

# FUGITIVE CRIMINALS IN AN UNEVEN TERRITORIAL FIELD OF CRIMINALITY- ITS ARTICULATION THROUGH EXTRADITION TREATIES – A CRITIQUE

Written by **Shrabana Chattopadhyay**

Assistant Professor, University of Engineering and Management, Kolkata

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## ABSTRACT

*With the emergence of globalization and improved interconnectivity, it has become very easy for offenders in India to escape to foreign jurisdictions and escape the prosecution in the country. Effective extradition procedures are an essential instrument of international law enforcement, both in relation to national crimes and, increasingly, international crimes. New international legal frameworks are developing with the aim of enhancing international responses to organized crime, including terrorist crimes and drug trafficking. Apart from providing timely justice and grievance redressal, extradition also serves as a deterrent against potential fugitives. However, India's success rate in extraditing fugitives is appallingly low; only one in every three fugitives is being successfully extradited to India. This research paper examines the extradition treaties that India has entered into with various countries, and gives an overview of India's successes and failures in obtaining the return of those offenders. It also studies the challenges India faces when it comes to the question of extradition and lists recommendations to improve India's extradition process.*

## INTRODUCTION:

The old axiom, “no one can outrun the long arm of the law”, illustrates the objective of legal systems that upon committing any offence, the offender—no matter where they are—should eventually be brought to justice.<sup>1</sup> This concept has given birth to the concept of Extradition under International Law. Extradition arose from the terms “ex” and “traditum”, which means

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<sup>1</sup> Shivam Goel, *Extradition Law: Indian Perspective*, SSRN ELECTRONIC JOURNAL (Jan. 20, 2016, 11:05AM), <http://ssrn.com/abstract=2712453>.

“delivery of criminals”, or “surrender of fugitives” or “handover of fugitives”.<sup>2</sup> Therefore, Extradition is the surrender by one nation to another, for trial and punishment, of a person accused or convicted of an offence within the jurisdiction of the latter.<sup>3</sup> It serves as a deterrent against offenders who consider escape as an easy way to subvert India’s justice system. Delayed arrest and prosecution is, undeniably, a threat to India’s peace, safety and security.<sup>4</sup>

However, this delivery of fugitives to the requesting sovereign is mainly based on treaties and/or bilateral arrangements. Sometimes it also occurs by reciprocity and comity as a matter of courtesy and goodwill between the sovereigns concerned.

**Extradition treaty** means, a treaty, agreement or arrangement with a Foreign State relating to the extradition of fugitive criminals. Extradition treaty contains the conditions that need to be fulfilled to continue with the process of extradition and also a list of crimes on the basis of which a fugitive may be detained in the foreign country.<sup>5</sup>

At present, India has bilateral extradition treaties with 43 countries and extradition arrangements with 10 countries (Table 1.1 and Table 1.2).<sup>6</sup> Unlike treaty mechanisms, where states are obligated to consider requests for extradition, “extradition arrangements” are non-binding and do not impose any legal obligations on party states. India is also a party to several multilateral conventions that provide a binding extradition framework for curbing transnational crimes. Requests for surrender of fugitives can also be made to non-treaty states. These requests will be considered in accordance with laws and procedures of the foreign state, and with the assurance of reciprocity from India.<sup>7</sup>

<b>Table 1.1 Countries with which India has bilateral extradition treaties:<sup>8</sup></b>
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<sup>2</sup> Isha Agrawal, *Extradition Under International Law—Aid For The Angst Of Fugitives*, IJLJS, 453, 453-54 (2018).

<sup>3</sup> P. RAMANATHA AIYAR, *CONCISE LAW DICTIONARY*, 476 (5<sup>th</sup> ed., Lexis Nexis 2018).

<sup>4</sup> *Supra* note 1.

<sup>5</sup> Amit Garg, *Extradition Law-How Criminal Procedure Code, 1973 Deals With Extradition*, IPLEADERS (Aug. 4, 2018, 10:28AM) <https://blog.ipleaders.in/extradition-law>.

<sup>6</sup> Ministry of External Affairs (Government of India), *Countries With Which India Has Extradition Treaties/Agreements*, (Aug. 30, 2018, 15:30PM) <https://www.mea.gov.in/leta.htm>.

<sup>8</sup> *Supra* note 6

Azerbaijan (2013)	Nepal (1953)	Tajikistan (2003)	Bhutan (1996)
Egypt (2008)	Oman (2004)	Indonesia (2011)	Kuwait (2004)
Australia (2008)	Tunisia (2000)	Philippines (2004)	Saudi Arabia (2010)
France (2003)	Bangladesh (2013)	UAE (1999)	Ukraine (2002)
Netherlands (1898)	Hong Kong (1997)	Belgium (1901)	Brazil (2008)
Thailand (2013)	Poland (2003)	Iran (2001)	Malaysia (2010)
Bahrain (2004)	Turkey (2001)	Russia (1998)	South Africa (2003)
Germany (2001)	Belarus (2007)	UK (1992)	USA (1997)
Bulgaria (2003)	Mauritius (2003)	South Korea (2004)	Uzbekistan (2000)
Canada (1987)	Mexico (2007)	Spain (2002)	Vietnam (2011)
Chile (1897)	Mongolia (2001)	Switzerland (1880)	Malawi (2018)

**Table 1.2 Countries with which India has extradition agreements:<sup>9</sup>**

Sweden (1963)	Fiji (1979)
Tanzania (1966)	Italy (2003)
Singapore (1972)	Antigua & Barbuda (2001)
Papua New Guinea (1978)	Croatia (2011)
Sri Lanka (1978)	Peru (2011)

India has a fewer number of bilateral extradition treaties compared to other countries. The US and the UK, for example, have extradition treaties with over 100 countries each. For their part, Russia and Canada have extradition treaties with 64 and 49 countries, respectively; China and Pakistan have 50(37 are in force) and 13 respectively whereas India does not have extradition treaties with several neighbor states, such as China, Pakistan, Myanmar and Afghanistan. With the absence of a defined treaty mechanism, India may find it difficult to secure the surrender of criminals who flee to India's Border States.<sup>10</sup> However, even though the States are party to

<sup>8</sup> Supra note 6

<sup>9</sup> *ibid.*

<sup>10</sup> Supra note 7.

any international treaty, they are not strictly bound by it; rather it is the diplomatic relationship between the countries concerned that regulates the grant of extradition process.<sup>11</sup>

### **EXTRADITION LAWS IN INDIA**

Law relating to extradition in India is governed by the Extradition Act, 1962 (amended in 1993) and the Extradition Treaties between India and other countries.

There are several sections of Criminal Procedure Code, 1973 which lays down the procedure which need to be followed in the process of extradition. These sections provide a guidance to deal with the process of extradition. Sections dealing with the process of extradition are<sup>12</sup>:

1. Section 41- When police may arrest without warrant
2. Section 166A- Letter of request to a competent authority for investigation in a country or place outside India
3. Section 166B- Letter of request from a country or place outside India to a Court or an authority for investigation in India
4. Section 188- Offences committed outside India<sup>13</sup>

It is only on affirmation of the extradition order by foreign courts; the foreign government finalizes the extradition order and coordinates with the requested state to surrender the person. All extradition requests should be supported by documents and information as required. If any extradition treaty exists between India and the requested country, the extradition request and documents connected therewith should be prepared on the basis of provisions of Extradition Treaty.

In spite of all these legal arrangements, India faces hurdles when it comes to the question of Extradition. Since 2002, it is seen that till 1<sup>st</sup> April, 2019, there are almost 73 fugitives who are extradited to India. Few of them are reflected in Table 1.4.

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<sup>11</sup> *ibid.*

<sup>12</sup> *Supra* note 5.

<sup>13</sup> *ibid.*

**Table 1.4: Number of Fugitives Extradited to India<sup>14</sup>**

SL. NO.	NAME	NATIONALITY	EXTRADITED FROM	OFFENCES	YEAR OF EXTRADITION
1.	Aftab Ahmed Ansari	Indian	UAE	Terrorism	20.02.2002
2.	Iqbal Sheikh Kaskar	Indian	UAE	Mumbai Bomb Blast	19.02.2003
3.	Monica Bedi	Indian	Portugal	Passport fraud	November 2005
4.	Abu-Salem	Indian	Portugal	Eight Criminal Cases	November 2005
6.	Ubaidullah Abdul Rashid Radiowala	Indian	USA	Attempt to murder, theft among others	01.04.2019 (Deported)

**SOME IMPORTANT CASES:<sup>15</sup>****1. Dr. Babu Ram Saksena v. The State, AIR 1950 SC 155:**

This case deals with section 7 of Indian Extradition Act, 1903; His lordship concluded that 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 Extradition Act has no application

<sup>14</sup> Ministry of External Affairs (Government of India), *List Of Fugitives Extradited By Foreign Governments To India*, (Jan 31, 2019, 15:30PM) <https://www.mea.gov.in/toindia.htm>.

<sup>15</sup> Supra note 1.

and as Section 7 of the Act has been complied with there is no ground upon which we can interfere. Thus the Supreme Court dismissed the appeal.<sup>16</sup>

**2. State of Madras v. C.G. Menon, AIR 1954 SC 517:**

In this case it was held that, extradition with foreign States is, except in exceptional cases, governed by treaties or arrangement made inter-se.<sup>17</sup>

**3. Hans Muller of Nurenburg v. Superintendent, Presidency Jail, Calcutta and ors., AIR 1955 SC 367:**

It was held that the Government of India is not bound to comply with the request and has an absolute and unfettered discretion to refuse.<sup>18</sup>

**4. In Re: K.R.P.L. Chockalingam Chettiar, AIR 1960 Mad 548:**

In this case, the Full Bench of the Madras High Court, after referring to various authorities observed that, extradition must be distinguished from transportation and from deportation, which also results in the removal of a person from the country.<sup>19</sup>

**5. Rajender Kumar Jain & ors v. State through Special Police Establishment & Ors, 1980 (3) SCC 435:**

In this case the Apex Court observed that, politics are about Government and therefore, a political offence is one committed with the object of changing the Government of a State or inducing it to change its policy. To say that an offence is of a political character is not to absolve, the offenders of the offence. But it will be a valid ground for the Government to advice the Public Prosecutor to withdraw from the prosecution.<sup>20</sup>

**6. Kubic Darusz v. Union of India, 1990(1)SCC 568:**

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<sup>16</sup> *ibid.*

<sup>17</sup> *ibid.*

<sup>18</sup> *ibid.*

<sup>19</sup> *ibid.*

<sup>20</sup> *ibid.*

In this case, the Court explained the difference between preventive detention and extradition. After taking note of the facts and circumstances of the case, the Apex Court held that, the continued detention of the detenu has been rendered illegal by non-consideration of his representation by the appropriate Government according to law resulting in violation of Article 22(5) of the Constitution; and he is to be set at liberty forthwith in this case.

**7. Sarabjit Rick Singh v. Union of India, 2008(2) SCC 417:**

In this case, the Apex Court observed that in a proceeding for extradition no witness is examined for establishing an allegation made in the requisition of the foreign State. No formal trial is to be held. Only a report is required to be made. The aforementioned purposes confers jurisdiction and powers only on the Magistrate which he could have exercised for the purpose of making an order of commitment.<sup>21</sup>

**8. Bhavesh Jayanti Lakhani v. State of Maharashtra, (2009) 9 SCC 551:**

In this case it was held that, the superior courts in criminal cases are entitled to delve into the matter albeit the manner in which the red-corner-notice is sought to be enforced and/or whether the local police threatening an Indian citizen with arrest, is doing so without been legally entitled to do so, as except in terms of the 1962 Act.<sup>22</sup>

**9. Mohammed Zubair Fauzal Awam v. State (Represented by the Inspector of Police & Another), 2011 Cri LJ 2975:**

The Court, in this case, observed that, the consequence of a red-corner-notice is that the requesting State may make a deportation request or may take a follow-up action with regards to the arrest of the petitioner, but since formal request was still to be made by the Sri-Lankan Government for extradition of the petitioner, arrest of the petitioner and registration of First Information Report under Section 41(1)(g) of the Criminal Procedure Code, 1973 qua him, was not proper.<sup>23</sup>

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<sup>21</sup> *ibid.*

<sup>22</sup> *ibid.*

<sup>23</sup> *ibid.*

**10. P. Pushpavathy v. Ministry of External Affairs, 2013 Cri LJ 4420:**

In this case it was held that, if a fugitive criminal accused of an extradition offence is arrested pursuant to a legally issued warrant of arrest by Magistrate who was directed by the Government of India to hold necessary inquiry; then in such a case the detention ensuing cannot be termed as illegal or un-lawful. When detention is not illegal or unlawful then no case can be made out for issuance of a writ of habeas corpus.<sup>24</sup>

**11. Savarkar's case<sup>25</sup>:**

The conditions and terms mentioned in the Extradition Treaty should be generally fulfilled. The Court decided that once a person is extradited, even though it was done in irregular way, the Country receiving the fugitive is not bound under international law to return him. This decision, however, has been severely criticized by jurists on the ground that it was not based on sound principles of justice.<sup>26</sup>

**12.** In November 1990, two Burmese students were persuaded to land at Calcutta airport. They had hijacked Thai International Airbus with 205 passengers and 16 membersto highlight the cause of restoration of democracy in their country. Their six-point charter of demands, written in blood, included restoration of democracy in Burma, ending military rule, the release of all political prisoners and a direct dialogue with the Burmese Government. The Indian Government refused to hand them over to Burmese or Thai authorities. However, the Indian Government has charged them under Anti-Hijacking Act, 1982 and for criminal conspiracy.<sup>27</sup>

**CRITICAL ANALYSIS OF SUCCESS OF INDIA IN EXTRADITION:**

The following sections examine the various legal and non-legal challenges that create delays and obstacles to the successful return of fugitives from foreign countries<sup>28</sup>:

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<sup>24</sup> *ibid.*

<sup>25</sup> (1911) 13 BOMLR 296.

<sup>26</sup> DR. S. K. KAPOOR, *INTERNATIOANL LAW & HUAMN RIGHTS*, 347 (Central Law Agency,

<sup>27</sup> Abhishek Puri, *Law Of Extradition And Treaties With Some Countries At International Level*, (Feb. 20, 2017 11:30AM) <http://www.legalserviceindia.com/legal/article-90-law-of-extradition-and-treaties-with-some-countries-at-international-level.html>.

### 1. Extradition Treaties-A hurdle in Extradition:-

Extradition is usually not granted for “political offences”; for nationals of the requested country; offences where death penalty may be imposed; where there will be “double jeopardy”; or where there could be discrimination on account of religion, race and nationality.<sup>29</sup> This is the primary reason why India has been unable to extradite David Headley from the US as Headley, an American terrorist involved in plotting the 26/11 Mumbai attacks, has already been sentenced to imprisonment by US courts, for killing six Americans.<sup>30</sup> However, Headley is yet to be tried by Indian courts for the deaths of nearly 140 Indian nationals in the same attacks.<sup>31</sup>

Challenges to extradition orders outside treaty terms are generally based on concerns of human rights violations, such as torture or cruel, inhuman and degrading treatment. European countries and the United Kingdom have been more amenable to rejecting extradition cases on human rights concerns, such as the possibility of receiving “torture, inhuman and degrading treatment” at the hands of the requesting state.<sup>32</sup> *Soering v. United Kingdom*<sup>33</sup>, a landmark judgment decided by the European Court of Human Rights equated poor prison conditions with “torture” and “inhuman or degrading treatment”.<sup>34</sup>

In 1996, the European Court of Human Rights prohibited the deportation of Sikh separatist, Karamjit Singh Chahal, to India on the possibility of misconduct by Punjab police officials.<sup>35</sup>

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<sup>28</sup> Supra note 7.

<sup>29</sup> Ned Aughterson, *The Extradition Process: An Unreviewable Executive Discretion*, 24 AYIL. 1, 13-14 (2005).

<sup>30</sup> Vijaita Singh, *India To Press U.S. For Headley's Extradition*, TH, September 2, 2016 at 10.

<sup>31</sup> *David Headley: India For US Mumbai Attacker's Extradition*, BBC News, January 13, 2013 <https://www.bbc.com/news/world-asia-india-21192257>.

<sup>32</sup> European Convention on Human Rights, art. 3, (1953).

<sup>33</sup> 161 Eur. Ct. H. R.(ser. A) (1989).

<sup>34</sup> Supra note 7.

<sup>35</sup> Ved P. Nanda, *Bases for Refusing International Extradition Requests—Capital Punishment and Torture*, 23 FLIJ. 1395 (1999).

Similarly, Netherlands refused to extradite Neils Holck (alias Kim Davy), accused in the Purulia arms drops case, due to human rights concerns and prison conditions in India.<sup>36</sup>

Even, Vijay Mallya's lawyers argued that the poor conditions in Arthur Road Jail (Mumbai) will be tantamount to inhuman and degrading treatment. In response to Mallya's challenge, a recent UK Court requested the Indian government to send a video of Arthur Road Jail for evaluating its conditions.<sup>37</sup>

Adherence to treaty commitments is of paramount importance and helps maintain mutual trust, cooperation and reciprocity between countries. An important treaty clause known as the "rule of specialty" mandates that the extradited fugitive will be prosecuted only for the offence for which he was surrendered. For example, when India secured the return of Abu Salem from Portugal, the law enforcement agencies framed additional charges against him for his role in the 1993 Mumbai serial blasts.<sup>38</sup> Portugal widely criticized the move, and the Supreme Court in Lisbon held that India was in violation of extradition rules.<sup>39</sup>

Of late, instances of high-profile fugitives involved in economic offences and financial irregularities have surfaced in India. Notably, diamond jeweler Nirav Modi and his uncle Mehul Choksi, allegedly duped the Punjab National Bank of approximately INR 140 billion.<sup>40</sup> Modi has escaped to London, while Choksi has reportedly taken up citizenship of the Caribbean island of Antigua.<sup>41</sup>

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<sup>36</sup> *Danish Court Says Davy Cannot Be Extradited To India*, Livemint, June 30, 2011.

<sup>37</sup> *Extradition Hearing: U.K. Judge Asks For Video Of Jail Where Vijay Mallya Would Be Held*, TH, July 31, 2018.

<sup>38</sup> Charul Shah, *Gangster Abu Salem Moves European Court Of Human Rights To Cancel His Extradition To India*, HT, February 10, 2018.

<sup>39</sup> *Supra* note 7.

<sup>40</sup> Shaswati Das, *ED Seeks To Seize Nirav Modi, Mehul Choksi Assets; Seeks Fugitive Offenders Tag*, LiveMint, July 11, 2018.

<sup>41</sup> *India Submits Nirav Modi Extradition Request To United Kingdom*, NDTV, August 4, 2018.

India's track record in securing the return of fugitive economic offenders raises concerns as to whether these cases will be resolved swiftly. Thus, considering that India has only been able to secure the return of 13 economic offenders since 2002, the prospect of securing the return of Modi and Choksi, and other economic offenders, looks bleak.<sup>42</sup>

### 2. Effect of delay in investigation, procedural and evidentiary irregularities:-

Extradition procedures are further complicated by unreasonable delays and variance in documentary requirements of foreign countries. Unauthenticated documents and translations not certified by a sworn translator can create doubts regarding the veracity of allegations, and eventually lead to denial of extradition requests. This occurred in 2014 when the Namibian High Court turned down India's request for extraditing Frenchman Mathieu Nicolas Furic, who allegedly committed sexual offences with children in the state of Odisha.<sup>43</sup> When these issues fall below the expected standards of criminal procedure of foreign countries, extradition may be denied too.<sup>44</sup>

While denying a request for extradition for fraud against a British Indian couple, Jatinder and Asha Rani Angurula, the UK court heavily criticised the Central Bureau of Investigation (CBI) for delays, which caused the case to remain pending for 25 years.<sup>45</sup> Delays in investigation also retard the process of submitting extradition requests, or invoking Interpol mechanisms. For instance, as of 2017, no request for extradition has been received from investigation agencies for the return of Lalit Modi, the former chairman of the Indian Premier League accused of financial irregularities in the tournament's 2009 season.<sup>46</sup>

### 3. Interplay between Extradition and Diplomacy, Bilateral relations and Domestic politics:-

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<sup>42</sup> Supra note 7.

<sup>43</sup> Werner Menges, *Extradition Act Sets Bar Too High*, The Namibian, December 3, 2014.

<sup>44</sup> Supra note 7.

<sup>45</sup> *UK Rejects Two Indian Extradition Requests*, TOI, November 5, 2017.

<sup>46</sup> *No Formal Extradition Request Submitted Against Lalit Modi To MEA*, HT, May 14, 2017.

It is often argued that extradition is as much a political process as it is a judicial one. The expeditious processing of requests and the commitment to prepare for and defend the case before Courts depends on bilateral relations and the opportune use of diplomacy and negotiations to push for the process by the requested country.<sup>47</sup>

It took nearly eight years for the Netherlands government to initiate the extradition process for Neils Holck (also known as “Kim Davy”) involved in the “Purulia Arms drop case” and charged with weapons smuggling in India<sup>48</sup> on ground of factual discrepancies, potential human rights violations and apprehension regarding India’s true intentions for seeking extradition.<sup>49</sup> For these reasons, Netherlands appeared to be unwilling to process the request expeditiously.<sup>50</sup>

Political concerns in extradition matters may emerge when the requested state’s legal and political concerns have to be given precedence over those of India. Following the 1984 Bhopal gas tragedy, in May 2003, nearly 20 years after the incident, when India requested Anderson’s extradition from the US on the basis of the criminal charges, the US, however, declined the extradition request on the grounds that it did not fulfill all conditions under the India-US extradition treaty due to lack of evidence.<sup>51</sup> It is also opined that the US was reluctant to impose criminal liability for a case that it primarily regards as a civil liability issue, and wanted to avoid creating a precedent for similar cases against heads of American multinational corporations.<sup>52</sup> Thus, the US gave primacy to its domestic laws and politics and rejected India’s extradition request.<sup>53</sup>

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<sup>47</sup> Supra note 7.

<sup>48</sup> *Purulia Arms Drop Case: Fresh Request To Extradite Kim Davy*, TIEXP, December 18, 2016.

<sup>49</sup> Supra note 7.

<sup>50</sup> *ibid.*

<sup>51</sup> ARJUN SINGH, *A Grain Of Sand In The Hourglass Of Time: An Autobiography*, 179 (Hay House India, New Delhi, 2012).

<sup>52</sup> Ashley J. Tellis, *It Won’t Be Easy To Extradite Anderson*, CE, June 26, 2010.

<sup>53</sup> Supra note 7

However, reciprocity can also play an important part in the return of fugitives between treaty states. In 1993, India sent a request to the UAE for extraditing Dawood Ibrahim, notorious underworld don wanted for the 1993 Mumbai serial blasts. However, UAE asserted that extradition is based on reciprocity, and that India has not responded as quickly to extradition requests of Indians wanted in Dubai including V. Sitharaman, who embezzled 4 million dirhams from a state-owned travel agency, and Ravji Bhai Pawar, a domestic servant who allegedly assaulted a family in UAE.<sup>54</sup>

It is now widely reported that Ibrahim moved to Karachi in 2015, and given that India has no extradition relations with Pakistan, his return to India seems unlikely.<sup>55</sup>

### **SUGGESTIONS:**

In spite of binding treaty mechanisms, the process of extradition of fugitives are very much prolonged, complicated and heavily depends on national law and politics of the requested state as extradition is majorly a sovereign decision. Nevertheless, there are certain factors involved in extradition on which India can exercise control to resolve such issues, and thereby improve its success rate.

Firstly, India should, on the basis of reciprocity and comity, accelerate the process of extradition requests as soon as possible.

Secondly, the Indian government must make good efforts to conclude extradition treaties with as many countries as possible, and take initiative to enter into more bilateral extradition relations.

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<sup>54</sup> Shekhar Gupta, *With Extradition Threat Hanging Over Him, Dawood Hope Lies In Distrust Between India And UAE*, IT, April 30, 1993.

<sup>55</sup> Supra note 7

Thirdly, any preventive law and policy measures which can prevent the escape of offenders need to be explored. The Fugitive Economic Offenders Bill, 2018 definitely signifies the efforts of the government to shift its focus to preventive, ex ante legal mechanisms.

Fourthly, India also needs to improve the poor prison conditions and check the potential human rights violations of the requested person. Even, it is always judicious to take coordinated action to introduce systematic prison reforms and convert Indian prisons into a secure place for rehabilitation.

Fifthly, India could take initiative for signing international instruments, such as the UN Convention against Torture (1984) in order to establish India's zero tolerance towards torture and custodial violence. Moreover, the growing human rights concerns to extradition requests calls for the formulation of rules that attain a fair balance between crime suppression and the fugitive's protection.<sup>56</sup> Therefore, the Human Rights Committee needs to initiate efforts in order to appreciate circumstances beyond which a court may not be extradited.<sup>57</sup>

Sixthly, in order to address the investigational delays, it is imperative to improve the capacity and organizational competences of law enforcement agencies so that they may conduct speedy investigation in these cases. Presently, there are multiple extradition cases such as those related to money laundering, terrorism and economic offences, are either taken up by the CBI or sent to the CBI, by the state police, for investigation and yet not concluded.

Lastly, the Justice Malimath Committee in its report (2003) recommended for setting up a Central Agency, on similar lines with the Federal Bureau of Investigation (USA), to exercise jurisdiction over crimes and offences affecting national security.<sup>58</sup>

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<sup>56</sup> Christine Van Den Wyngaert, *Applying The European Convention On Human Rights To Extradition: Opening Pandora's Box*, 39 ICLQ 650, 778 (1990).

<sup>57</sup> *Supra* note 2.

<sup>58</sup> 1 MINISTRY OF HOME AFFAIRS (GOVERNMENT OF INDIA) COMMITTEE ON REFORMS OF CRIMINAL JUSTICE SYSTEM, 209-212 (2003).

**CONCLUSION:**

In theory as well as in practical terms, the principle of extradition has achieved the position of a facilitator of imprisonment or trial in cases where suspected individual escapes the nation to abscond from being prosecuted.

Lord Griffiths has established in one case<sup>59</sup> that the procedure of extradition aims to transfer the criminal who is suspected of committing an offence from a nation to another. It was held that evidence has to be proved so that a prima-facie matter is made against the suspect in order to preserve and respect the accused individual's human rights. If there is a constant fear in the minds of offenders and criminals where they will be caught or extradited and prosecuted along with being punished severely for committing crimes, it is genuinely going to reduce abundantly crimes and criminals.<sup>60</sup>

Thus, in the nutshell, it can be concluded that the law of extradition and its process is important for maintaining peace and order in the society and also beneficial for punishing the fugitives who were trying to escape from their punishment. However, from the analysis it is quite apparent that success rate of India in extraditing fugitives is appallingly low; only one in every three fugitives is being successfully extradited to India, in spite of the fact that India has certain number of treaties with various Countries. Hence, in view of the increasing number of criminals who are flying to other countries just in order to save themselves from the prosecution in India, it is high time for India to formulate a new policy so that India will achieve major success in future times in case of Extradition.

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<sup>59</sup> R. v. Horseferry Road Magistrates' Court, ex parte Bennett (1994) 1 A.C. 42.

<sup>60</sup> Supra note 2.