THE REPATRIATION OF PRISONERS ACT, 2003

(Act No. 49 of 2003)

An Act to provide for the transfer of certain prisoners from India to country or place outside India and reception in India of certain prisoners from country or place outside India.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:

1. Short title and commencement.—(1) This Act may be called the Repatriation of Prisoners Act, 2003.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "contracting State" means a Government of any country or place outside India in respect of which arrangement has been made by the Central Government with the Government of such country or place through a treaty or otherwise for transfer of prisoners from India to such country or place and vice versa and includes any other Government of such country or place specified by the Central Government, by notification in the Official Gazette, under sub-section (1) of section 3;

3. Application of Act

4. Application for transfer for a prisoner

5. Consideration of request by Central Government

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8. Provision to issue warrant for transfer

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(b) "prescribed" means prescribed by rules made under this Act;
(c) "prisoners" means a person undergoing a sentence of imprisonment under an order passed by a criminal court including the courts established under the law for the time being in force in contracting States;
(d) "warrant" means a warrant issued under sub-section (1) of section 7 or sub-section (2) of section 12, as the case may be;
(e) words and expressions used herein and not defined but defined in the Code of Criminal Procedure, 1973 (2 of 1974) have the meanings respectively assigned to them in that Code.

3. Application of Act.— (1) The Central Government may, by notification in the Official Gazette, direct that the provisions of this Act shall apply to a country or place outside India as may be specified in the notification.

(2) If the notification under sub-section (1) relates to a country or place outside India with which a treaty has been entered into by India for the transfer of prisoners between that country and India, then, such notification shall also set out the full text of the said treaty and shall in no case remain in force longer than the period of the said treaty.

(3) If the Central Government is of the opinion that, with respect to a country or place outside India, provisions of this Act require to be modified to give effect to a treaty in relation to such country, it may, by notification in the Official Gazette, direct that the application of this Act to such country shall be subject to such conditions, exceptions and modifications specified in the notification.

4. Application for transfer by a prisoner.— Any prisoner who is a citizen of a contracting State may make an application to the Central Government for transfer of his custody from India to that contracting State:

Provided that if a prisoner is not able to make an application himself because of his ill-health, mental condition, old age or being a minor, then, the application may be made by any other person entitled to act on his behalf.

5. Consideration of request by Central Government.— (1) On receipt of the application under section 4, the Central Government shall direct the officer in charge of the prison, where the prisoner is confined, to furnish such information which in the opinion of that Government is relevant for the purpose of transfer.

(2) On receipt of the information under sub-section (1), if the Central Government is satisfied that—

(a) no inquiry, trial or any other proceeding is pending against the prisoner;

बंदियों (कैदियों) का संप्रस्थापन (स्वदेश वापसी) अधिनियम, 2003
(ब) विविध से तार्किक है इस अधिनियम के अनुसार बंदियों के संप्रस्थापन के लिए यथेष्ठता की आवश्यकता है;
(ग) कैद (कैदी) का तार्किक है किसी दशक या वर्ष में विदेशी राष्ट्रों में विदेशी नागरिक का अंतराय संस्थापित न्यायालय भी शामिल है, द्वारा पारित किसी आदेश द्वारा कारायमा की सजा काटक रहे विधि;
(घ) प्राथमिकता से तार्किक है द्वारा 7 की उपाधि (1) या द्वारा 12 की उपाधि (2), जैसा भी मामला किया गया कोई वारंट;
(ङ) यह भारतीय विदेशी अवधि में अविश्वसनीय नियमों नहीं किया गया है किन्तु दशक संबंधित, 1973 (2 अंडा 1974) में परिभाषित किया गया है, उस संहिता में उनके दिने गये और जिन में यथार्थता सुकूक होगी।

3. अधिनियम का लागू होना— (1) केंद्रीय सरकार, शास्त्रीय राजपत्र में स्वदेश द्वारा निर्देश दे सकती है कि इस अधिनियम के प्राधिकृत भारत के बाहर किसी देश या स्थान में, जैसा कि स्वदेश में विनियमित किया जा सके, लागू होगा।

(2) यदि, उपाधि (1) के अधिनियम विविधता भारत के बाहर किसी ऐसे देश या स्थान से संबंधित है जिससे भारत और दूसरे देश के वार्तालाप (कैदी) के स्वायत्तता के लिए विभिन्न हैं, तब ऐसे विभिन्न जनसंघ की गृही भूमि की उपस्थिति होगी और केंद्रीय शास्त्रीय संहिता में उस केंद्रीय संगठन की अधिकृत भूमि में नहीं होगी।

(3) यदि, केंद्रीय सरकार का यह राज्य है कि भारत के बाहर के देश या स्थान के बाहर ऐसे देश के संबंधित के केंद्रीय संगठन के लिए यथार्थता की आवश्यकता है, तो शास्त्रीय राजपत्र में स्वदेश द्वारा निर्देश दे सकती है कि ऐसे देश में इस अधिनियम का लागू होना ऐसी वार्तालाप एवं उपलब्धियों के लिए विभिन्न किया गया हो, के अधिकृत होगा।

4. बंदी (कैदी) द्वारा स्वायत्तता के लिए प्राप्ति पत्र— कोई बंदी (कैदी) जो संसदीय राज्य का नागरिक है, अपनी अधिकृतता के भारत से उस सिद्धांत सरकार में अंतराय हेतु केंद्रीय सरकार को एक प्राप्ति पत्र दे सकता है:

परिसंस्था यह है कि यदि कोई बंदी (कैदी) उसकी अवस्था, मानसिक स्थिति, लाख-देश या अवस्था होने के कारण अन्य प्राप्ति—पत्र देने में संतुष्ट नहीं है, तब उसके एक वक्ता के कारण करने को पाया केंद्रीय सरकार के लागू होने के लिए विभिन्न किया जा सकता है।

5. केंद्रीय सरकार द्वारा प्राप्ति पत्र विवरण— (1) द्वारा 4 के अधिनियम प्राप्ति पत्र प्राप्त होने पर, केंद्रीय सरकार उस जेल के भारी अधिकारी जो बंदी(कैदी) कारकिस्तान है, की नियमित देखा कि वह ऐसी सूचना जो केंद्रीय सरकार की वजह में स्वायत्तता के प्राप्ति से सुरक्षित है, दे।

(2) उपाधि (1) के अधिनियम सूचना के प्राप्त होने पर, विदेश केंद्रीय सरकार संबंध हो जाती है कि—

(क) बंदी (कैदी) के विशेष कोई जांच विधान या जांच अन्य प्रति लम्बित नहीं है,
(b) death penalty has not been awarded to the prisoner;
(c) the prisoner has not been convicted for an offence under the military law; and
(d) transfer of custody of the prisoner to the Contracting State shall not be prejudicial to the sovereignty, security or any other interest of India,
it shall pass an order for forwarding the application of the prisoner to the Contracting State.

6. Comments of Contracting State.—(1) The application of the prisoner shall be forwarded by the Central Government through prescribed means to the Government of the Contracting State to deal with such application along with the following information, namely:—
(a) a copy of the judgment and a copy of the relevant provisions of the law under which the sentence has been passed against the prisoner;
(b) the nature, duration and date of commencement of the sentence of the prisoner;
(c) medical report or any other report regarding the antecedents and character of the prisoner, where it is relevant for the disposal of his application or for deciding the nature of his confinement; and
(d) any other information which the Central Government may consider necessary.

(2) Where any application of a prisoner forwarded by the Central Government has been accepted by the Contracting State, the Central Government may seek from such Contracting State, all or any of the following information or documents before taking decision to transfer the prisoner to the Contracting State, namely:—
(a) a statement or document indicating that the prisoner is a citizen of the Contracting State;
(b) a copy of the relevant law of the Contracting State constituting the act or omission as the offence, on account of which the sentence has been passed in India, as if such act or omission was an offence under the law of that State;
(c) a statement of the fact or any law or regulation relating to the duration and enforcement of the sentence of the prisoner in the Contracting State upon his transfer;
(d) the willingness of the Contracting State to accept the transfer of the prisoner and an undertaking to administer the remaining part of the sentence of the prisoner;
(e) an undertaking to comply with the conditions, if any, specified by the Central Government; and
(f) any other information or document which the Central Government may consider necessary.

1. Subs. by Act 6 of 2011, sec. 2, for "martial law" (w.e.f. 1.4.2011).
7. Consideration of request by Central Government.— (1) If the Central Government, on receipt of a communication from the concerned contracting State,—

(a) expressing its willingness to accept the transfer of the prisoner; and

(b) undertaking to comply with the conditions specified in the warrant,

is satisfied that the prisoner should be transferred to the said State, the Central Government may, notwithstanding anything contained in any other law for the time being in force, issue a warrant in accordance with the provisions of section 8 in such form as may be prescribed.

(2) Where a warrant is issued under sub-section (1), the Central Government shall inform the contracting State accordingly and request that State to specify the person to whom and the place within India where custody of the prisoner shall be delivered.

8. Provision to issue warrant for transfer.— (1) The Central Government shall authorise an officer not below the rank of a Joint Secretary to a State Government, within the limits of whose jurisdiction the place of imprisonment of the prisoner is situated, to issue a warrant on behalf of the Central Government under sub-section (1) of section 7 directing the officer in charge of the prison therein to deliver the custody of the prisoner to the person authorised by the contracting State to which the prisoner is to be transferred, presenting such person a copy of the warrant together with all the records relating to the prisoner and the personal effects taken from the prisoner at the time of his admission in the prison.

(2) Upon the presentation of a warrant referred to in sub-section (1), the officer in charge of the prison shall forthwith comply with the warrant and obtain thereon the signature of the person to whom delivery of the prisoner, records and the personal effects relating to the prisoner to be removed from the prison is given.

(3) After delivery of the prisoner to the person authorised by the contracting State under sub-section (2), the officer in charge of the prison transferring the prisoner shall forward a copy of the warrant to the court which committed the prisoner to the prison, along with a statement that the prisoner has been delivered to the person authorised by the contracting State under sub-section (1).

(4) The delivery of the prisoner in compliance of the warrant issued under sub-section (1) shall discharge the officer in charge of the prison from the responsibility of keeping the prisoner in his custody.
9. Operation of warrant and retaking prisoner.— It shall be lawful for the person authorised by the contracting State to whom the custody of a prisoner is delivered under the provisions of sub-section (2) of section 8 to receive and hold in custody such prisoner and to convey him out of India and if the prisoner escapes from such custody within India, the prisoner may be arrested without warrant by any person who shall without undue delay deliver such prisoner to the officer in charge of the nearest police station and the prisoner so arrested shall be liable for committing an offence under section 224 of the Indian Penal Code (45 of 1860) and shall also be liable for such sentence of imprisonment in India which he would have to undergo if the delivery of custody of such prisoner had not been made under section 8.

10. Transfer of record.— Where a prisoner is or is to be transferred to a contracting State under the provisions of this Act, the Central Government may requisition the records of any proceeding, including judicial proceedings relating to that prisoner from any court or office, and may direct that such records shall be sent to the Government of the contracting State.

11. Power of court and Central Government shall not be affected.— The transfer of a prisoner from India to a contracting State shall not affect the power of the court which passed the judgment to review its judgment and power of the Central Government or State Government to suspend, remit or commute the sentence in accordance with any law for the time being in force.

12. Transfer into India.— (1) The Central Government may accept the transfer of a prisoner, who is a citizen of India, from a contracting State wherein he is undergoing any sentence of imprisonment subject to such terms and conditions as may be agreed to between India and that State.

   (2) If the Central Government accepts the request for a transfer under sub-section (1), then, notwithstanding anything contained in any other law for the time being in force, it may issue a warrant to detain the prisoner in prison in accordance with the provisions of section 13 in such form as may be prescribed.

13. Determination of prison and issue of warrant for receiving transfer in India.— (1) The Central Government shall, in consultation with a State Government, determine the prison situated within the jurisdiction of such State Government where the prisoner with respect to whom a warrant has been issued under sub-section (2) of section 12, shall be lodged and the officer who shall receive and hold him in custody.
(2) राजस्थान राज्यके अधिकारी जो उस सरकार के संयुक्त सज्ज द्वारा व नीचे की क्षेत्रीय के नहीं होगा, को धारा 12 की उपधारा (2) के अधिकार प्राप्त (बारात) पाने के लिए असल प्राप्त करने और उपधारा (1) में संबंधित (विविध) अधिकारी को उस वंश (कैदी) जिसके संबंध में प्राप्त (बारात) जारी किया गया है, को प्राप्त करने तथा अभियंता में रहने का निर्देश देंगे।

(3) उपधारा (1) में संबंधित (विविध) अधिकारी के लिए यह विविध तथ्य होगा कि वह उस किसी बंदी (कैदी) जिसके धारा 12 की उपधारा (2) के अधिकार प्राप्त (बारात) के निर्देश (कैदी) के अधिकार विद्युतशील द्वारा विद्युतशील किया गया है, जो नाकर एवं अभियंता में रहने वाले ऐसे बंदी (कैदी) को उस कार्य प्राप्त (बारात) के अनुसरण में व्यक्ति रहे और यदि बंदी (कैदी) ऐसी अवधारणा से बच कर निकाला माना जाता है तो बंदी (कैदी) का अधिकार द्वारा बिना प्राप्त (बारात) के निर्देश किया जा सकता है और वह ऐसे अधिकार (कैदी) को बिना किसी अभियंता देने के निर्देश पुनः पाने के बाहरी अधिकारी को सीधी और इस प्रकार निर्देश लेकर (कैदी) अभियंता राज्य बिना प्राप्त (45 अप्रैल 1860) की धारा 224 के अधीन जिसका अर्थ कार्य किये जाने के लिए गोत्मी हो और उस कार्य प्राप्त (बारात) के अनुसरण में भी व्यक्ति लिये जाने हेतु द्वारा होगा।

(4) धारा 12 की उपधारा (2) के अधीन एक प्राप्त (बारात) के लिए प्राप्त रूप करेगा कि-(क) बंदी (कैदी) को किसी सज्ज द्वारा या भारत के बाहर के किसी स्थान से भारत में से लाने के लिए नाकर जाता है; (ख) ऐसे बंदी (कैदी) को भारत के किसी भाग में लेने, जो ऐसा भाग से संबंधित जिस पर प्राप्त (बारात) में संयुक्त प्राप्त देने की प्राथमिकता बनाया गया जा सकता; (ग) धारा 12 की उपधारा (1) में संबंधित शासन एवं निर्देशनों के अनुसरण में बंदी (कैदी) का सज्ज निर्देश एवं अवधि तथा ऐसे बंदी (कैदी) का भारत में आयात जब तक से, जैसा कि प्राप्त (बारात) ज्ञात हो सके; और (घ) कोई अन्य मानवा जो विविध या जा सके।

(5) तब, अधिकार अन्य विवेचना (कानून) में किसी अन्य बात के लिए हेतु भी धारा 12 की उपधारा (2) के अनुसरण में जारी प्राप्त (बारात) के अधीन किसी बंदी (कैदी) की सज्ज (कारावास), भारत में किसी सज्ज न्यायालय द्वारा पारित ऐसी सज्ज समझी जायेगी।

(6) यदि, सज्जल सरकार में बंदी (कैदी) के अधीन प्राप्त कारावास की सज्ज, इसकी कार्य (कैदी) द्वारा, या ऐसे व्रज के साथ, इसकी कार्य (कैदी) की सज्ज (कारावास), भारत में किसी कार्य न्यायालय द्वारा पारित ऐसी सज्ज समझी जायेगी।

परंतु यह है कि इस प्रकार अनुकूलित सज्ज जहां तक संबंध हो सके, बंदी (कैदी) को सज्जल सरकार के निर्देश में अधिसंचालित सज्ज के समान हो और ऐसी अनुकूलित सज्ज, इसकी कार्य (कैदी) द्वारा या ऐसे में सही शासन सारकर के अधीन प्राप्त व्रज की ओर नहीं कर सकते।
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14. Power to make rules.— (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provision of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

(a) the means through which an application may be forwarded under sub-section (1) of section 6;

(b) the form in which a warrant may be issued under sub-section (1) of section 7;

(c) the form in which a warrant may be issued under sub-section (2) of section 12; and

(d) any other matter which may be prescribed under clause (d) of sub-section (4) of section 13.

15. Laying of rules, etc.— Every notification issued under sub-section (1) and (3) of section 3 and every rule made under section 14 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in marking any modification in the notification or rule or both Houses agree that the notification or rule should not be made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

16. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament.