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75 YEARS OF THE PRACTICE OF EXTRADITION LAWS IN INDIA: Evolution, Expectations, and Realities

Namita Vashishtha & Shourie Anand Singh

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75 YEARS OF THE PRACTICE OF EXTRADITION LAWS IN INDIA: Evolution, Expectations, and Realities

Namita Vashishtha[*] *& Shourie Anand Singh*[**]

[Abstract: *The Law related to extradition is not new. Its evolution in international law has been gradual and significant. The concept of dual criminality forms an important basis of law related to extradition. Extradition has an important role in maintaining relations between nations. Various treaties and municipal laws play a significant role in giving a concrete shape to the law related to extradition as it exists today. This paper discusses the extradition laws by adopting a doctrinal method of study. Tracing the evolution of the law in India through the phases that existed from the pre-independence era, the paper focusses on the realities and challenges faced by India in extradition cases ever since the passing of formal Extradition Act of 1962.*

In some cases, we have been successful and some are still ongoing. On one hand there have been successful cases of Abu Salem, Chota Rajan and now awaiting Mumbai-attack convict Tahawwur Rana's and in others we are still trying to get Dawood and Nirav Modi. As India moves ahead to gain its rightful place in the committee of nations, the law related to extradition will also play a role in protecting and promoting our national interest.]

I

Introduction

Extradition is one of the oldest existing practices under International Law. Extradition developed alongside the process of Asylum. Fugitives who ran away to other territories were a concern for all, especially the turf where the fugitive attracted apprehension or even action by the state from where he came. Yes of course, it was the common understanding between the heads of the respective kingdoms to secure themselves, by reciprocity, by arresting and returning or even executing the accused or the convict.[1] Extradition is the request or demand of a nation followed by the surrender of an accused or convict by another.[2] The condition is that the crime for which such demand is raised must have been committed within

[*] Assistant Professor, Faculty of Law, University of Delhi. Email: nvashishtha@law.du.ac.in
[**] Assistant Professor, Faculty of Law, University of Delhi. Email: ssingh@lc2.du.ac.in

[1] P Sutherland, *The Development of International Law of Extradition* 28 ST. LOUIS U. L.J. 33 (1984).

[2] Also known as rendition in sub-national Jurisdictions.

the jurisdiction, territorial or otherwise, of the demanding state. A duty to surrender may arise out of a binding international obligation under a reciprocal agreement between the states or under general international law.[3] Dual criminality is the bedrock of extradition and emanates from common law extradition practices in Europe, especially during the 18th and 19th centuries. Courts laid down that a person could only be extradited if the alleged act was considered a crime under the law of both the requesting State as well as the requested State. The rule applies so that an alleged offender is not extradited for any extent of acts not recognized as criminal in the place where they reside, respecting sovereignty and fairness. That is how the rule developed to prevent exploiting extradition for political or minor offenses. Later on, complex questions of prosecuting criminals are now being solved by respecting and enforcing the extradition agreements.[4]

II

Historical Evolution

The development of extradition laws has been molded by historic events, international relations, and progressions in legal frameworks. Extradition is not a new occurrence in international relations of states. It subsisted as early as the Chaldeans, the Egyptians and the Chinese where each international pact was bound up in sincere religious principle. The Law of Moses, which was to be divinely verbalized among the Jews, clearly provided extradition of an outlaw if he was guilty of considered guilt full act. The asylum city was duty bound, according to this law 'to thence and deliver him into the hand of the avenger of blood, that die.' Similarly, in Roman law any citizen could be extradited, had committed an offence against a foreign ambassador within province, to the latter's state to be dealt with therein as the legal considered proper. One of the oldest accounts of extradition agreement may be found in the Peace Treaty of Qadesh of 13th BCE.[5]

During the Middle Ages, extradition was often governed by bilateral agreements between neighboring territories or through ad hoc arrangements.[6] Treaty of Westminster (1750) between Britain and France, established the principles of mutual

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[3] C. Tomuschat, *General International Law: A New Source of International Law?* in GLOBAL JUSTICE, HUMAN RIGHTS AND THE MODERNIZATION OF INTERNATIONAL LAW 185-202, (Pisillo Mazzeschi, R., De Sena, P., ed. 2018).

[4] For example, in a monist state like France, under Article 55 of the French Constitution, international extradition treaties and the principle of dual criminality are directly enforceable in domestic courts. In Dualist, extradition treaties must be implemented through national law.

[5] The treaty was concluded between Egyptian pharaoh Ramesses II and the king of the Hittite empire, Ḫattušili III, in c. 1259 BC, *available at:* https://www.un.org/ungifts/replica-peace-treaty-between-hattusilis-and-ramses-ii (last visited Aug. 19, 2024).

[6] In 1759, Officers of the King of France and the Duke of Wurttemberg signed an extradition agreement.

extradition for certain offences. These agreements were mainly focused on political offences, as the medieval period was characterized by a fragmented and decentralized legal system. Between 1718 and 1830, Georg-Friedrich von Martens has listed about one hundred of these treaties.[7] More formals such agreements emerged in the 18th century only.[8]

The 19th century witnessed a rapid increase in the number of bilateral and multiparty extradition treaties. These treaties aimed to establish a framework for the extradition of persons between countries, typically covering a range of offences such as murder, theft, and fraud. The growth of international trade, colonial expansion, and the growth of the nation-state system contributed to the proliferation of extradition treaties.[9] The 19th century also saw the establishment of formal extradition treaties, particularly among European nations. The 1842 treaty between the U.S. and the U.K. was one of the earliest modern examples.[10] Subsequently in the interwar period, the League of Nations promoted international cooperation, leading to the adoption of the 1933 Extradition Treaty.[11] After the destruction of World War II, extradition laws evolved to address new recognized sets of offences, the war crimes and crimes against humanity, leading to a focus on answerability of the states towards world peace.

In the wake of last century, various multilateral treaties and organizations had been established for fostering the cooperation on extradition among nations. One notable example is the European Convention on Extradition (1957),[12] which created a framework for extradition among European countries. Organizations like Interpol also play a crucial role in facilitating international cooperation and information sharing related to extradition.

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[7] He was the original editor of what remains the largest collection of treaties in the world. He singlehandedly edited *Recueil des traités,* covering treaties from 1761, through the first seven volumes (1791–1801) and collaborated with his nephew Karl von Martens in editing four additional volumes (1802–08).

[8] Randall Lassafer, *so that Crimes Would Not Go Unpunished: Extradition Treaties in the 18th Century*, *available at:* https://opil.ouplaw.com/page/901 (last visited Aug. 24, 2024). *See* also: In the 16th and 17th centuries, there were few examples of negotiations and agreements regarding the expulsion or extradition of subjects of a treaty partner who had rebelled, or of traitors or individuals who had committed other political crimes.

[9] Gavan Griffith QC & Claire Harris, *Recent Developments In The Law Of Extradition*, *available at:* https://law.unimelb.edu.au/data/assets/pdf_file/0007/1681144/Griffith-and-Harris.pdf (last visited Aug. 20, 2024).

[10] *Id. See* also: Treaty of Brussels of 22 November 1834 between Belgium and France included an exemption of Political Crimes. Another Treaty of Dresden of 28 April 1850 between France and Saxony included a list of crimes for which a person could be extradited. This was another step in formalizing the general principles of extradition whereby a person could only be prosecuted and convicted for the crimes for which extradition had been requested.

[11] The Inter-American Convention on Extradition, 1933, *available at:* https://www.oas.org/juridico/english/treaties/b-47.html (last visited Aug. 19, 2024).

[12] *European Convention on Extradition*, Dec. 13, 1957, Eur. T.S. No. 24.

Human Rights Considerations

The late 20th century also brought a focus on human rights, leading to hesitations in extraditing individuals to countries with poor human rights records. International human rights criterions, such as the prohibition of torture and the right to a just and fair trial, have influenced extradition practices and procedures. Courts in various jurisdictions have taken a more critical approach to extradition requests that may violate human rights.

Globalisation facilitated international travel and increased the extradition framework to match the push for the increased fight against crime. Modern communication and data-sharing technologies have devastated the concept of cooperation in a new way, where countries can successfully coordinate an extradition effort. In the last century, domestic laws and legislation concerning the extradition of alleged offenders molded the extradition laws. The general form and content of these laws, particularly those outlining procedural requirements to support extradition, with regard to issues like courts, documentation, or relying on testimonial evidence, and the rights and guarantees attaching to the individuals are substantially defined in the legislation.

Throughout history, the dichotomy derived between extradition systems ensued from suppression and federalisation toward criminal law ends, as well as how contemporary extradition law was framed by a mutual need for intergovernmental cooperation, the goodwill threshold between two nations under international law, and the dynamics always morphing around organized crime. From a standpoint of international money laundering, nor human trafficking or whatever significant issues call for its eradication across the globe, the progress of extradition law is an expedition toward symbolizing changes in crimes, forwards of technological advancement, and a receptive nature toward a constructive global community functioning to heighten justice while curbing impunity.

III

Extradition: Laws and Treaties

Extradition finds its origin in the latin term of *ex tradium* which is based in the *phrase aut punire aut dedere.*[13] In absence of any punitive measure against the accused or criminal, the 'territorial state' (where the offender is present) must deliver the criminal, as a duty, to the 'requesting state' for no crime should go unpunished. The Permanent Court of Arbitration (PCIJ) held that despite irregularity in extradition,

[13] It is based on the principle that a State shall either extradite or prosecute the fugitive.

there is no obligation upon the requesting State for restitution.[14] It may be governed by a combination of municipal laws and international treaties. The specific laws and treaties that cover extradition can vary from country to country. However, there are some key international instruments and common practices that shape the extradition process globally. Bilateral extradition treaties typically outline the crimes for which extradition can be pursued, the procedures to be followed, and the conditions under which extradition may be refused. There are multilateral extradition conventions and treaties that address extradition at a regional or global level. These treaties aim to facilitate extradition cooperation among multiple countries with common interests.[15] Recently, in August 2024, the Senior officials of ASEAN[16] met in Vientiane, Laos, to discuss a regional draft ASEAN Extradition Treaty.[17] In 2004, The United Nations passed The United Nations Model Law on Extradition.

In modern context, International Human Rights Law now plays a substantial role in extradition. These instruments provide safeguards to guarantee that individuals facing extradition are protected from torture, inhumane treatment, usage of drugs, or other human rights violations. They may also prohibit extradition to countries where there is a risk of persecution or unfair trial. One such example is the Model Treaty on Extradition which was introduced in 1997.[18] It is pertinent to mention, that The International Criminal Police Organization (Interpol) does not have direct authority over extradition but serves as a platform for international law enforcement cooperation. Interpol facilitates the exchange of information, including arrest warrants and extradition requests, between member countries. The application of extradition laws and treaties is also influenced by the interpretation and practices of the courts and authorities within each jurisdiction.

Basis of Extradition

In addition to the agreements and arrangements between states every extradition request has the following basis or at least it must fulfill the following conditions:

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[14] Arrest and Return of Savarkar (France / Great Britain), PCIJ 1911. Upon handing over Veer Savarkar, the French government disputed the manner of arrest calling it defective. The PCIJ held that such irregularity did not result in any obligation on the British government to restore Mr. Savarkar to the French government.

[15] The European Convention on Extradition (1957); The Inter-American Convention on Extradition (1933), and the United Nations Convention against Transnational Organized Crime (UNTOC) (2000) *available at:* https://guides.loc.gov/researching-treaties-and-international-agreements (last visited Aug. 19, 2024).

[16] Association of Southeast Asian Nations comprising of ten countries Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam.

[17] Xinhua, *ASEAN officials discuss common extradition treaty, available at*: https://www.chinadailyhk.com/hk/article/591055 (last visited Aug. 30, 2025).

[18] The Treaty urges Member States to use the Model Treaty on Extradition as a basis in developing treaty relations at the bilateral, regional or multilateral level, as appropriate; Another is The Model Treaty on Mutual Assistance in Criminal Matters, 1998.

a. Principle of Dual criminality
b. Extraditable Offences
c. Rule of Specialty

The rule of double criminality[19]: Extradition generally requires that the crime for which extradition is pursued is a crime in both the demanding and requested countries. This ensures that the accused would be charged with an equivalent crime in the extraditing country. One of the significances of dual criminality is that it safeguards individuals from being extradited for actions that are not considered criminal in the requested country, ensuring legal protections and preventing arbitrary extradition. Extradition begins where asylum ends. Granting asylum is a discretionary right of a country. Once, a country chooses to give asylum it would do all in its power to protect the individual. At the same time, by requiring a shared understanding of criminality, Dual criminality fosters trust and cooperation between nations in addressing transnational responsibilities.

Dual criminality is a '*deeply* ingrained principle of extradition law.'[20] Barring a few comparable instances, it was never a precondition for extradition.[21] However, with the '*Jay Proviso*' under the Jay Treaty of 1794, the concept of extradition was bound to change forever.[22] Article 27 of the Treaty was crafted by the then US Chief Justice John Jay, which formally included double criminality as a necessity and since then it found its way in all US extradition treaties. The Jay Proviso became a standard clause and later United Kingdon adopted the same provision in its treaty with France in 1852. The importance of the rule and wide acceptance is reflected in the fact that the UK subsequently passed the Extradition Act of 1870 wherein section 8 called for magisterial warrant and inquiry for justifying double criminality. This

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[19] Known by many names: Dual criminality, dual liability, dual culpability, equivalency of offences, *réciprocité d'incrimination*, double extraditability *etc.*

[20] UNODC, *Revised Manuals on Model Treaty on Extradition and Model Treaty on Criminal Matters* (United Nations Office on Drugs and Crime, 2002), *available at*: https://www.unodc.org/unodc/en/legal-tools/model-treaties.html (last visited Nov. 11, 2025).

[21] John Roche Dasent, *Acts Of The Privy Council Of England, 1558-1570* (London, 1893), *available at:* https://www.british-history.ac.uk/acts-privy-council/vol7A (last visited Nov. 11, 2025). A rare request was made by Spain to England in 1564 to return an accused of murder. The House of Lords refused to hand over, saying that an authentic matter was not received by 'The Queen' for decision. Want of necessary proofs has also resulted in refusals.

[22] *The Jay Treaty: Treaty of Amity, Commerce, and Navigation*, 1794, Treaty between the US and the UK. Article 27 of the treaty reads: It is further agreed that His Majesty and the United States on mutual Requisitions by them respectively or by their respective Ministers or Officers authorized to make the same will deliver up to Justice, all Persons who being charged with Murder or Forgery committed within the Jurisdiction of either, shall seek an Asylum within any of the Countries of the other, Provided that this shall only be done on such Evidence of Criminality as according to the Laws of the Place, where the Fugitive or Person so charged shall be found, would justify his apprehension and commitment for Tryal, if the offence had there been committed. The Expense of such apprehension and Delivery shall be borne and defrayed by those who make the Requisition and receive the Fugitive.

went on become the backbone of several treaties inter se commonwealth countries and otherwise.[23]

In summary, dual criminality demands shared legal standards. It ensures that both countries recognize the act as a criminal offense, promoting fairness and legal consistency. This prevents extradition for actions that may be legal in the requested country. While the principle directs that the act must be criminal in both jurisdictions, the exact nature of the offense does not have to be identical. This is a legal flexibility if the underlying behaviour constitutes a crime in both places, dual criminality may be satisfied. Broad versus narrow interpretation is also a key to decide upon the severity of the crime involved. Exceptions are always applicable to this principle.

Dual criminality is essential for maintaining legal integrity and protecting individuals' rights during the extradition process. It underscores the necessity for mutual recognition of criminal offences in international law.

Extraditable offences: Extradition offences are offences enlisted, in treaties, which are considered extraditable, which often include serious crimes like murder, drug trafficking, and fraud. Not all offences in a municipal law qualify for extradition offence. Such classification may be done on the basis of severity of crimes, the term of the sentence,[24] other considerations as agreed between the states etc.[25]

Most of the extradition agreements and treaties exclude political offences from the list of extraditable offences, reflecting concerns that the accused might be persecuted for political reasons rather than genuine criminal conduct. Countries may refuse extradition if there are substantial grounds to believe the accused will face torture, inhumane treatment, or unfair trial conditions in the requesting country.

State sovereignty is supreme, and each country has the sovereign right to decide whether to extradite individuals, often influenced by its own legal standards, policies, and political considerations. However, considerations of agreements entered in to with other countries and *pacta sunt servanda* guide such

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[23] Neil Boister, A *History of Double Criminality in Extradition*, 25 JHIL 218-225, (2023).

[24] Many extradition treaties only allow extradition for crimes that carry a punishment of more than one year, for example, India and Singapore. The extradition treaty between India and France states that an offence punishable by at least two years in prison is extraditable. Similarly, Member States of the European Union, as well as national judicial authorities, use the European Arrest Warrant only for offences carrying a minimum penalty of one year or more in prison.

[25] For example under United Nations Convention against Transnational Organized Crime, 2002, list of extraditable offences include offences like wilful murder, murder; manslaughter; rape, sexual assault, bigamy, perjury, counterfeiting, trafficking, stealing, false imprisonment, assaulting a Magistrate, a police officer or a public officer; kidnapping; abduction; false imprisonment; dealing in slaves; forgery, an offence against the law relating to taxation, customs duties, foreign exchange control or other revenue matters; robbery; blackmail or extortion by means of threats or by abuse of authority; piracy; an offence against the law relating to dangerous drugs or narcotics among others.

discourses.[26]Extradition requests often involve a judicial process in the requested country, where courts assess the legality of the request based on treaty obligations and domestic laws.

Rule of Specialty: Specialty is an important principle that an extradited individual can only be prosecuted for the crimes listed in the extradition request, unless the extraditing country agrees to additional prosecutions. The principle serves to protect the rights of the individual by preventing the requesting country from prosecuting that person on any other charges that are not set forth in the extradition treaty. The principle also protects against abuse. Enforcement of this rule is important, because failure to enforce, leads to a situation where countries seek to use extradition for unrelated legal grievances against individuals. This means they can be charged for no other acts appearing after their extradition in delay of punishment unless permission is given by the country from which they were taken. This rule aims to ensure fairness and transparency in international legal processes.

It is crucial to extradition as it maintains the sanctity of the 'agreed terms' between the states. The person being extradited comes with a right under the treaty to be treated as such. In absence of any objection from the requesting or demanding state, an individual extradited pursuant to a treaty has standing to challenge the court's personal jurisdiction under the rule of specialty. [27]

These principles form the foundation of extradition laws, guiding how countries cooperate in apprehending and transferring fugitives across borders.

Any extradition process typically involves the following steps. Firstly, an Extradition Request is made. The requesting country initiates the process by making a formal extradition request to the requested country. This request is typically based on an existing bilateral or multilateral extradition treaty, or it may be based on reciprocity and mutual legal assistance principles.

Secondly, a legal evaluation/ magisterial inquiry[28] shall be done with the help of judicial acumen. The requested country's authorities, such as the judiciary or a designated extradition authority, review the extradition request. They assess whether the request meets the legal requirements outlined in the applicable extradition laws or treaty, including factors such as the nature of the offense, the existence of dual criminality (the offense is a crime in both countries), and the availability of sufficient evidence.

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[26] It means 'agreements must be respected'. Traces back to the Roman law principle of 'fides' faith or trust. Italian jurist, Dionisio Anzilotti was the greatest proponent of this principle. He believed the principle of the sanctity of contracts as a hypothetical basic norm, which can be assumed but not proven.

[27] *United States* v. *Rauscher*, 119 U.S. 407 (1886).

[28] The Extradition Act, 1962, S. 5-7, 17.

Based on the result of such evaluation, the extradition request may be accepted or rejected. If the extradition request is found to be valid, the requested country may issue an arrest warrant and apprehend the individual. The person is then detained pending the completion of the extradition process.

It is then; the requested country's courts or extradition authorities hold a hearing to determine whether the individual should be extradited. The individual may have the opportunity to challenge the extradition on various grounds, such as proving that they will face political persecution or that their human rights will be violated in the requesting country. Every country shall take into account the municipal conditions another humanitarian concerns before allowing extradition. The requested state must be satisfied, like the requesting courts, that a prima facies case it made out against the accused/ criminal. At this stage it is important to mention the view expressed by Samuel Spear wherein he stated that '*Testing of evidence also functions as double criminality requirement.*'[29]

It is the court or extradition authority which decides whether to grant or deny the extradition request. If extradition is granted, the final decision may be subject to appeal in some jurisdictions. If the request is approved and all legal challenges and appeals have been exhausted, the requested country arranges for the physical transfer of the individual to the requesting country. This may involve coordinating transportation and ensuring compliance with international human rights standards. If extradition is denied, the individual may be released from detention.

As a complex legal procedure, extradition has multifaceted regulations and requirements that differ according to the respective countries and legal systems. One of the primary purposes for extradition is to enhance the administration of justice in inter-state collaborations and cope with cross-border criminal offences.

IV

India and the Practice of Extradition

Growth of Extradition Laws

The concept of extradition in ancient India can be traced through different historical texts and legal codes. In this era, extradition ceremonies went hand in hand with the principles of dharma (righteousness) and included mutual legal assistance between different kingdoms or regions. The *Mahabharata* also established the principle of facilitating the punishment to the offender without any bias. The purity of justice

[29] Samuel T Spear, LAW OF EXTRADITION: INTERNATIONAL AND INTERSTATE, (Weed Parsons and Company, 1884), a*vailable at:* https://dn790003.ca.archive.org/0/items/lawextraditioni00speagoog/lawextraditioni00speagoog.pdf. (last visited Aug. 18, 2024).

and mutual cooperation among the rulers in the well-being of the society was dominant in the *Dharmasastras*, which stated the importance of extradition and the granting of mutual cooperation.

The prototypical existence of a kingdom necessitated the creation of treaties or agreements with neighbours, the sine qua non in those days known as *Sandhi* or *Samanta*. Treaties were ultimately to have diplomatic value and faculty for mutual execution of criminals. The whole discourse was over the deliberation of extraditing the accused person to the allied power of the aggrieving party for the accused to be found guilty and tried for penalty by the requesting party.

Ashoka's edicts mention the extradition of criminals and the exchange of prisoners between his empire and neighboring states. These edicts emphasized the principles of justice and the welfare of the people. The taking away of the famous Peacock Throne or *Takhte Taus* and *Kohinoor* has a deep relation with request for extradition. The Iranian ruler Nader Shah in 1738, conquered Kandhar. The Afghans fled and took refuge in the then India. Using this as a pretext, he demanded the handing over of these 'rebels' from the Mughals. On refusal he took to the Mughal empire in the east and defeated Muhammad Shah, looted and plundered the royal treasury, took the famous Peacock throne and the famous diamond '*Kohinoor*' among others. This request, though not formal, highlights the importance of cooperation among political superiors of different states.[30]

Legislative Basis for Extradition in India: The Modern Concept

Pre-independence era: In India, the first formal legislation of extradition was passed in the year 1903.[31] It of course was a British legislation, preceded by the Extradition Act, 1870, which was made applicable to India as a 'British Possession' in the year 1895.[32] Any rightful request of extradition was subject to the treaty between the countries. The Act of 1903 provided for requisition from any foreign state in case of a treaty only. Since India was considered a separate entity even at that time, any such request 'made to India' was regulated by all laws passed by United Kingdom. A unique feature of the Act was Chapter II of the Act, which was applicable to those states with whom there were no treaties or applicable statutes.[33] For facilitation of extradition of fugitives within the Commonwealth countries, The Fugitive Offenders Act, 1881 was passed.[34]

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[30] Raghunath Rai, HISTORY FOR CLASS 12: CBSE (2006, V K Publications). On his way back to Iran, the Sikhs fell upon Nader's army in the Chenab valley and seized a large amount of the booty and freed most of the slaves in captivity. Still, the remaining plunder his forces had seized from India was so much that Nader was able to stop taxation in Iran for three years following his return.

[31] The Indian Extradition Act, 1903.

[32] *Id*, S. 17.

[33] Sir Alexander Muddiman, THE LAW OF EXTRADITION TO AND FROM BRITISH INDIA 4–5 (1927).

[34] It was made applicable to India under Section 32 of the Indian Extradition Act, 1903.

The then India presented a perfect example of how extradition is primarily based on treaty or reciprocity. Owing to their distinct political existence, the princely States or the Indian native states, had several separate extradition treaties with the Government of British India, within India. The fugitive was to be surrendered to the paramount power.[35] Principle of reciprocity was applied for other states with whom no such treaty existed. There wasn't much of a choice with the Indian states when it came to foreign fugitives seeking refuge with them. The states were bound to surrender them.[36] As per *Sastry*, these states never had the *persona standi* so never had the opportunity rather power to negotiate extradition.[37]

Post-independence era: With the termination of suzerainty of the British monarchy over India, all existing treaties and agreements also lapsed. It changed the very core of India's relationship with other countries.[38] The fate of extradition treaties with the Indian States remained uncertain. The clarity with respect to these treaties and the 1881 Act was brought by the Supreme Court of India. In 1950, all such treaties were held ineffective where the princely states, later Part B states, merged with Indian Dominion. [39] With the adoption of the Indian constitution, The Indian Extradition Act, 1903 was made applicable to the whole of India except Part B states. Later in 1954, The Fugitive Offenders Act, 1881 was held inapplicable to Indian dominion.[40]

The Extradition Bill of 1961 parliament acknowledged that the foremost purpose of the bill was to 'overcome all the lacunae' in the then existing laws as well as to amend and consolidate the laws. The Extradition Act of India, enacted in 1962, provides a legal framework for the extradition of individuals accused of crimes from one country to another. Extradition in India finds basis in a bilateral extradition treaty, agreement or arrangement.[41] In absence of these if a multilateral treaty provides for extradition, then also extradition may be requested or facilitated by India provided the requesting state and the delivering state are both parties to the convention.

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[35] The surrender was made to the *Iocus delicti.* Some treaties include Bikaner (Treaty No. III, 1869) and Jaipur (Treaty No. V. 1868; Jodhpur (Treaty No. X. 1868), *available at:* https://archive.org/details/pli.kerala.rare.162501/page/n11/mode/2up?view=theater. (last visited Aug. 17, 2024).

[36] K. R. R. Sastry, INDIAN STATES (Kitabistan Allahabad, 1941). Chapter V discusses the Relationship vis-à-vis Paramount Power. *See* also, Lee Warner, *The Protected Princes of India*, *available at:* https://archive.org/details/ProtectedPrincesOfIndia. (last visited Aug 12, 2024).

[37] *Id.*

[38] The Indian Independence Act, 1947, S.7.

[39] *Dr. Babu Ram Saksena* v. *The State*, (1950) SCR 573. Per Mukherjee J. -The Extradition Treaty between the Tonk State and the British Government in 1869 is not capable of being given effect to in the present day in view of the merger of the Tonk State in the United State of Rajasthan. As no treaty rights exist, section 18 of the Indian Extradition Act has no application, and section 7 of the Act has been complied with, there is no ground upon which we can interfere.

[40] *The State of Madras* v. *C. G. Menon*, AIR (1954) SCR 517.

[41] As far as arrangements are concerned, the countries agree to assist mutually in 'legal procedures', without any binding agreement.

Two key features of the act are the (a) general conditions for extradition and (b) certain restrictions to surrender. The composite effect of the two-give rise to a paradoxical situation where the expectations to do justice, when met with reality, does not give the desired result all the time.

Speaking of today, in India, extradition is primarily governed by domestic laws and supplemented by bilateral and multilateral treaties. The Extradition Act, 1962 and Bhartiya Nyaya Sanhita, 2023 (earlier the Indian Penal Code, 1860) are the primary legislations governing extradition in India. The former sets out the legal framework and procedures for extradition requests, including the conditions for surrendering individuals to foreign countries and the rights and protections afforded to the accused during the process. The latter contains provisions relating to certain offences for which extradition can be sought. These offences are generally categorized as extraditable offences under the Extradition Act.

India has signed bilateral extradition treaties with several countries. These treaties establish the legal framework for extradition between India and the respective treaty countries. They typically outline the offences for which extradition can be sought, the procedures to be followed, and the conditions for refusal. Presently India has effective extradition treaties with 50 countries and Extradition arrangements with 12 countries.[42] India is also a party to various multilateral conventions that deal with extradition. These include the SAARC Regional Convention on Suppression of Terrorism (1993), United Nations Convention against Corruption (UNCAC)[43], and United Nations Convention against Transnational Organized Crime (UNTOC).[44] These conventions facilitate cooperation in extradition and other criminal justice matters among member countries. In 2019, India has also entered into different mutual legal assistance treaties (MLATs) with forty-two countries. While MLATs primarily focus on mutual legal cooperation in gathering evidence and providing other forms of legal assistance, they may also cover aspects of extradition.[45]

The Act is divided into five chapters that enumerates the complete procedure for extradition, Extraditable offences have been divided into two fractions. One set

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[42] *The Extradition Arrangements with Italy and Croatia confine to Crimes related to Illicit Traffic in Narcotic Drugs and Psychotropic Substances because India, Italy and Croatia are parties to the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, available at:* https://sansad.in/getFile/loksabhaquestions/annex/1712/AS139.pdf?source=pqals; http://www.mea.gov.in/treaty.htm (last visited Aug. 13, 2024).

[43] India signed the UNCAC on 9th Dec 2005 and ratified the same by deposit of instrument of ratification on 9th May 2011.

[44] The UNTOC was adopted by General Assembly in 2000 and came into force in 2003. Government of India ratified the United Nations Convention against Transnational Organized Crime and its three protocols in May 2011.

[45] Ministry of Home Affairs, *Comprehensive Guidelines for Investigating Agencies and Officers of the Interpol System in India* (Mar. 16, 2020), *available at*: https://www.mha.gov.in/sites/default/files/2022-08/ISII_ComprehensiveGuidelines16032020.pdf (last visited Aug. 25, 2024).

recognizes such offences as those listed under the specific bilateral or multilateral treaty. For those countries with which no such treaty exists, extraditable offences are the ones whose minimum punishment it at least one year. Chapter II and Chapter III of the act distinguish the procedure for establishing the case 'fit' for extradition.[46]

It is important to note that the application of any extradition request under Chapter II shall be completed only after a magisterial inquiry. On request of the central government the magistrate shall issue warrants against the fugitive.[47] Arrest warrants based on evidence or justified in law also be issued against a fugitive *suo moto* by the courts.[48] For this purpose, the courts have been vested with the power of the sessions or High Court of India.

Fugitives on whom Chapter III of the act is applicable may be apprehended with the help of either an 'endorsed warrant' or a 'provisional warrant'. The central government of India may endorse any warrant issued by the competent court of the state demanding extradition. This is in addition to the power of the magistrate to issue any warrant justified and based on information received. Section 31 of the act places certain restriction upon the surrender of the fugitive particularly in cases of political offences, offences punished with death penalty and time barred offences, among others.

The Fugitive Economic Offenders Act, 2018, is an Indian law aimed at addressing issues related to economic offences committed by individuals who flee the country to avoid legal proceedings. It has some novice provisions to tackle criminals of economic offences.

According to the Act, someone who has committed a scheduled offense (such as bank fraud, money laundering, etc.) and fled India in order to avoid punishment is considered a fugitive economic offender. Authorities may temporarily seize the property of fugitive economic offenders both in India and outside thanks to the Act. This is done in an effort to keep the criminal from profiting from their illicit actions. The Act ensures that cases involving fugitive economic offenders are handled properly and quickly by creating special courts for their prompt trial. To deter criminals from escaping, the act stipulates that anyone designated as a fugitive economic offender is not eligible to request bail for any scheduled infraction. In India, fugitive economic offenders are not permitted to represent themselves in any civil or criminal proceedings. This bill is yet to be enacted as law.

Extradition laws and treaties in India is subject to the country's legal and constitutional framework, including fundamental rights protections and other

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[46] Chapter II is applicable in cases of Extradition of Fugitive Criminals to Foreign State to Which Chapter III Does Not Apply. Chapter III is applicable to those cases Return of Fugitive Criminals to Foreign States, With Extradition Arrangements.

[47] *Supra note* 28, S. 5-6.

[48] *Id.*, S. 9.

humanitarian considerations. Indian courts play a significant role in interpreting and applying extradition laws and treaties, ensuring compliance with human rights standards and constitutional principles.

V

Expectations from Extradition

Extradition revolves around ensuring fairness, justice, and international cooperation. Individuals must legally be accountable for crimes committed in another jurisdiction. Fairness and justice is centric to all legal procedures. Extradition should respect the legal rights of the individual, ensuring they have access to legal representation and the opportunity to contest the extradition.

Language and Communication: In consonance, countries are advised to adopt standardized practices of reciprocation in dealing with extradition, a solution that goes a long way in minimizing ambiguities and undue practices. This stems from the assertion that given treaty provision is cast in well-defined terms, it is possible for either the organization at large or individual States to follow clear-cut guidelines with respect to their rights and/or obligations. Thus, model treaties and Laws with in-depth procedural and fitting timelines are critical in ensuring the legitimacy of a fair legal process and the dependable coalition of international law. Cooperation shall thereby be advanced among states. There should be proper and effective communication among countries for smooth and expedited processing of requests. Individuals being subject to extradition should be apprised of information concerning charges levelled against them as well as information concerning the extradition process itself.

Risk management and reliability of treaties: Countries should abide by their treaties on extradition, for predictability as to whether or not extradition can be granted regarding a particular offense. The particular examination of risk analysis should be based on various aspects that encompass the exercise of human rights and possibility of unfair trial rights.

Legal training should be granted to lawyers and police officers, so that they can adequately understand the law regarding extradition. More resources should be injected into the extradition field to assist in termed efficiency and curtail delays. More clarity and predictability foster more global cooperation in crime prevention, including mounting the rights of suspects.

Another remarkable angle regarding how to ensure that the basic essence of human rights is not sternly contravened notwithstanding the punishment of the law-keeping is done is not right. This one is the interface of the inalienable right not to be subjected to torture or inhumane treatment and of criminal justice. Naturally,

every fugitive whosoever makes a leap across the borders is running mostly out of fearfulness. Interestingly, the issue is explicitly related to the horizontal application of this universally-protected right. If not followed it violates an international norm that expressly requires the application of the broadest interpretation to benefit an individual.

The balance must be struck everywhere and the only possible extradition should show some proportionality vis-a-vis the crime the individual has committed and the possible threat which carries for him. Such principles of extradition law as proportionality and necessity function to ensure fairness and justice during the process. In general, minor crimes are not extradited. In practice, courts consider this principle, allowing them to distance from extradition charges that do not demonstrate proportionality and enough necessity. Consequently, adherence to this exemplary expression is likely to go a long way in achieving its aims-in ensuring the sanctity of legal systems while protecting individual rights, as entrusted to society in the war against crime.

One such criterion is the alleged composition of offences, whether excessive or disproportionate, the presumption being extradition can be refused as a real issue of justice. If the territorial or the extraditing state takes all possible alternatives into account, it will find the best solution other than extradition, such as prosecuting the fugitive in its own jurisdiction or by seeking legal assistance. Legitimate legal needs should be the basis of need for extradition; private gain should never be the subject of government activity.

To ensure the proper handling of extradition requests, fairness necessitates limiting the time the proceedings take. More should be done to speed up the extradition process limiting delays that occur and jeopardize justice and human rights. Appropriate resources should be provided for training law enforcement personnel in respect of extradition matters in different countries.

VI

Realities and Problems Faced During Extradition

Extradition was not envisaged as a bed of roses and when there is such a system, all frailties start showing up. Many of the most challenging issues and concerns today arise in this specialist field of extradition law. The most significant fear about extradition requests is that political motive is involved. Requests may at times be lodged not for legal reasons but for reasons that are political. Governments may request the extradition of individuals for political reasons such as: to stifle dissent, to target political opponents. Striking the right balance between the principles of criminal justice and the potential for abuse of the extradition process is a very serious challenge as of now.

Another rising concern is compliance with the Human Rights obligations. Extradition involves the transfer of individuals across borders, which raises human rights concerns. There is a risk that individuals might face torture, inhumane treatment, or an unfair trial in the requesting country. It is the duty of the extraditing court to evaluate whether a fugitive will face a real risk of being subjected to such cruel treatment if handed over.[49] Individuals' human rights are protected throughout the process.

Cybercriminals can operate from any location worldwide, making it difficult to apprehend and extradite them. Different legal frameworks and varying levels of cooperation between countries complicate the extradition process in such cases. Updating extradition laws to keep pace with these technological developments is crucial.

Differences in legal systems and definitions of crimes across jurisdictions can create obstacles to extradition. Achieving greater harmonization and mutual recognition of offences for the purpose of Dual criminality principle is essential. For example, The Attentat Clause is a limitation or exception to the political crime, which otherwise outside the ambit of extradition.[50] So the concept of offence has to evolve with the change in time.

Sometimes extradition requests can conflict with principles of asylum and non-refoulement, which prohibit the transfer of individuals to countries where they may face persecution or torture. Balancing between extradition requests and the protection of persons claiming asylum is a multi-faceted problem. The resolution of such issues would call for intergovernmental dialogue, while requiring mutual understanding and attention for the law and procedures related to the extradition law.

Local politics may have an impact on extradition cases concerning India. The geo-political atmosphere within India and in the requesting area may influence decision-making, public opinion, and the overall result of the extradition proceeding. Following are ways in which national politics could affect an extradition to India.

Extradition cases typically receive substantial public notice and media attention. As a consequence, perceptions of the accused person, the nature of the alleged crime, and the political context surrounding the case will influence public opinion and influence the government's approach to extradition. The public attitude and media

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[49] *Soering* v. *The United Kingdom*, (1989) EHRR 439.

[50] For example, in 1855, a Belgian court invoked the political offense exception to deny a French request for extradition for a fugitive who had placed a bomb under the railway line over which Emperor Napoleon III was traveling. This decision led the Belgian legislature, the country in which the exception was first codified, to amend the 1833 extradition law, refusing to recognize certain common crimes used by terrorists for political ends as political offenses. The statute provided: An attempt (attentat) against the person of the head of a foreign government or against the members of his family, when this attempt constitutes that act of murder, assassination or poisoning, shall not be considered as a political offense or an act in connection with a political offense.

portrayal can play a role in the decision-making and make extradition politically precarious for authorities to manage.

Extradition involving high-profile individuals or sensitive political matters. The relationship between the requesting country and India-whether by historical links, trade ties, or any other political alliance-may impact the decision-making process. Governments would factor in consequences for their bilateral relations before granting or denying extradition.

Municipal Legal Process and Judicial Independence: Municipal legal proceedings and the independence of the judiciary play a significant part in any extradition case. A set of accused persons or defense counsel may take up the cause of resisting the extradition on constitutional grounds, human rights concerns, or international obligations. The political pressures from outside may weigh heavily on the court's interpretation and decision making, but it is of utmost importance for the maintenance of the character and independence of the judicial process. The standard of evidence required for an extradition is sometimes higher in some countries than in others. This induction may deeply affect the proceedings within the domestic courts.

Extradition cases can have implications for a country's international reputation. The way extradition requests are handled can impact perceptions of the country's commitment to the rule of law, human rights, and international cooperation. Governments may consider the potential reputational consequences before accepting or denying extradition requests. In recent years India has made a significant development in bringing back the fugitives for trial. India alone has brought the highest number of, 49, fugitives in 2022-23 alone.[51] As per reports, the improved relationship with the middle east has greatly benefitted India.[52]

It is important to note that extradition proceedings should ideally be driven by legal considerations, adherence to international obligations, and respect for fundamental rights. However, apart from treaty limitations, the influence of domestic politics cannot be entirely separated from the extradition process, and political dynamics can introduce complexities and challenges in ensuring a fair and transparent extradition process. So is the domestic public opinion can impact decisions, especially if the case has garnered significant media attention. Protracted proceedings also pose a hindrance to the timely completion of requests.

These factors make extradition a challenging and sometimes contentious issue in international law. Notably each extradition case is unique and can involve complex legal considerations. The specific procedures and requirements may vary

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[51] Ananya Bhardwaj, *414 such criminals, who were in India, were traced and their whereabouts conveyed to the countries concerned, available at :* https://cbi.gov.in/assets/files/media/1761465007Final%20Clippings%20dt.%2028.11.2023.pdf (last visited Aug. 20, 2024).

[52] *Id.*

depending on the country from which extradition is sought and the applicable laws and treaties. Therefore, it's advisable to consult the official guidelines, relevant legal resources, or seek professional legal advice when dealing with specific extradition cases in India.

A careful study of the case studies/ case laws of extradition reflects upon the technicalities of the procedure and the difficulties of extradition. Despite the idealistic talks of reciprocity and cooperation among States, the municipal laws overpower international obligations and judicial review influences the administrative sovereignty. This is where the real difficulty lies in matters concerning extradition. A fight between persecution and prosecution, an adjustment must be attained. Since this process is partly administrative and partly judicial, obstructions are bound to happen. Following are some leading extradition cases that India witnessed. A careful reading of these reflect on the procedural hindrances and technicalities that affect extradition requests.

VII

Notable Extradition Cases

As discussed earlier this paper is a doctrinal analysis of some notable extradition cases wherein the government of India initiated extradition proceeding. Some were successful and the others couldn't see the light of the day due to legal technicalities which are largely influenced political reasons. The first notable instance of independent India is the C. G. Menon case of 1954. The Fugitive Offenders Act, 1881, which was made applicable to British India, was declared inapplicable by the Honourable Supreme Court of India as it did not keep alive any of the provision of British Law.[53] This can also be found in violation of Article 14, Right to Equality under the Constitution of India by the High Court of Madras. Though this reasoning was not accepted by the Supreme Court.

In another this case[54] the decision of the Additional District Magistrate II to allow extradition of the accused was challenged in the High Court of Madras. Sankaranarayana Rengan Reddiar was a politician in from Tamil Nadu. In the 1950s, he was implicated in a scandal involving the misappropriation of funds. He fled to the United States to avoid prosecution, which led to a request for his extradition back to India. The extradition was hindered by various legal challenges, including

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[53] *The State of Madras* v. *C. G. Menon and Another*, 1954 AIR 517, 1955 SCR 280. It was held that the scheme of the Indian Extradition Act, which was founded on the English Act, is quite different. It does not specifically keep alive any of the provisions of Part II of the Fugitive Offenders Act, 1881, and therefore is no adaptation of the Fugitive Offenders Act, 1881 within the four corners of the Indian Extradition Act, 1903.

[54] *In Re: Sankaranarayana Rengan Reddiar* v. *Unknown*, (1962) 2 MLJ 256.

questions about the sufficiency of evidence and the legal standards required for extradition. Ultimately, Reddiar's case did not result in his extradition, and he remained abroad, raising discussions about political accountability and legal enforcement in corruption cases.

In the matter of *State of West Bengal* v. *Jugal Kishore More & Anr*[55] the primary issue was the warrant issued by the magistrate vide the Central Government Notification of 1955 in furtherance of the judgement of Menons's Case.[56] Since Hong Kong was not part of the First Schedule of the Extradition Act, 1962, the warrant was challenged. The Supreme Court upheld the validity of a warrant issued by a competent court. Any request of extradition in furtherance of the warrant is not an extra territorial exercise of jurisdiction but only apolitical request.

In 1970**,** Jayanthi Dharma Teja a citizen of Indian absconded. His passport was cancelled on October 18, 1966, after he could not be located. In February 1967, he and his wife were found in the U.S., seeking permanent residency. The Indian Consul General requested U.S. authorities to start deportation proceedings, and their passports were cancelled and impounded. The Delhi Special Police Establishment sought arrest and extradition warrants on February 28, 1967, which were issued on April 27, 1967. The petitioner and his wife were arrested in the U.S., released on $25,000 bail each, later reduced to $10,000, but they jumped bail. Their bail bonds were forfeited, and extradition orders were issued. In September 1967, the petitioner fled to Costa Rica using a safe conduct pass, claimed to have renounced Indian citizenship from April 26, 1970, and applied for permanent residency and citizenship there. In June 1970, his wife and children remained in Costa Rica while he travelled on a diplomatic passport from June 1970. On July 24, 1970, he was arrested at Heathrow Airport in London with a Costa Rican passport under the name Jayanti Dharma Konduru. Extradition proceedings in London were successful up to the Queen's Bench Division.[57] The petitioner was ultimately extradited to India[58]. The period in British jail during the pendency of the extradition proceedings was included in the period of detention as envisaged in Section 428 CrPC.

The infamous Warren Anderson, the former CEO of Union Carbide Corporation, was involved in the Bhopal gas tragedy, one of the world's worst industrial disasters that occurred in 1984 in Bhopal, India. The disaster resulted in the release of toxic gases from a pesticide plant owned by Union Carbide, causing thousands of deaths

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[55] 1969 AIR 1171; 1969 SCR (3) 320.

[56] *Supra note 54*. The Fugitive Offenders Act, 1881, was held unenforceable after 26th January, 1950. The Government of India, Ministry of External Affairs, issued a notification on May 21, 1955, indicating the procedure for securing the presence of a fugitive offender in India from the United Kingdom and other Commonwealth countries.

[57] *Regina* v. *Governor of Pentonville Prison*, *Ex parte Teja*, [1971] 2 WLR 816.

[58] *Jayanthi Dharma Teja* v. *State of Andhra Pradesh*, 1975 SCC OnLine AP 30**.** Later tried under the Income Tax Act, 1961.

and injuries. The Indian government sought the extradition of Warren Anderson to face charges in India for his alleged role in the Bhopal gas tragedy. However, there were several reasons why he could not be extradited:

Lack of an extradition treaty: At the time of the disaster, there was no extradition treaty between India and the United States. Extradition treaties serve as the legal basis for extraditing individuals between countries. Without such a treaty, the process becomes more complicated.

Diplomatic complications: Extradition cases can have diplomatic implications. In the case of Warren Anderson, there were diplomatic sensitivities and considerations involved in the extradition request. The U.S. government had concerns about the fairness of the Indian legal system and the treatment Anderson might receive if extradited.

Legal hurdles: Extradition requests must meet certain legal requirements and standards in both the requesting and requested countries. There may have been legal obstacles or challenges in meeting those requirements in Warren Anderson's case. Warren Anderson passed away in 2014. After his death, the legal proceedings against him came to an end.

Tiger Memon, Yakub Abdul Razak Memon, became a principal planner and part of a group that carried out bomb attacks in Bombay, India, in 1993. Tiger Memon was chief of the planning and funding of the attacks. Nevertheless, Nepal captured this dangerous criminal in 1994 and gave him to India for trial. He had several charges levied against him, including conspiracy, murder, and terrorist activities. Tiger Memon was tried by a special anti-terrorism court in Mumbai in 2006 and was sentenced to death for having played a major liability in the bombings.

A cooperative effort between the Indian and Nepalese authorities ended in his arrest and transfer to India from the trial.

One of the key cases was the extradition of Abu Salem from Portugal to India.[59] Once a gangster and one of the top underworld figures repeatedly involved in many crimes, including the 1993 bomb blasts in Mumbai; he was believed to have been engaged in extortion and other organized crimes. The Portuguese police arrested Abu Salem under extradition treaties made with India, and thereafter the case went into litigation. At this point, there took place negotiations between India and Portugal's diplomatic missions working behind closed doors. Finally, on September 20, 2005, the courts in Portugal ruled in favor of his extradition to India, and, as a result, Salem was handed over. Awaiting his involvement again in the Indian lower court, he was tried in multiple cases simultaneously for murder and whatnot. It was the Mumbai trial of the 1993 blasts, in which Abu Salem was sentenced to life imprisonment in 2017.

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[59] *Abu Salem Abdul Qayoom Ansari* v. *State of Maharashtra,* (2011) 11 SCC 214.

He has also been convicted in other cases related to extortion and murder. Salem had filed a petition before the Supreme Court claiming violation of the specialty clause.[60]The court dismissed the appeal for the reason that he was being tried with offences having lesser punishment than the offence for which he was brought to India. Conversely, the Court of Appeals of Lisbon determined in an order dated September 14, 2011, that the authorization for Abu Salem's extradition should be rescinded due to its violation of Article 16 of Portuguese Law. The conclusion was that there is no obligation on the requesting state to remit the fugitive back. It is humbly submitted that such prerogative of rescinding the extradition is with the administrative authorities and not the courts.

In the matter of Daya Singh Lahoria the Supreme court held:

> *that a fugitive brought into this country under an Extradition Decree can be tried only for the offences mentioned in the Extradition Decree and for no other offence and the Criminal Courts of this country will have no jurisdiction to try such fugitive for any other offence.*[61]

First Information Report (FIR) No. 84 of 1995 was registered at Malviya Nagar Police Station, Jaipur on February 26, 1995 against Daya Singh Lahoriya and two more accused persons for offences punishable under Sections 353, 420, 468, 471, 472, 473, 474 read with Section 120B Indian Penal Code ('IPC' for short), for offences punishable under Sections 4 and 5 of the Explosive Substances Act, 1908, Sections 7 and 25 of Arms Act, 1959 and Section 18 of Terrorist and Disruptive Activities (Prevention) Act, 1995 etc. He was in possession in arms and ammunitions. They fabricated certificates and carried out several crimes like abduction to coerce the Indian government to release a Khalistani terrorist. [62] US District Court for the Northern District of Texas - 932 F. Supp. 802 (N.D. Tex. 1996) June 11, 1996-- upheld the extradition of Daya Singh Lahoria and his wife. In another case[63],the Supreme Court upheld the sentence of imprisonment for life for the accused for his conviction for an offence punishable under Section 364A IPC.

The extradition of Kulvir Singh Barapind arises from events in Punjab, India, during the mid-1980s to early 1990s, when some Sikh insurgents sought to create an independent state called Khalistan. Tensions peaked with Operation Bluestar in June 1984, when Indian forces stormed the Golden Temple, leading to significant casualties and damage.[64] This incident, known as the Golden Temple Massacre, intensified Sikh militancy, culminating in the assassination of Prime Minister Indira

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[60] *Abu Salem Abdul Qayoom Ansari* v. *State of Maharashtra*, (2011) 11 SCC 214.

[61] *Daya Singh Lahoria and Ors.* v. *Union of India and Ors*, MANU/SC/0260/2001.

[62] Daya Singh along with his wife fabricated Registration Certificate for purchasing several vehicles in order to carry out conspiracy of kidnapping and abducting one Rajender Mirdha, son of Shri Ram Niwas Mirdha to exert pressure on the Government of India to release one Devendra Singh Bhullar, an alleged Khalistani terrorist who was being held in custody by the police.

[63] *Supra note* 62.

[64] *Barapind* v. *Enomoto*, 400 F.3d 744, 747 (9th Circuit, 2005).

Gandhi by her Sikh bodyguards in October 1984. The ensuing decade saw violent clashes between militants and the Indian government, resulting in an estimated 30,000 to 100,000 deaths. Barapind, a college student and member of the All-India Sikh Student Federation, became a prominent figure in the Sikh separatist movement. He rose to the position of president for the Federation's Jalandhar district by 1988. Barapind faced harassment and threats but continued his activities. Several First Information Reports (FIRs) were filed against him for serious crimes., Arrest warrants were issued for Barapind. He entered the U.S. in 1993 under a false name and was detained. He applied for asylum, claiming persecution fears due to his Sikh separatist activities, but his application was denied, and the exclusion order was affirmed. He filed multiple habeas petitions challenging his detention and the BIA's stay of his immigration proceedings. In 1997, India sought his extradition. After extensive hearings in re Extradition of Singh,[65] the U.S. District Court for the Eastern District of California found Barapind extraditable for several murders but barred extradition on some charges due to the political offense exception. Despite Barapind's appeals, the court upheld the extradition decision, and he remains in custody pending his limited surrender to India.

The court decided that the political offense exception to extradition does not apply to individuals who commit acts of indiscriminate violence, such as the killings of civilians and police officers, even if these acts are politically motivated. The court emphasized that democratic institutions and the rule of law must be the means through which political change is pursued, rejecting the notion that revolutionaries have the right to determine their tactics, which might include violence. The decision aligns with the Seventh Circuit's approach in Eain case, recognizing that acts of terrorism and crimes against humanity cannot be shielded by the political offense exception.[66]

In the proceedings of Kulvir Singh Barapind, the accused sought to halt his extradition to India on the grounds that he would be subjected to torture there. The U.S. Department of State communicated with the Government of India (GOI) and received assurances through diplomatic notes in 2005 and 2006 that Barapind would not be tortured. These assurances were not part of a formal contract but were inferred from the communications exchanged. Satisfied with the assurances, the Department proceeded with Barapind's extradition in June 2006.[67]

Upon his extradition, Barapind was acquitted of three criminal charges by Indian courts in May 2008 and released. He then resumed his activities with pro-independence organizations for Punjab. On September 20, 2012, Barapind was

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[65] In re Extradition of Singh, 170 F. Supp. 2d 982 (E.D. Cal. 2001).

[66] *Abu Eain* v. *Wilkes*, 641 F.2d 504. It involved the extradition of Ziyad Abu Eain from the United States to Israel.

[67] *Gill* v. *Imundi*, 1:13–CV–0667 AWI GSA. 2014-09-26; *Barapind* v. *Government of the Republic of India*, 50 F. Supp. 3d 1388, (E.D. Cal. 2014).

arrested again on new charges and claimed he was tortured by local police from September 21 to 25, 2012.

Barapind filed a lawsuit on May 7, 2013, in the Eastern District of California against several defendants, including U.S. government officials. He later dismissed the individual officials from the suit. In his complaint, Barapind alleged that the defendants violated the conditions of his surrender and their legal duty not to subject him to torture as defined by the Convention Against Torture.[68] He sought damages for the torture he experienced and continued to experience. The Government of India's (GOI) motion to dismiss was granted due to the assertion of sovereign immunity. As a result, the court determined that it did not have the subject matter jurisdiction to hear the case against the GOI. Consequently, the court ordered the case to be closed.

Allan John Waters and Duncan Alexander Grant had already left the country when the complaint was filed against them under section 377 of IPC, 1860. Upon the arrest of Waters in USA, in furtherance of interpoles notices, Duncan surrendered as well. The Honourable Supreme Court upheld the sentence passed by the trial Judge.[69] Court set off the time period of detention of Waters spent in USA with the sentence awarded in India. This rule has been made absolute accordingly.

In one the most typical cases of David Coleman Headley (formerly known as Daood Sayed Gilani) is an American-Pakistani national who was involved in planning and conducting surveillance for the 2008 Mumbai terrorist attacks in India. The attacks, carried out by the militant group Lashkar-e-Taiba, resulted in numerous casualties and widespread destruction. Following his arrest in the United States in 2009, David Headley cooperated with American authorities and provided valuable intelligence on terrorist networks and activities. India sought his extradition to face trial for his involvement in the Mumbai attacks. However, his agreement with the US government allowed him to escape the death penalty or extradition to India in exchange for his cooperation in providing information about the attacks and other terrorist activities.[70] David Headley was also sentenced to 35 years in prison following a plea agreement in the US. He has supported the prosecution in being a key witness among the co-accused persons in the Mumbai attacks and leads the legal proceedings in that regard. However, it is important to note that the matters of the plea agreement and sentencing of David Headley were processed in the USA and David Headley was not extradited to India to face trial.

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[68] *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Dec. 10, 1984, 1465 U.N.T.S. 85.

[69] *The Childline India Foundation* v. *Allan John Waters*, (2011) 6 SCC 261.

[70] In 2010, David Headley entered into a plea agreement with the U.S. government, which included provisions that he would not be extradited to India or any other country where he might face the death penalty.

Denmark's Kim Peter Davy, alternatively Niels Holk, was involved in issues of supplying the separatist grouping with weapons in the state of Bengal, India. The government of India has thus asked for extradition, under the arms smuggling case, of Kim Davy. However, Denmark was resisting the handover of Davy, as that was the place where he resided, arguing its own worries about Indian justice and its risk of torture and/or ill-treatment, in the Indian continent, by that legal system itself. In 2011, a Danish court rejected India's extradition request, stating that there were substantial grounds to believe that Davy would not receive a fair trial in India. The court also expressed concerns about the conditions of his detention and the potential for mistreatment. As a result, Kim Davy was not extradited to India.

In the matter of Chhota Rajan, the court held Chhota Rajan liable under 419 , 4 2 0, 467, 468 and 471 of IPC along with u/s. 13(2) PC Act r/w Sec. 120B IPC and section 12 of the Passport Act and the bail bonds were cancelled. Prosecution alleged that during the period 1998− 1999 accused Rajendra Sadashiv Nikalje @ Rajendra @ Nana @ Chhota Rajan S/o Sadashiv Sakharam Nikalje, conspired with three accused persons, all officials of Regional Passport Office, Bangalore and others in matter of dishonest and fraudulent procurement of Indian passport in the fictitious name of Mohan Kumar on the basis of fake and fabricated documents concealing Chhota Rajan's identity, a wanted criminal in several cases. CBI registered RC 7(A)/2015/SCU−V/SC−II/New Delhi on 31.10.2015, on the basis of source information and the investigation was launched who received the information that Rajendra Sadashiv Nikalje @ Chhota Rajan was detained by Indonesian Authorities at Bali, Indonesia, who was brought to India by Interpol team. (Red Notice No. A-360/7-1995). Chhota Rajan was arrested, documents were seized, police remand of this accused was taken, fingerprints/palm prints, and specimen signatures/writings of accused were taken. Further investigation was conducted at Mandya and Bangalore in State of Karnataka by CBI.

Eventually, after due process, Chhota Rajan was handed over to Interpol India by NCB−Interpol Indonesia vide Minutes of Surrender dated 05.11.2015 for onward deportation to India. On deportation to India, Rajendra Sadashiv Nikalje @ Chhota Rajan was arrested on 06.11.2015 and remained in police custody till 19.11.2015. 30. As per charge sheet, the above acts of Rajendra Sadashiv Nikalje @ Chhota Rajan, along with the others constitute the offences under Section 120−B, 419, 420, 467, 468, 471 IPC and 13(2) r/w 13(1)(d) of P. C. Act 1988 and substantive offences thereof. Chhota Rajan was tried for the offences at the Special Court of PC, Act, Bangalore.[71]

Monika Kapoor and her brothers allegedly used forged documents to obtain and sell Replenishment Licences in 1998, causing a $679,000 loss to the Indian government. Charges include conspiracy, cheating, forgery, and using forged documents.

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[71] *CBI* v. *Rajendra Sadashiv Nikalje @ Chhota Rajan & Ors*, 2017 SCC OnLine SC 387.

The Directorate of Revenue Intelligence began investigating in 1999, leading to Kapoor's interview and a complaint filed with the Central Bureau of Investigation in 2002. An arrest warrant (Red Corner Notice, dated Jan. 28, 2003) was issued in 2003, with a charge sheet filed in 2004. Kapoor was declared a 'Proclaimed Offender' in 2006 for evading investigation and trial. Kapoor moved to the U.S. in October 1999 and lived in Queens, New York. She was detained by Immigration and Customs Enforcement in January 2010 for overstaying her visa and released on bond. After her release, India requested her extradition, which was granted by the U.S. State Department. Kapoor was arrested on May 6, 2011, in the U.S. and was awaiting an extradition hearing. The U.S. government pursued the extradition, resulting in Kapoor's arrest and subsequent bail. On April 17, 2012[72], Magistrate Judge Levy certified Kapoor as extraditable but did not revoke her bail. Kapoor's habeas corpus petition challenging this was denied in 2014[73], and the decision was affirmed by the Second Circuit in 2015[74]. Despite Kapoor's appeals, Deputy Secretary of State Antony Blinken issued an extradition surrender warrant on September 18, 2015, affirming compliance with CAT obligations. After reviewing additional materials, the Department of State reaffirmed Kapoor's extradition on August 4, 2016. A new habeas petition challenging the extradition decision filed by Kapoor was denied.[75] The government of India is set to extradite her in coming days.

The name of Fasih Mahmood surfaced in the disclosure statement of the co- accused persons made in case FIR No. 65/2010 under Sections 16/18/20 of Unlawful Activities (Prevention) Act, under Sections 307/120-B IPC and under Section 27 Arms Act, PS Jama Masjid, Delhi.

After he completed his engineering Course in the year 2005, he went away to Dubai. As per the status report dated 02.11.2015 filed by the State, during the course of investigation in case FIR No. 65/2010, PS Jama Masjid, one accused disclosed that the petitioner Fasih Mahmood was his cousin and one of the founding members of Indian Mujahideen. Thereafter, non-bailable warrants were obtained against the petitioner. When it was revealed that at that time he was based in Saudi Arabia and involved in coordinating several terrorist activities of Indian Mujahideen, red corner notice against Fasih Mahmood was got issued. He was apprehended at IGI Airport. His disclosure statements have been recorded on 22.10.2012 and 28.10.2012. Eventually he was denied bail third time, and he was deported to India.[76]

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[72] *USA* v. *Kapoor*, 11-M-456 (RML), 2012.
[73] *Kapoor* v. *Dunne*, 12-CV-3196 (FB), (E.D.N.Y. May. 7, 2014).
[74] *Kapoor* v. *Dunne*, 14-1699-pr, (2d Cir. 2015).
[75] *Kapoor* v. *Demarco*, 16-CV-5834-FB, (E.D.N.Y. Sep. 20, 2022).
[76] *Fasih Mahmood* v. *State (NCT of Delhi)*, MANU/DE/0399/2016.

In *Sanjeev Chawla* v. *The State*[77], Chawla was termed accused no. 4 for the alleged crime of match fixing during year 2000 matches of India-South Africa.[78] An extradition warrant was obtained on 27 Feb 2015 by the Prosecution and a request was made by Government on 1st Feb 2016. Mr. Chawla was arrested and brought before Westminster Magistrates' Court on June 14, 2016. The District Judge had ordered Mr Chawla's discharge because having considered conditions in the Tihar prisons in Delhi, sometimes referred to as Tihar jails, and an assurance dated 28 February 2018 ('the first assurance') provided by the Indian Central Government but the District Judge held otherwise.[79]

One the most awaited matters is of Zakir Naik, an Islamic preacher and public speaker from India who is known for his controversial statements and views. He has been accused of promoting religious hatred and inciting violence through his speeches. In 2016, following allegations against him, Zakir Naik left India and has since resided in Malaysia.[80] The Indian government declared him a fugitive and sought his extradition to face charges in India. The charges against Zakir Naik include inciting communal disharmony, promoting enmity between different religious groups, and money laundering. His request for extradition is pending with the Malaysian government.

In 2017, Badesha and Sidhu were charged in India for allegedly arranging an honor killing that occurred there.[81] Badesha is the victim's uncle, and Sidhu is her mother. India sought there for the offence of conspiracy to commit murder. Their arrests were ordered. The Court of Appeal held otherwise but in further appeal to Supreme Court of Canada, the surrender orders of the Minister restored.[82]

Again in 2017 one Willy, Wuthikorn Naruenartwanich**,** was accused of Sections 120-B, 121-A, 122 of IPC along with Sections 16, 17, 18 and 20 of the UAPA Act, 1967 according to the chargesheet filed by NIA in the court of Special Judge, Patiala Courts. A Red Notice No.A-4138/7-2011 was sent by the Government of India, pursuant to which, the Royal Thai Police arrested Willy in Bangkok on 30.08.2013,

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[77] MANU/DE/0512/2020.

[78] *Id,* FIR NO. 111/2000 dated 22.07.2013 at Police Station, Chanakya Puri, Delhi.

[79] He had concluded that there was a real risk of treatment contrary to the right in article 3 of the European Convention on Human Rights, 1950, 213 U.N.T.S. 221.

[80] Ministry of External Affairs, *Question No. 651: Extradition of Zakir Naik*, *Rajya Sabha*, *available at*: https://www.mea.gov.in/rajya-sabha.htm?dtl/29210/QUESTION+NO651+EXTRADITION+OF+ZAKIR+NAIK (last visited Aug. 13, 2024).

[81] *India* v. *Badesha*, 2017 SCC 44.

[82] *Id*., FIR No. 48/2000. Minister of Justice ordered their surrenders, after receiving assurances from India regarding their treatment if incarcerated, including health, safety and consular access, and determining, in accordance with s. 44(1)(a) of the Extradition Act, that their surrenders would not be unjust or oppressive. The main criminal case titled *State of Punjab* v. *Surjeet Singh*, SC/83/2019, the first hearing on 3rd May, 2019, and is pending in the court of Bhangarh, Ludhiana, at the stage of Prosecution evidence.

held in custody and thereafter, extradited and transferred to the custody of NIA on 08.12.2015. The appellant on 08.12.2015 was remanded to custody with the NIA. Upon the expiry of the remand, the appellant has been detained in judicial custody since 23.12.2015.[83] Willy was let out on bail by the Delhi High Court.

Christian Michel James was arrested on December 4, 2018 after being extradited from Dubai. He is termed as a 'Middleman' for the alleged illegal transaction that took place in the VVIP chopper scam. ED filed chargesheet against Michel in June 2016 alleging that he received EUR 30 million (approximately Rs 225 crore) from AgustaWestland. Despite continuous efforts, his bail declined again.[84]

The well-known Nirav Modi extradition case is a high-profile legal proceeding involving the extradition of Nirav Modi, an Indian businessman and jeweller, from the United Kingdom to India. Nirav Modi is the main accused in the Punjab National Bank fraud case, among the largest financial scams in Indian history. In 2018, it was revealed that Nirav and his uncle Mehul Choksi, had allegedly defrauded the Punjab National Bank of over ₹14,000 crore (approximately $2 billion) through fraudulent issuance of letters of undertaking (LoUs). Both were diamond merchants, had allegedly used these LoUs to secure credit from foreign banks, which they used to finance their business operations.

Following the revelation of the fraud, Nirav Modi fled India and eventually ended up in the United Kingdom. The Indian government sought his extradition to face trial in India for charges including fraud, money laundering, and criminal conspiracy. The hearing for Nirav Modi's extradition in the UK courts began upon his arrest on March 2019. The Indian government has provided evidence and legal reasoning for the extradition, while Nirav Modi has contested the charges raised against him and has argued that he will not be given a fair trial once he is sent to India. The hearing has been ongoing with numerous court sessions pertaining to legalities, including discussion on the prisons in India, the fairness of the judicial system in India, and the sufficiency of the evidence presented by the Indian side. Modi's appeals were rejected by the UK courts in 2019.

Along with Nirav, *s*, the uncle of Nirav Modi and a co-accused in the Punjab National Bank fraud case, is also undergoing extradition proceedings to India. Mehul Choksi had fled India around the same time as Nirav Modi and took up residence in Antigua and Barbuda, a Caribbean nation. The Indian government sought his extradition in the PNB fraud case. In August 2019, the Antiguan government granted Mehul Choksi citizenship, which complicated the extradition

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[83] *Wuthikorn Naruenartwanch @ Willy* v. *National Investigation Agency*, 2017 SCC OnLine Del 10056.

[84] *Christian Michel James* v. *Enforcement Directorate*, (2022) 1 HCC (Del) 742; *Christian Michel James* v. *CBI*, 2021 SCC OnLine Del 5596; *Christian Michel James* v. *CBI*, 2022 SCC OnLine Del 732; *Christian Michel James* v. *Central Bureau of Investigation*, MANU/SCOR/18238/2023, *Christian* v. *CBI*, WP(Crminal) No. 140/ 2024.

process. Under the laws of Antigua and Barbuda, the country's citizens cannot be extradited. Mehul Choksi has cited his Antiguan citizenship as a reason why he should not be extradited to India. The extradition proceedings against Mehul Choksi have been ongoing, with legal arguments presented by both sides. The Indian authorities have been working through diplomatic channels, the need for him to face trial in India and are hopeful for the same.

In another case of bank fraud, Vinay Mittal was implicated by CBI in cases alleging siphoning of funds of PNB. Chargesheet was filed against him in the year 2014. He left the country in May, 2015 and failed to appear before Court. Interpole was involved.[85] Pursuant to which, the Indonesian Authorities arrested Mittal on 16.01.2017 in Denpasar, Indonesia. Mittal was extradited in terms of a decree dated 04.06.2018 passed by the President of the Republic of Indonesia pursuant to an extradition request made by the Government of India. Mittal was brought to India by the CBI on 20.09.2018. He was produced before the Special Judicial Magistrate, Ghaziabad on 22.09.2018 and was remanded to judicial custody.

The court set aside the arrest orders for the offences other than extradited offences in relation to which he was returned. Further noting that, the CBI is free to prosecute Mittal in other cases ones the extradition requests in respect of those cases are acceded to by the Republic of Indonesia.[86]

Vijay Mallya**,** prominent businessman and former chairman of Kingfisher Airlines, was involved in a high-profile extradition case between India and the United Kingdom. Mallya was accused of financial irregularities, loan defaults, and money laundering in connection with the collapse of Kingfisher Airlines. Indian authorities sought his extradition to face trial in India for these charges. The extradition proceedings began in 2017 when the Government of India filed an extradition request with the UK authorities. The case went through several legal stages, including hearings in UK courts, appeals, and legal arguments. Vijay Mallya fought against his extradition, contesting the charges and raising various legal arguments to resist his return to India.

In December 2018, the Westminster Magistrates' Court in the UK ruled in favor of Vijay Mallya's extradition. However, he appealed the decision, and in July 2019, the UK High Court granted him permission to appeal on limited grounds. In April 2020, the UK Supreme Court refused Vijay Mallya permission to appeal against his extradition, upholding the previous decisions. The court found that there were no grounds to indicate that the extradition order should not be enforced. Following the

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[85] *A Red Corner Notice was issued against Mittal on 21.10.2016 – Red Corner Notice No. Control: A-9525/10-2016* (21.12.2016)*, available at:* https://www.casemine.com/judgement/in/5f3e66d79fca19172eff920e/amp (last visited Aug. 11, 2024).

[86] *Vinay Mittal* v. *Union of India*, 2020 SCC Online Del 2597.

Supreme Court's ruling, the final decision on Vijay Mallya's extradition rested with the UK Home Secretary, who had to consider various factors, including human rights concerns and an asylum application.

Majibullah Mohammad Haneef was charged with murder of a family in Oman. A trial court order recommended his extradition against which he moved a petition in Delhi High Court. The hon'ble court upheld the decision of Union of India to extradite the Petitioner.[87] Similarly one Sachin Bishnoi alias Sachin Thaan, who was alleged to have been involved in the murder of Punjabi Singer Sidhu Moosewala, was extradited from Azerbaijan to India on 01.08.2023.[88]

Prasad Pujari, wanted in several murder and extortion cases, was arrested in Hong Kong in 2019 on Interpol's notice.[89] He was brought back by the Mumbai Crime Branch officials in March 2024.[90]

The Delhi High Court has affirmed a trial court's decision to recommend the extradition of a German, Bernd Alexander Bruno Wehnelt, charged with child sexual abuse and possession of child pornography, in accordance with the German Criminal Code as per Extradition Act of India. The two countries have an Extradition Treaty considering the Extradition Act and the Extradition Treaty between India and Germany.[91] In Sanjay Bhandari, a wanted in India on tax evasion and money laundering charges, fled to UK in 2016. The UK govt ordered his extradition to India in 2022[92] but the high court allowed him to appeal the order in March 2024.[93]

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87 *Majibullah Mohammad Haneef* v. *Union of India*, W.P.(CRL) 275/2022.

88 *Gangster Sachin Bishnoi extradited from Azerbaijan*, THE ECONOMIC TIMES (Aug. 1, 2023), *available at:* https://economictimes.indiatimes.com/news/india/gangster-sachin-bishnoi-extradited-from-azerbaijan/articleshow/102303583.cms (last visited Nov. 11, 2023).

89 *Ravi Poojari @ Ravi Pralash* v. *Union of India & Others*, W.P. No. 907/2023, WP 907/2023.

90 *Mumbai Crime Branch brings gangster Prasad Pujari back from China on extortion and murder charges*, THE ECONOMIC TIMES, (Mar. 23, 2024), *available at:* https://economictimes.indiatimes.com/news/india/mumbai-crime-branch-brings-gangster-prasad-pujari-back-from-china-on-extortion-and-murder-charges/articleshow/108721311.cms (last visited Nov. 21, 2024).

91 Malavika Prasad, *Sexual offences against children: Delhi HC allows German national's extradition*, THE INDIAN EXPRESS (Feb. 17, 2023), *available at:* https://indianexpress.com/article/india/sexual-offences-against-children-delhi-hc-allowin-german-national-extradition-8472055/ (last visited Nov. 25, 2024).

92 Raghav Ohri, *London court clears extradition of arms dealer Bhandari*, THE ECONOMIC TIMES (Oct. 25, 2024), *available at:* https://economictimes.indiatimes.com/news/international/world-news/london-court-clears-extradition-of-arms-dealer-bhandari/articleshow/95364558.cms (last visited Oct. 25, 2024).

93 *Who is Sanjay Bhandari? Accused middleman in defence and UK money laundering case out on bail under strict conditions*, INDIA TV NEWS (Jun. 22, 2024), *available at:* https://www.indiatvnews.com/news/world/who-is-sanjay-bhandari-accused-middleman-defence-uk-money-laundering-case-bail-conditions-tax-evasion-updates-2024-06-22-938226 (last visited Oct. 25, 2024).

Previously in Kishan Singh, a drug syndicate leader and a British Citizen, extradited to India from UK on 21.03.2021 and was sent to judicial custody. He was wanted by the Delhi Police in a case from 2017 wherein 25 kilos of mephedrone (commonly known as meow meow), estimated to be worth about ₹50 crore, was recovered from his three associates. On 17.05.2023[94] in Kishan Singh v. the State, the previously granted bail on 28.04.2023 was not extended and the application was dismissed.[95]

Nikhil Gupta, an Indian national, has been extradited from Czech Republic to United States in connection with an alleged foiled plot to murder Khalistan separatist Gurpatwant Singh Pannun (He has a dual citizenship of US and Cananda). It has been concluded by the Czech Justice Ministry that India's judicial authorities have no jurisdiction in the case. Also the courts rejected the claim of US that India, as a country, has a role in the plot.[96]

Tahawwur Rana's case is also one of the most awaited extradition requests of India. The accused Tahawwur Rana is said to be one of the prime conspirators of the Mumbai Terror Attacks also referred to as the 26/11 Attacks infamously. He is a Pakistani-origin Canadian businessman who intentionally plotted, aided, and assisted David Hedley, the American militant, also known as Daood Gilani. The India government was allowed to request extradition which succeeded in August 2023, where the US court allowed the extradition of Rana. It was considered a great victory for the Indian government.[97] Later, in November 2024, Rana filed for a writ of certiorari, a review, against the Supreme Court of the United States, which was denied by the court. Later the extradition request was publicly approved by President Donald Trump in February 2025.

Ramanjit Singh aka Romi has been brought back to India after a successful extradition request with the government of Singapore. Romi is said to be committed

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[94] *Kishan Singh* v. *State*, Criminal Writ Petition No. 786/2023.

[94] *Id*.

[95] *Kishan Singh extradited from UK: Know facts about international drug syndicate mastermind*, INDIA TODAY (Mar. 23, 2021) *available at:* https://www.indiatoday.in/india/story/kishan-singh-extradited-uk-know-facts-international-drug-syndicate-mastermind-london-1782495-2021-03-23 (last visited Dec. 21, 2024).

[96] Agency, *India's judicial authorities have no jurisdiction in Nikhil Gupta case: Czech Justice Ministry*, THE TIMES OF INDIA (Dec. 20, 2024) *available at*: https://timesofindia.indiatimes.com/india/indias-judicial-authorities-have-no-jurisdiction-in-nikhil-gupta-case-czech-justice-ministry/articleshow/106215838.cms (last visited Dec. 20, 2024).

[97] PTI, *US court allows extradition of 26/11 attack accused Pakistani-origin Canadian Tahawwur Rana to India*, THE HINDU (May 17, 2023) *available at:* https://www.thehindu.com/news/national/us-court-allows-extradition-of-2611-attack-accused-pakistani-origin-canadian-tahawwur-rana-to-india/article66863630.ece (last visited Jan. 21, 2024).

28 equivalent offences (equivalent to Indian crimes) in Singapore, a jail break being one of them.[98]

These cases reflect the amount of time and technicalities that are involved in extradition processes. Changing political scenarios in India have affected the requests greatly, as has world politics. The natural shifts in world order have also greatly influenced the approaches adopted towards such requests. Different principles of state jurisdiction for example, the nationality principle, weigh heavier when compared to international obligations. Overall, the extradition journey is not smooth. Last fifteen years have been beneficial to India in terms of improved relationship with countries and international cooperation.

VIII

Way Forward

Extradition matters can be intricate, frequently encompassing legal, diplomatic, and human rights factors. When trying to settle extradition disagreements, it is crucial to adopt a methodical approach that considers several factors. There may be different ways to address these challenges. To begin with one has to start from the beginning. The initial step is to verify whether there is a current extradition treaty between the country making the request and the country being requested. In the absence of a treaty, one might have to depend on mutual legal assistance agreements or established international law. Another is clarifying the grounds for extradition. When the legal grounds for extradition are ambiguous or political tensions exist, diplomatic discussions between the nations involved may be required. Both sides must collaborate to reach a solution that maintains legal standards while tackling humanitarian issues. When the legal grounds for extradition are ambiguous or political tensions exist, diplomatic discussions between the nations involved may be required. Both sides must collaborate to reach a solution that maintains legal standards while tackling humanitarian issues.

In scenarios where extradition lacks chances of completion, perhaps countries would be willing to join hands through mutual legal assistance treaties (MLATs) on the basis of evidence exchange or allow persecution in the state of the individual's habitat. The rights of the individual involved must never suffer during the period of extradition-and this includes the right to a proper hearing, legal representation, and the ability to challenge extradition. Sometimes, these cases of extradition might involve a great deal of attention from the public. Governments occasionally need to weigh out community sentiment or political consequences of acceptance or refusal

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[98] *Fugitive Ramanjit Singh extradited to India from Hong Kong*, THE STANDARD (June 29, 2020) *available at:* https://www.thestandard.com.hk/breaking-news/section/4/219704/Fugitive-Ramanjit-Singh-extradited-to-India-from-Hong-Kong (last visited Aug. 25, 2024).

to extradite. An extradition refused or granted can bring about wider diplomatic rumbles. Most countries will weigh the merits of a legal case concerning the likely impact on their relations with the particular one.

The institution of extradition is to promote justice. It ensures that individuals accused of a serious offense cannot avoid punishment by seeking refuge in a different state. It is hoped that the existence of extradition treaties will create barriers for criminals crossing state lines. Looking at it through the eye of a victim, the existence of extradition laws may deter criminals from fleeing, knowing they can be pursued and returned to face charges. They have built for us a system over the past one and a half century dealing with cross-border crime, enshrining order in law and enhancing international cooperation. The prosecution of these transnational outlaws is one example of a wider commitment to the achievement of global security and the winding up of the bold war on terrorism, narco-terrorism, and human trafficking.

The process of extraditing fugitives is long, complicated, and highly coloured with the domestic law and politics from the applicants, nominally supported by the legally binding treaty procedure. This is merely because the ultimate decision on extradition has to rest with the sovereign. Nevertheless, even in this huge realm of variables related to extradition, India does have some chances to control. India might find the solution to these issues easier with dedicated concentration and count on getting favourable results. As the main step, the Indian government would have to try, through diplomacy and bilateral talks, to convince countries to take up requests on an urgent basis. Also, the Indian state needs to reciprocate the foreign nations, clear their extradition requests speedily and justly. Therefore, the Indian authorities shall have to go ahead with the goal of concluding extradition treaties with as many countries as feasible. The Fugitive Economic Offenders Act, 2018 is important for India because it aims to empower the country's legal structure to make strong moves against economic crimes, particularly in reference to conspicuous cases of offenders who made their way out of the country. The act is intended to discourage the commission of these offences by widening the purview of enforcement and facilitating easy return of assets.

The resolution of extradition matters requires a systematic way of weighing legal, humanitarian, and diplomatic interests. The proper process must be followed and international law upheld while granting due respect to the human rights of the individual involved. In instances of a stalemate, the two countries can engage themselves in negotiations or use other means, such as legal assistance or local jurisdiction, to seek a just solution.