nigeria Protectorate, Northern Rhodesia, Northern Territories of the Gold Coast, Nyasaland, Sierra Leone Protectorate, Solomon Islands Protectorate, Somaliland Protectorate, Swaziland, Uganda Protectorate and Zanzibar, and to the following territories in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, that is to say, Camerouns under British Mandate, Togoland under British Mandate, the Tanganyika Territory, Palestine, and Transjordan.

ARTICLE 21.

If after the signature of the present Treaty it is considered advisable to extend its provisions to any British Protectorates other

than those mentioned in the preceding article or to any British-protected State, or to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, other than those mandated territories mentioned in Articles 18 and 20, the stipulations of Articles 18 and 19 shall be deemed to apply to such Protectorates or States or mandated territories from the date and in the manner prescribed in the notes to be exchanged for the purpose of effecting such extension.

ARTICLE 22.

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties.⁽¹⁾ It may be terminated by either of the High Contracting Parties by a notice not exceeding one year and not less than six months.

In the absence of an express provision to that effect, a notice given under the first paragraph of this article shall not affect the operation of the Treaty as between Iraq and any territory in respect of which notice of accession has been given under Article 18.

The present Treaty shall be ratified, and the ratification shall be exchanged at Bagdad as soon as possible.

In faith whereof the above-named plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in duplicate in English and Arabic, of which, in the case of divergence, the English text shall prevail, at Bagdad, this second day of May, 1932, corresponding with the twenty-sixth day of Dhulhijjah, 1350, Hijrah.

F. H. HUMPHRYS.
JA'FAR-AL-ASKARI.

(1) The Treaty entered into force in both countries on May 5, 1933.