



**JUSTICE Briefing on the Extradition Bill 2002  
For Second Reading in the House of Lords  
April 2003**

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1. JUSTICE is an independent all party law reform and human rights organisation which aims to improve British justice through law reform and policy work, publications and training. It is the British section of the International Commission of Jurists.
2. The Extradition Bill, as brought from the House of Commons on 26<sup>th</sup> March 2003 [HL Bill 50] aims to streamline the process of extradition in the UK to avoid unnecessarily lengthy and cumbersome legal proceedings. It introduces a two-tier system of extradition depending on which country is requesting extradition. Category 1 territories may not include countries maintaining the death penalty and are presently envisaged to be the EU and Schengen states (including, upon accession, those candidate countries due to join the EU in 2004); Category 2 territories are all other countries designated by Order in Council.
3. In relation to Category 1 territories, the bill is intended to implement the EU Council Framework Decision on the European Arrest Warrant and Surrender Procedures between Member States (EAW)<sup>1</sup>. Two key aspects of this legislation are the removal of a final executive decision in extradition to Category 1 territories and the erosion of the principle of dual criminality in relation to a number of types of offence listed in Article 2(2) of the EAW. The comments made in this briefing will deal both with concerns relating to human rights and procedural safeguards and with issues surrounding the accurate implementation of the EAW.

**Key Observations on the Bill**

4. JUSTICE welcomes the attempt to streamline cumbersome extradition legislation. The drafting of the Bill is, however, often more complex than is necessary, with provisions referring back on themselves in a manner which does little to aid clarity. The Bill leaves far too wide a discretion to the Secretary of State to designate territories as category 1 or 2 by order leaving it far from clear what countries exactly are intended to be designated

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<sup>1</sup> OJ L 190, 18.7.2002, p.1

as such. JUSTICE welcomes, however, the amendment to the Bill preventing Part 1 being applied to countries that retain the death penalty.

5. JUSTICE welcomes the inclusion of provisions relating to human rights considerations, extraneous considerations and the physical and mental health of the person in the extradition hearing. The amendment to clause 2 of the Bill which specifies the information required in a European arrest warrant addresses one of the main issues raised by JUSTICE throughout consultation on the Bill. This amendment is welcome as it goes some way in allowing a judge to come to a reasoned decision as to the legality of the request.
6. Where clauses in Part 1 are mirrored in Part 2 our comments apply to both.
7. In particular, we believe that the Bill should:
  - a) **Specify that the EAW provisions will not apply retrospectively (and make a declaration in accordance with Article 32 EAW to that effect);**
  - b) **Set out procedure for the establishment of identity in clause 7 of the bill;**
  - c) **Set out procedures for *inter partes* hearings for applications to extend time limits;**
  - d) **Apply the rule against double jeopardy to “acts” rather than “offences”;**
  - e) **Require a guarantee of a retrial in cases of conviction *in absentia*;**
  - f) **Abolish dual criminality only in relation to offences included in the Article 2.2 list of the EAW carrying at least a maximum of three years;**
  - g) **Include the framework list in the text in the interests of legal certainty;**
  - h) **Maintain a high standard of evidence required for establishing the existence of a *prima facie* case in Part 2 cases; and**
  - i) **Make operation of the statute subject to the terms of international obligations.**

### **The Extradition Bill in the International Context**

8. The Extradition Bill must be viewed within the context of a number of developments in the international arena. Part 1 of the Bill aims to implement the Framework Decision on the European Arrest Warrant and surrender procedures between Member States (EAW) agreed on the European Union level. Other states may however be designated by Order in Council provided they do not maintain the death penalty. It is anticipated that Part 2 of the Bill will apply to all countries which are not signatories to the EAW. This includes

Member States of the Council of Europe that are signatories to both the European Convention on Extradition 1957 and the European Convention on Human Rights, as well as Commonwealth Countries and the United States of America, which are not.

9. Part 2 of the Bill allows for different standards to be applied to different countries, in particular in relation to evidence, according to the terms contained in the relevant treaty with the country concerned. In this context it is worth noting two recent developments:

- (i) the UK signed a new extradition treaty with the USA on 31<sup>st</sup> March 2003 under the Extradition Act 1989 which will be directly transferred for application under the new Act. The treaty will be brought before Parliament as an Order in Council under the negative resolution process. As yet no final text is publicly available but it seems that the treaty reduces the evidential standards applicable to requests from the USA to bring them into line with those applicable in Europe and may include a clause on immunity from the jurisdiction of the ICC for US personnel.
- (ii) the EU has suspended negotiations on a multilateral EU-US extradition agreement for Member States to consult with their Parliaments. To date no text has been put before Parliament or been made public. In principle, this agreement could be signed on 8<sup>th</sup> May 2003. It is difficult to ascertain the impact of this agreement on the practical working of the Extradition Bill and the UK-US treaty while the text remains secret.

10. JUSTICE is extremely concerned by the apparent reduction in the evidential requirements applicable to requests emanating from the US through the new UK-US treaty. Extradition is an extremely coercive measure with grave implications for the fundamental rights of the person to be extradited. The United States is not a signatory to the European Convention on Human Rights and will not be held accountable, either politically or judicially, for any breaches of Convention rights committed following extradition. Recent high profile cases such as that of Lotfi Raissi (discharged following several months detention as no evidence was forthcoming from the United States to support the extradition request for terrorism related charges) and, in South Africa, of Derek Bond (released after several weeks detention when it became clear that his arrest for extradition to the US was based on mistaken identity), call into question the reliability of the basis of requests for extradition from the United States.

11. JUSTICE expressed concerns about the impact of the EAW on the protection of human rights in extradition cases within the EU prior to the agreement of the Framework

Decision<sup>2</sup>. Now that the Framework Decision has been agreed, JUSTICE believes that it should be implemented with the highest level of procedural safeguards possible but the Bill seems to take the EAW at its lowest in terms of safeguards. The government's response to the House of Commons Home Affairs Committee's First Report on the Extradition Bill<sup>3</sup> is encouraging and addresses a number of issues raised by JUSTICE before the Home Affairs Committee. In particular, the indication that the Government is to reconsider its original intention to abolish the principle of specialty in Part 1 cases and the removal of the clause relating to the death penalty in Part 1 are welcome moves.

## Arrest

12. Clause 4 states that if a warrant or a copy of the warrant has not been shown to the person at the time of arrest, it must be shown to him as soon as is practicable **after his request**. This means that there is no requirement for a person arrested under such a warrant to be shown the warrant unless he asks for it. Neither is there a requirement to inform the person that they may see the warrant. This is unjustifiable. There should be a positive obligation to show the person the warrant or a copy of the warrant in a language that they can understand as soon as is practicable following arrest.

## Human Rights - the Extradition Hearing

13. JUSTICE welcomes the inclusion of a specific duty on the judge in the extradition hearing to decide whether extradition would be compatible with Convention rights and to discharge the person if not. The inclusion of this duty in Clause 21 of the bill leaves no doubt as to the scope of applicability of the Human Rights Act 1998 in extradition proceedings. It reinforces the principle, recently outlined in the case of *ex parte Ramda*<sup>4</sup> that the fact that the requesting state is a signatory to the European Convention on Human Rights (ECHR) does not *per se* mean that extradition will be compatible with convention rights.

14. The drafting of this clause is, however, slightly unclear as it refers to "the extradition" which could be interpreted as meaning only the actual return. JUSTICE assumes that the intention of this clause is that human rights considerations will apply to both the

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<sup>2</sup> see JUSTICE briefing on the Eurowarrant January 2001, [www.justice.org](http://www.justice.org)

<sup>3</sup> published 3 March 2003

proceedings and the actual return so that Art 5(4) ECHR procedural rights<sup>5</sup> would be applied in the extradition hearing and proceedings.

15. Under current extradition legislation there is a statutory bar on return where an extradition request has been made in bad faith. The Courts have found that requests emanating from European countries may be in bad faith<sup>6</sup>. JUSTICE is pleased to see the inclusion of a bar to extradition for extraneous considerations at Clause 13 in the Bill which was absent from the consultation document. This goes some way to curing the difficulty that there may be cases where a request made in bad faith is not necessarily “arbitrary” within the definition of Article 5 ECHR.
16. JUSTICE welcomes the inclusion of clause 25 as an additional protection allowing the judge to refuse or adjourn extradition on the basis that it would be unjust or oppressive due to the person’s mental or physical condition.
17. JUSTICE has already raised its concerns to the Government that retrospective application of the abolition of dual criminality entailed by Article 2 of the EAW could amount to a breach of Article 7 ECHR, the right to no punishment without law<sup>7</sup>.
18. The relaxing of the principle of dual criminality will mean that the UK is effectively accepting the criminal laws of all other Member States of the EU without a clear picture of what those laws might be. This could raise specific difficulties under Article 7. Although it is accepted that extradition itself is not a penalty for the purpose of Article 7, the resulting penalty in the requesting state could be. This could cause problems, in particular, where the EAW is applied retrospectively to offences which occurred prior to the coming into force of the EAW. The principle of certainty under Article 7 ECHR could be threatened by the erosion of dual criminality.
19. In practical terms, retrospective application of the EAW could lead to requests being received which apply to people who may have been involved in conduct in the past which is not criminalised in the UK. Those people may be established in this country and have developed strong family and professional ties with this country in the knowledge that the UK does not criminalise the alleged conduct, or, indeed, precisely because the UK does

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<sup>4</sup> R v Secretary of State for the Home Department, Ex Parte Rachid Ramda (2002), [2002] EWHC 1278 (Admin)

<sup>5</sup> R v Secretary of State for the Home Department, Ex Parte Kashamu – (2002) QB 887

<sup>6</sup> Ex Parte Rachid Ramda, supra

<sup>7</sup> JUSTICE letter of 24<sup>th</sup> May 2002 to Bob Ainsworth, Home Office Minister

not criminalise the alleged conduct. In certain circumstances this could affect the principle of proportionality<sup>8</sup>.

20. JUSTICE believes that the UK Government should avoid this problem by taking advantage of the transitional provisions allowed for in Article 32 of the EAW Framework Decision and making a statement to the effect that it will continue to deal with requests relating to acts committed before a specified date, in accordance with the extradition system applicable before January 2004. Such a declaration should be reflected in the provisions of the Bill. Similar statements have already been made by France, Italy and Austria<sup>9</sup>.

## **Procedural Safeguards**

### *Identity of the Accused*

21. Clause 7 addresses the identity of the accused in the initial hearing, but contains no specification as to where the burden of proof lies. The drafting appears to create the role of investigating magistrate which is unknown to UK law. **In the interests of procedural rigour, JUSTICE believes that the Act should outline the standards of evidence acceptable along with identifying the party which must produce such evidence.** JUSTICE accepts that the civil standard of proof for identity on the balance of probabilities is a practical compromise which recognises the fact that an extradition hearing is not a criminal trial and sets the evidential standard accordingly.

### *Certification of the warrant*

22. JUSTICE is concerned that Clause 2 does not provide a sufficient degree of assurance in the certification of the warrant. The certifying body should not simply be the police or NCIS – an appropriately qualified certifying body should be specified, perhaps from within the CPS of the Home Office extradition team.

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<sup>8</sup> see for example offences listed in para 36 below.

<sup>9</sup> OJ L 190, 18.7.2002, p.19

### *Extension of time limits*

23. Clause 8(5) allows an unfettered discretion to extend time limits on the request of one of the parties without any need for representations from the other party or possibility of review of the decision. **JUSTICE believes that the right to make representations is crucial when a decision is made impacting on a person's right to liberty. All hearings relating to extensions of time limits should be *inter partes* and decisions should be subject to review. The Act should contain clear procedures for applications to extend time limits.**

### *Details of the Warrant*

24. JUSTICE welcomes the inclusion in Clause 2, following amendment, of a requirement to include information on the warrant to allow the judge to decide whether the offence (in the light of the alleged conduct) amounts to an extradition offence. While the EAW system allows for only a very limited consideration of the allegations, this information will go some way to ensuring that, at least in the most obvious cases, the judge will be in a position to decide on the legality of detention in terms of Article 5 ECHR on the grounds of arbitrariness. This will mean, for example, that where the offence is described as a "murder" type offence and there is no death in the alleged facts surrounding the conduct, the judge will be in a position to rule that extradition would be arbitrary and contrary to the Human Rights Act 1998.

### *Withdrawal of a Part 1 warrant*

25. Clauses 40, 41 and 42 address the situation where a warrant is withdrawn while extradition proceedings are ongoing. JUSTICE is pleased to see that these provisions have been changed from the draft bill and no longer allow for a person to be held for 7 days following withdrawal of a warrant. The bill does not, however, specify a time frame for the judge to inform the person of the order for discharge where the person is not before the judge at the time that the order is made. The effect of the order is clearly empty until the person has been informed of it and the bill should specify that the judge must inform the person as soon as is practicable.

### *Asylum Claims*

26. Clause 39 outlines the position where asylum is claimed by the person who is the subject of a warrant. The clause is drafted in an extremely complex form and is not in line with the Nationality, Immigration and Asylum Act 2002. It fails to secure the rights of the individual, in particular, clause 39(9) removes all protection and possibility of appeal where the asylum claim is rejected by the Secretary of State and certified as clearly unfounded.
27. The provision should simply establish that anyone who has applied for asylum cannot be extradited until there has been a final determination of his or her asylum claim. The certification procedures under asylum legislation must not apply where the individual is subject to an extradition request as there is a danger of extradition being used to enable a state to persecute its own nationals.

### *Consent to Extradition*

28. Clause 44 relates to consent to extradition. JUSTICE welcomes the amendments to Clause 44 relating to legal representation prior to consent. JUSTICE believes that free legal advice must be available prior to consent, given the irrevocable nature and the very serious consequences of consent including, in particular, the waiver of the specialty rule following extradition. Such serious consequences require that sufficient safeguards be in place to protect the rights of the individual. The extremely coercive nature of extradition and the complexities of extradition law demand that adequate legal advice must be available to an individual in such circumstances.
29. JUSTICE accepts that a person facing extradition may decline legal assistance that has been offered or decide to pay for their representation. We are, however, concerned at the other exceptions in the clause. We see no reason for the exceptions in cases where legal aid has been applied for but either refused or granted and later withdrawn. It must always be in the interests of justice for a person facing extradition to be legally represented. Criminal legal aid in magistrates courts is no longer subject to a test of means. It is difficult to see that a request for extradition would not, by itself, be sufficiently serious to meet any test of merit. Accordingly, JUSTICE would urge the government to delete sub-clauses 44(6)(b) and (c).

## Specific Bars to Extradition

30. Clause 11 of the bill lists the specific bars to extradition to Category 1 territories. They are:

the rule against double jeopardy;

extraneous considerations;

the passage of time;

the person's age;

hostage-taking considerations;

specialty;

the person's earlier extradition to the United Kingdom from another Category 1 territory;

the person's earlier extradition to the United Kingdom from a non-Category 1 territory.

These bars are then further defined in clauses 12-19.

### *Double Jeopardy*

31. Clause 12 of the bill defines double jeopardy as a bar to extradition:

A person's extradition to a Category 1 territory is barred by reason of the rule against double jeopardy if (and only if) it appears that he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction if he were charged with the extradition offence in the part of the United Kingdom where the judge exercises jurisdiction.

32. The first difficulty with the text of Clause 12 of the Bill as an implementation of the EAW, is that the bill refers to the "extradition offence" rather than the "same acts".

33. The abolition of the dual criminality requirement in relation to the 32 types of serious offence contained in Article 2 of the EAW means that a request for extradition under the EAW need not be based on an offence known to UK law (either in England and Wales or in Scotland). If a request were made for an offence in another Member State which was not an offence in UK law, a defendant would not "be entitled to be discharged under any rule of law relating to previous acquittal or conviction if he were charged with the extradition offence in the part of the UK where the judge exercises jurisdiction". No such rules of law would exist in relation to an offence not known to law. This would mean that in cases where the principle of dual criminality did not apply, the rule against double jeopardy would not apply using the proposed text in the draft bill. This is presumably not the intention.

34. The EAW text clearly states that a final judgment on the **same acts** is a mandatory bar to surrender and implementing legislation should reflect this rather than the narrower Protocol 7 ECHR Article 4 ECHR notion of double jeopardy.
35. The second difficulty is that the text of the bill seems to impose our own domestic rules relating to double jeopardy in deciding whether this bar to extradition is applicable. The rules and procedures relating to final judgments and appeals there from vary enormously throughout the EU and Council of Europe Member States. The text of the EAW and European case law<sup>10</sup> clearly demonstrate an intention for the rule against double jeopardy to cross European borders so that once you have a final judgment for conduct in one Member State, proceedings may not be initiated for that same conduct in another Member State. The definition of a final judgment should be the definition given in the country where that judgment was made.
36. This European notion of *ne bis in idem* should be reflected in the text of the UK bill which will implement the European Arrest Warrant.
37. Under current UK law, the wording contained in the draft bill may provide greater procedural safeguards than a draft more closely based on the EAW provisions. However, given the proposals contained in the Criminal Justice Bill relating to double jeopardy, it is not certain that applying the UK law in relation to double jeopardy will in fact result in a higher level of safeguard.

### *Specialty*

38. The rule of specialty offers a key safeguard against abuse of the system. JUSTICE welcomes the government's decision not to make a notification of presumed consent to possible prosecution for other offences under Article 27.1 or to surrender or subsequent extradition under Article 28.1 of the EAW.

### *Conviction in absentia cases*

39. Clause 20(2) of the draft bill states that the judge must discharge a person where he was convicted in his absence, not having deliberately absented himself from his trial, and "would not be entitled to a retrial or (on appeal) to a review amounting to a retrial". The text of the EAW Framework Decision allows for Member States to demand a guarantee

that the subject of the EAW in such circumstances, “will have the opportunity to apply for a retrial of the case in the issuing Member State and to be present at the judgment”<sup>11</sup>.

40. JUSTICE believes that the wording in Clause 20(2)(c) of the bill should reflect the level of protection offered by the EAW and the UK’s avowed position on the right to retrial in cases of conviction *in absentia*. We urge the government to support a clear right to a retrial in the issuing Member State and a right of the person to be present at the judgment.

### **Extradition Offences – Dual Criminality**

41. Clauses 63 and 64 of the bill set out what constitutes an extradition offence in relation to Category 1 territories. For pre-conviction requests in respect of offences falling outside the type of offences listed in Article 2.2 of the EAW, an extradition offence is defined as conduct which would attract a sentence of at least 12 months imprisonment in both the UK and the requesting state – for these cases, the dual criminality principle still applies and the level of extraditable offence is basically unchanged from the current situation.

42. JUSTICE is primarily concerned by the definition of an extradition offence in relation to pre-conviction cases which fall within Article 2.2 of the EAW and are not subject to the dual criminality requirement – that is, that conduct must constitute an offence both in the issuing state’s law and in the law of the UK.

43. Article 2.2 of the EAW abolishes dual criminality in relation to a list of 32 types of offence where they are punishable with a maximum sentence of at least three years detention according to the law of the issuing Member State. Whether or not conduct comes within the list is a matter for the judge in the issuing state to decide – the types of offence on the list are not defined and even where there is a degree of harmonisation at EU level (such as in the case of racism and xenophobia), the application of the EAW is not restricted to EU definitions of offences. The abolition of dual criminality in relation to offences carrying a maximum sentence of at least three years is indicative of the intention that this should apply only to serious offences (although in practice in the UK potential maximum sentences of over three years are common even for relatively minor offences such as shoplifting, this is not the case in most Member States). While the EAW allows Member States to abolish the principle of dual criminality more widely in Article 2.4, Member

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<sup>10</sup> Cases C-187/01 Gozutok and C-385/01 Brugge, Advocate-General’s opinion of 19 September 2002

<sup>11</sup> Article 5(1) EAW Framework Decision, *supra*

States are not required to go beyond the provision in Article 2.2 in implementing the EAW.

44. The bill goes beyond the requirements of the EAW effectively abolishing dual criminality for extradition requests from Category 1 territories for conduct within the Article 2.2 list carrying at least a maximum of 12 months sentence. This provides a significantly lower level of protection than that required by the EAW.
45. It is difficult to ascertain exactly what kind of conduct may be covered by such a low threshold in Member States and in the candidate countries that are due to join the EU when the EAW comes into force in 2004. The principle of mutual recognition is based on mutual trust in the judicial systems of the Member States but not on mutual knowledge. The current or future laws applicable in Member States for types of offence which could be classified as “participation in a criminal organisation”, “racism and xenophobia”, “swindling” or “computer related crime” are an unknown quantity. Extradition is an extremely coercive measure that has serious implications for a person’s right to liberty and private and family life. Such a coercive measure should only be used in very serious cases if the principle of proportionality is not to be breached.
46. When considering the application of these provisions, it must be borne in mind that the threshold in relation to pre-conviction offences has no regard for the sentence that would in fact be imposed for the alleged conduct, only the potential sentence for the offence is considered.
47. As a demonstration of the kinds of offence that could give rise to the execution of an EAW where dual criminality is abolished, the following offences carrying a maximum of at least 1 year but less than 3 years sentence are found in the criminal codes of some EU Member States and candidate countries. They are all offences which could be construed as being of a racist or xenophobic type, depending on the facts of the case:  
  
**Lithuania** – Art. 72 of the criminal code punishes infringement of national and racial equality rights with up to 2 years imprisonment.  
**Italy** – Art. 405 of the criminal code - Disturbing the religious function of a Catholic cult carries 16 months imprisonment.
48. In the UK, we still have draconian laws relating to blasphemy. The fact that prosecutions are rarely taken for blasphemy does not remove the potential for blasphemy to form the basis for issuing an EAW. The recent Strasbourg case of *Colombani and Others v*

*France*<sup>12</sup> found that the French penal law relating to causing offence to a foreign head of state was in breach of Article 10 ECHR, the right to freedom of expression. This case concerned a prosecution of journalists for citing an EU report which linked the King of Morocco and the Moroccan royal family to the illicit drugs trade. The prosecution was brought by the French authorities on the insistence of the King of Morocco (this law which carried a potential 1 year custodial sentence at the time has now been changed). These examples are put forward to demonstrate the lack of knowledge that Member States have about the kinds of laws that exist in other states and the types of sanctions that they carry. This problem is exacerbated by the fact that it is impossible to predict future developments in the criminal law of Member States<sup>13</sup>. **The EAW should be implemented at its highest, abolishing dual criminality only for offences of the type on the list in Article 2.2 which carry at least a maximum of 3 years custodial sentence. This would go some way to avoid the abusive use of the coercive measure of extradition for minor offences which do not constitute crimes in this country.**

49. JUSTICE is concerned that the bill contains only a reference to the Framework Decision in defining that class of extradition offences. **In the interests of legal certainty, the Framework list should be imported directly into the Act.**

## **Part 2 - Retention of Prima Facie Case Requirement**

50. With regard to Part 2 cases, many of the points raised above in relation to Part 1 also apply. Clause 83 of the Bill, however, relates to the *prima facie* case requirement which is only maintained in relation to Part 2 cases where the country concerned is not a party to the European Convention on Extradition 1957. This requirement provides an important safeguard in the case of requests emanating from Category 2 territories, the majority of which are not signatories to the ECHR. JUSTICE is concerned that the *prima facie* case requirement is effectively removed or at least diluted by the admission of a summary of a statement as evidence included in clause 83(3). **A high standard of evidence should be required for establishing the existence of a *prima facie* case.**

51. The standard of evidence required is further eroded by clauses 133/134 relating to the admissibility of faxed documents and the levels of authentication required. Again,

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<sup>12</sup> Judgment of 25 June 2002

<sup>13</sup> As can be seen by the recent criminalisation of Batasuna, a political party with over 600 elected representatives in Spain.

JUSTICE believes that the procedural requirements on the standard of evidence need to be tightened up in order to maintain the requirement of a *prima facie* case.

52. JUSTICE is particularly concerned by the suggestion that the recently signed UK-US bilateral treaty will result in the abolition of the requirement for *prima facie* evidence to be provided in support of extradition requests from the United States. As mentioned in paragraph 10 above, a number of recent cases bring the reliability of the basis for requests emanating from the US into question<sup>14</sup>. JUSTICE believes that the reduction of safeguards in relation to extraditions to the United States is unacceptable. This is particularly the case in the current climate where developments since September 11<sup>th</sup> 2001 have led to a significant reduction in respect for human rights in the United States in relation to “terrorist” related suspects as seen through the treatment of detainees in Guantanamo Bay and the potential for ad hoc quasi-military tribunals which do not meet internationally recognised standards of fair trial rights. In such a climate, upholding the rule of law and protecting the fundamental rights of individuals can only be done through the maintenance of stringent procedural safeguards.

### **Relationship between International Obligations and Domestic Rights**

53. JUSTICE urges the government to specify in clauses 1 and 68 that the Act is operative in accordance with the relevant bilateral or multilateral treaty, thus ensuring that domestic rights are not less than those accorded by the relevant international obligation. The clauses should specify this and JUSTICE would put forward the following possible wording:

**“This Act shall have effect in relation to that state, but subject to the limitations, restrictions, conditions, exceptions and qualifications, if any, contained in the order.”**

JUSTICE

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<sup>14</sup> See also *R v Governor of Brixton Prison, ex parte Kashamu* (Unreported) October 6 2000; CO/2344/1999; O/2141/2000 where committal was quashed when it emerged that the US government had failed to disclose crucial evidence relating to the identification of the requested person. The second request was subsequently refused on committal at the magistrates’ court for lack of evidence.