

A CRITICISM OF EXTRADITION LAW IN THE LIGHT OF TERRORIST ACTIVITIES IN THE WORLD

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ABSTRACT:

Extradition is recognised as an international mechanism for returning all fugitives from foreign countries to their countries of origin. As transferring the person or the convicted individual from one country where he was found to the country where he has run from. Section 2(d) of the Extradition Act, 1962, defines extradition treaties. It says extradition treaty means the treaty agreement or arrangement made by India with a foreign state relating to extraditing the accused or any treaty or agreement related to extradition of the accused made before the 15th day of August 1947 that extends to and beyond India. Yeah, the law that governs extradition is known as the Extradition Treaty of 1962. Extradition was first adopted by Belgium in 1833, and India had its first extradition treaty with Belgium only in 1958.

This article analyses the meaning, concept and laws governing Extradition in India. The author has also tried to understand the criticism surrounding the Extradition Laws around the globe in light of the terrorist activities.

Keywords: *Belgium, Extradition, Foreign Countries, Fugitive and Treaties.*

1. INTRODUCTION :

Extradition, in the context of international law, is the process by which one state, at the request of another, influences the appearance of a person for fundamentally inadequate behaviour that is punishable under the rules of the reference state and is submitted outside the state of refuge.¹ Extraditable individuals include those suspected of a wrongdoing that has not yet been tried before the court of law, those tried and punished but have escaped custody, and those convicted in absence. The demand recognises removal from various procedures, for example, expulsion, ejection, and extradition, which also result in the persuasive evacuation of dangerous people.

Generally, one sovereign state makes an appropriate transfer to another sovereign state ("the referenced state") via the extradition procedure. If the criminal is discovered within the borders of the referenced state, the referenced state may apprehend the lawbreaker and subject the person being referred to its extradition process. The extradition procedures that will be employed to exploit the criminal are determined by the law and practise of the relevant state. It is basically regulated between the countries in the form of treaties that are made between two countries to put a full stop to the criminal activities being carried out in the world.

Extradition was first adopted by Belgium in 1833, and India had its first extradition treaty with Belgium only in 1958. India has many extradition treaties signed with various countries, which also led India to catch the defaulters who flew away thinking that they could not be caught, but the other countries governments took them into custody and handed them over back to India². Some of the cases are mentioned below:

1. Nirav Modi's case: He made a fraud of \$2 billion with PNB, and he is also sued in California for a fraud of \$4.2 million with a Los Angeles entrepreneur. In March 2018, he made an appeal for bankruptcy in New York. In June 2018, he was deported by the UK government back to India.

¹ What Is Extradition?, COUNCIL OF FOREIGN RELATIONS (July 28, 2023, 5:30 PM), <https://www.cfr.org/background/what-extradition>

² Kanhaiya Singhal, Rishabh Jain and Chetan Bhardwaj, Extradition: Procedure and Principles, 4 INT'L J. L. MGMT & HUMAN. (2021)

2. Chota Rajan Case: He was a wanted criminal for many offences, including extortion, murders, smuggling, drug trafficking, and 70 other murder cases. He was arrested in Bali by Indonesian police on October 25, 2015, and sent to India on October 6.
3. Abu Saleem Case: He was convicted for the Mumbai blast in 1993, the murder of Gulshan Kumar, and 50 other cases against him. He ran to Portugal, and in 2004, he was sent back to India³.

India's latest extradition treaties were with Bangladesh and Azerbaijan in 2013, with Australia in 2008, with Belarus in 2007, Brazil and Egypt in 2008, France in 2003, and Germany in 2001⁴. These treaties have a significant impact on safety measures and are also useful in locating criminals and conducting their trials in order for compelling them to go to jail and so that any malicious activities are controlled and the country's image and economy are not harmed.

2. TERRORIST ACTIVITIES

These are the activities being conducted by the anti-nationals and which are against the society, which causes harm to the society till infinite extent. Fear-based oppression has been polished by political associations with both rightist and radical targets, by nationalistic and strict gatherings, by progressives, and even by state organisations, for example, the armed forces, insight administrations, and police. Terrorism is typically mind-boggling and dubious, and, as a result of the inborn savagery and viciousness of psychological warfare, the term in its famous use has built up an exceptional disgrace.

Activities like hijacking, kidnapping of people, hostage takes, mob attacks, human trafficking, drug trafficking, mass encounters, suicide bombs, random bomb placed, and many more all these are a part of terrorist activities which harm a particular nation till a huge extent and effect the human rights without even any concern and care because the people doing it are least effected of life and death and are least emotional and inhumane. These are none other than the people amongst all of us, the people who are brainwashed, the people

³ Kanhaiya Singhal, Rishabh Jain and Chetan Bhardwaj, Extradition: Procedure and Principles, 4 INT'L J. L. MGMT & HUMAN. (2021)

⁴ Extradition-Treaties, CENTRAL BUREAU OF INVESTIGATION (July 29, 2023, 6:00 PM), <https://cbi.gov.in/extradition-treatie>

who make a fool of themselves in the name of religion and are blindfolded; they are asked to do anything and everything, and they will be ready to practise such activities.

They do all this to attract the government's attention and provoke political fights⁵. They target places that are highly populated and will be adversely affected, like shopping complexes, markets, parking areas, nightclubs, schools, restaurants, bus stations, railway stations, and countless other places, just to cause damage to human life and some deaths. The goal of fear mongering, for the most part, is to demolish the public's sense that everything is well with the world in places that are normally natural to them. In other circumstances, significant targets also include structures or other regions with considerable financial or political implications, such as international safe havens or army bases. The psychological oppressor anticipates that the fear instilled by these demonstrations will compel the population to put pressure on political leaders to pursue a specific political goal.

These are the people from different countries who affect the other country by first entering by unfair means and unnoticed places and then causing the economy to fall in terms of money, human life, and mankind.

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3. CRITICISM OF EXTRADITION LAW

There has been criticism of the extradition law around the world because of a lack of communication and proper arrangements, which led to mass aggression.⁶ And people walking all over the streets just to fight against the shortcomings in these treaties. Criticism can be understood by:

1. Vijay Mallya's case: He committed a fraud of Rs. 9000 crore with the Indian banks and then ran to the UK. Even after India has an extradition treaty with the UK, it still has troubles extraditing him back to India. Even in certain hearings, he was released on bail and is out now, but India is still unable to get him back. So this is a criticism of the extradition treaty between India and the UK.

⁵ Hannah Ritchie, Joe Hasell, Edouard Mathieu, Cameron Appel and Max Roser, Terrorism, OUR WORLD IN DATA (July 30, 2023, 5:00 PM), <https://ourworldindata.org/terrorism>

⁶ Suman Acharya, Extradition Law; Issues and Challenges, SSRN (July 30, 2023, 5:00 PM), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2525094

2. Hong Kong protests against the extradition bill: This was one of the greatest mass movements in Hong Kong history against the extradition bill with China.

This criticism has also given rise to terrorist activities around the world, as some countries do not have extradition treaties and some have loopholes in their treaties, which have led to terrorist communities making their way to perform such activities easily⁷. They are never afraid of their lives or death, and those loopholes have made them look strong in the world.

We can also take the case of Dawood Ibrahim, who was a well-known terrorist and the world's most wanted. He continued doing his activities and causing harm to the world, and no country was able to catch hold of him. He was using these loopholes to play with the government and perform such malicious activities. It was very tough to catch him, even though he was in another country. Even though he has several traces of his living in Karachi, Pakistan but then also they constantly refuse it and this is clear that they are supporting him for such activities, leading to criticism of extradition laws around the world that are fuelling terrorist operations.

4. CONCLUSION :

To conclude, we can say that even when a treaty is in place, political friction can arise throughout the extradition process, which permits countries to send fugitives abroad to face justice. Extradition treaties help countries bring offenders who have escaped punishment to justice. Extradition law has an exception, or, in other words, one can say that some classes of people have immunity against extradition treaties. Extradition cannot be made against political offenders, which means that any person who made any political scam or raised any political issue against the country and ran away to another state cannot be extradited⁸. Apart from the challenges faced in extradition, lengthy procedural delays also play a vital role in preventing unnecessary delays and bringing the culprit to justice.

⁷ Suman Acharya, Extradition Law; Issues and Challenges, SSRN (July 30, 2023, 5:00 PM), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2525094

⁸ Kanhaiya Singhal, Rishabh Jain and Chetan Bhardwaj, Extradition: Procedure and Principles, 4 INT'L J. L. MGMT & HUMAN. (2021)