

## India's Challenges in Extraditing Fugitives from Foreign Countries

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**ABSTRACT** With the advent of globalisation and increased interconnectivity, it has become less difficult for offenders in India to escape to foreign jurisdictions and avoid prosecution in the country. The importance of extraditing fugitives and bringing them before Indian courts cannot be stressed enough. Apart from providing timely justice and grievance redressal, it also serves as a deterrent against potential fugitives. However, India's success rate in extraditing fugitives is abysmally low; only one in every three fugitives are being successfully extradited to India. This brief examines the extradition treaties that India has with various countries, and gives an overview of India's successes and failures in securing the return of offenders. It also studies both the legal and non-legal obstacles to extradition, and offers recommendations to improve India's extradition process.

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## INTRODUCTION

The old adage, “no one can outrun the long arm of the law”, illustrates the objective of legal systems: upon committing an offence, the offender—no matter where they are—will eventually be brought to justice. However, globalisation and increased interconnectivity poses significant hurdles to this fundamental objective. With travel becoming faster, more affordable and more efficient, it has become relatively easier for offenders in India to escape to foreign countries and evade arrest and prosecution in the country. Furthermore, the internationalisation of crime creates challenges for enforcing jurisdiction over both nationals and foreigners who do not reside in India.

Extradition is the recognised international mechanism for the timely return of fugitives from foreign countries. It is defined as the “delivery of an accused or convicted individual from the country he is found in, to another country that requests his extradition”.<sup>1</sup> The process is governed by treaties and agreements which, albeit with minor variations, adopt internationally recognised legal principles for the surrender of fugitives. Apart from this, factors outside treaties—including bilateral relations and reciprocity, laws and regulations of foreign jurisdictions, and human rights concerns—directly affect a favourable extradition order. Given the influence of these factors, extradition procedures are known to be complex, entailing huge amounts of resources and time.

Bringing back offenders from foreign countries is essential for providing timely justice and grievance redressal. 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.

Given India's unsuccessful attempts to bring back offenders like David Headley, Warren Anderson and Vijay Mallya, for example, it becomes important to understand the obstacles that face the country in extraditing fugitives from abroad. This brief discusses India's experience in securing the surrender of fugitives, and analyses the various legal and non-legal challenges to extradition.

## INDIA'S EXPERIENCE WITH EXTRADITION: AN OVERVIEW

Extradition treaties help provide a defined legal framework for the return of fugitives between countries. At present, India has bilateral extradition treaties with 43 countries and extradition arrangements with 10 countries (See Table 1.1 and Table 1.2).<sup>2</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 such as drug trafficking, terrorism and aircraft hijacking (See Table 1.3). 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>3</sup>

India has a fewer number of bilateral extradition treaties compared to other

**Table 1.1 Countries with which India has bilateral extradition treaties<sup>4</sup>**

Azerbaijan (2013)	Egypt (2008)	Nepal (1953)	Tajikistan (2003)
Australia (2008)	France (2003)	Netherlands (1898)	Thailand (2013)
Bahrain (2004)	Germany (2001)	Oman (2004)	Tunisia (2000)
Bangladesh (2013)	Hong Kong (1997)	Poland (2003)	Turkey (2001)
Belarus (2007)	Indonesia (2011)	Philippines (2004)	UAE (1999)
Belgium (1901)	Iran (2001)	Russia (1998)	UK (1992)
Bhutan (1996)	Kuwait (2004)	Saudi Arabia (2010)	Ukraine (2002)
Brazil (2008)	Malaysia (2010)	South Africa (2003)	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) <sup>5</sup>

**Table 1.2: Countries with which India has extradition agreements<sup>6</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)

**Table 1.3: India's multilateral conventions providing for Extradition**

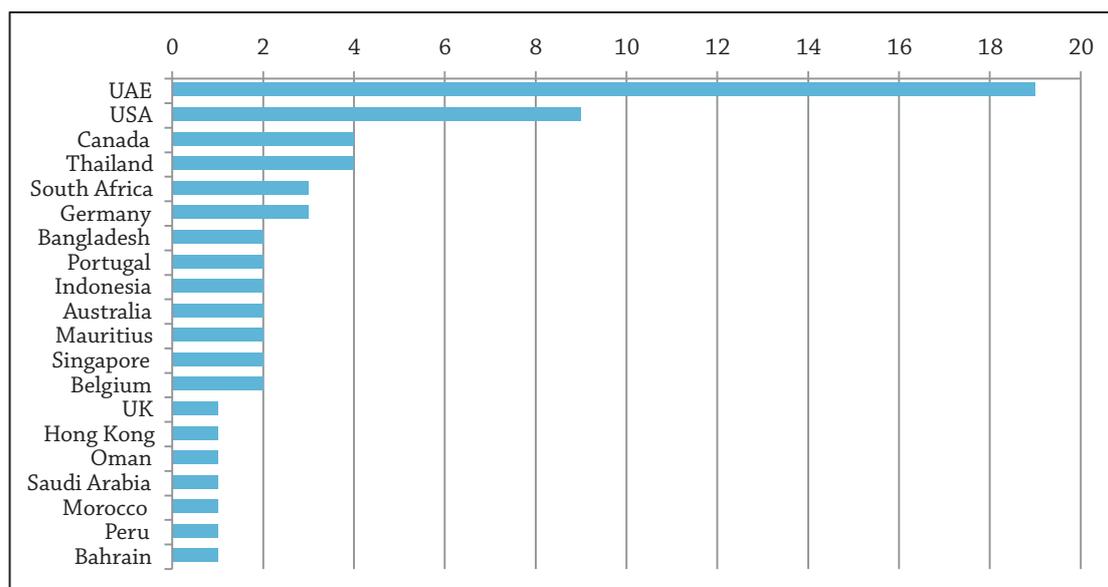
United Nations Convention Against Corruption (2003)	Article 44
United Nations Convention against Transnational Organized Crime (2000)	Article 16
United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)	Article 6
International Convention for the Suppression of the Financing of Terrorism (1999)	Article 11
International Convention on the Suppression of Terrorist Bombings (1997)	Article 9
Convention for the Suppression of Unlawful Seizure of Aircraft (1970)	Article 8

countries. The US and the UK, for example, have extradition treaties with over 100 countries each.<sup>7</sup> For their part, Russia and Canada have extradition treaties with 64<sup>8</sup> and 49<sup>9</sup> countries, respectively; China and Pakistan have 50 (37 are in force)<sup>10</sup> and 13,<sup>11</sup> respectively. Of particular concern is the fact that India does not have extradition treaties with several neighbouring states, such as China, Pakistan, Myanmar and Afghanistan. Many security threats originate from border areas and flourish due to challenges presented

by difficult terrain, harsh climate and poor border infrastructure. 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.

The Ministry of External Affairs (MEA), India's nodal government body for extradition matters, provides a detailed account of the number of fugitives surrendered from different countries.<sup>12</sup> Since 2002, India has been able to secure the return of 66 fugitives.

Fig. 1.1 Fugitives extradited from individual countries



Source: Countries with which India has Extradition Treaties/Agreements, Ministry of External Affairs (Government of India), last updated October 31, 2018, <https://www.mea.gov.in/toindia.htm>.

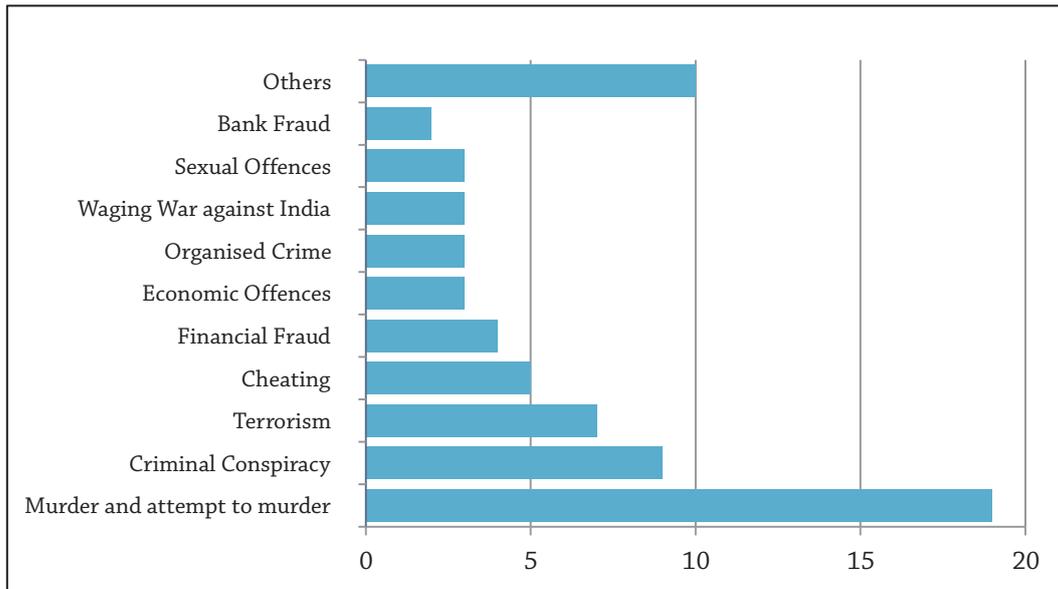
Figure 1.1 provides a breakup of the number of fugitives returned from individual countries.

The largest number of fugitives have been extradited from the UAE (19), followed by the US (nine). So far, only one fugitive has been extradited from the UK, namely Samirbhai Vinubhai Patel, on charges of murder and criminal conspiracy. Within this period, India has likewise extradited 51 fugitives to foreign jurisdictions, with the largest number being surrendered to the United States (27), followed by Canada (six), Australia (four) and UK (three).<sup>13</sup>

The MEA provides no numbers on extradition prior to 2002, or in relation to any rejected or pending requests. In the absence of these numbers, it is difficult to determine India's percentage success rate in bringing fugitives from abroad. Various reports, however, have placed India's success rate in extradition at 36 percent.<sup>14</sup> These numbers are based on a 2017 tally of returned fugitives (62)

as against 110 extradition requests that have been made to foreign countries.<sup>15</sup> A reply to a 2016 Parliamentary question reveals that among these 110 requests, the highest number were made to the US (33), followed by UAE (19) and the UK (15).<sup>16</sup> In 2018 the MEA updated these numbers and reported that India has 150 pending requests and is currently processing 16 more from various investigation agencies.<sup>17</sup> With these updated figures, India's extradition success rate may stand at a percentage lower than 30 percent.

Figure 1.2 gives the number of fugitives returned for specific offences since 2002. A large number of returned individuals have been accused of or charged with grave offences like murder, terrorism and criminal conspiracy. A relatively smaller section of these offenders have been surrendered for economic offences, financial fraud, bank fraud and cheating (in relation to economic crimes). In response to a query regarding Indians involved in financial irregularities living

**Fig. 1.2 Offences of Extradited Fugitives**

Source: *Countries with which India has Extradition Treaties/Agreements*, Ministry of External Affairs (Government of India), last updated September 26, 2018, <http://www.mea.gov.in/leta.htm>.

abroad, the MEA said that there are currently 28 such individuals under investigation by both the Central Bureau of Investigation (CBI) and Enforcement Directorate (ED).<sup>18</sup>

## ISSUES AND CHALLENGES TO THE RETURN OF FUGITIVES FROM ABROAD

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.

The process for sending an extradition request begins with the MEA, which receives requests from investigation agencies or a court of law and then transmits it to foreign governments. The foreign government then begins the extradition inquiry and the Magistrate (or any other designated authority of the foreign government) issues an order for extraditing the requested person. In the third stage, the matter is brought before foreign courts for judicial review, if the fugitive challenges the extradition order. On affirmation of the extradition order by courts,

the foreign government finalises the extradition order and liaises with the requested state to surrender the person.<sup>19</sup>

### 1. Challenges arising within and without Extradition Treaties

Generally, extradition treaties follow a standard framework and specify the conditions under which a fugitive may or may not be extradited. Older bilateral treaties, such as India's own with Belgium (1901), Chile (1897), Netherlands (1898) and Switzerland (1880) specify extradition offences through the "list system" and contain an exhaustive list of offences for which fugitives can be surrendered. Newer treaties adopt the "dual criminality" approach, which provides that a fugitive will be extradited for an offence, only if it is a crime in both countries. The dual criminality approach is more convenient than the list system and ensures that newer offences such as cybercrime, will be given due recognition in both countries and will not require renegotiation of treaty terms. However,

the principle of “dual criminality” is not without its challenges. To begin with, it is difficult to establish treaty principles for crimes peculiar to India’s socio-cultural conditions, such as dowry harassment, for instance.<sup>20</sup>

There are various challenges that can be raised against an extradition order before courts. 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 actual or potential discrimination on account of religion, race and nationality.<sup>21</sup> The “double jeopardy” clause, which debars punishment for the same crime twice, is the primary reason why India, for example, has been unable to extradite David Headley from the US. 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>22</sup> However, Headley is yet to be tried by Indian courts for the deaths of nearly 140 Indian nationals in the same attacks.<sup>23</sup>

Challenges to extradition orders can also be raised outside treaty terms. These are generally based on concerns of human rights violations, such as torture or cruel, inhuman and degrading treatment. The extent to which foreign courts will inquire into these concerns depends on the judiciary’s role in domestic justice systems, and the strength of the human rights movement in that country.

For instance, the US usually follows the principle of “non-inquiry” in judicial review of extradition orders, and does not go into conditions or circumstances awaiting the requested person.<sup>24</sup> *Per contra*, 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>25</sup> Primacy given to human rights concerns have developed as a result of the strong individual rights movements in European nations. In the aftermath of World War II, Europe and the United Kingdom proceeded to build a strong mechanism for the protection of human rights by entering into the European Convention on Human Rights (ECHR) and establishing the European Court of Human Rights. Provisions of the ECHR mandate that all member states must protect human rights and political freedoms of individuals within their jurisdiction. When it comes to extradition, Article 3 of the ECHR, which “prohibits torture, inhuman or degrading treatment or punishment”, is of particular concern to India.<sup>26</sup>

*Soering v. United Kingdom*, a landmark judgment decided by the European Court of Human Rights equated poor prison conditions with “torture” and “inhuman or degrading treatment”.<sup>27</sup> As a result, the UK and other European countries have often denied extradition requests on the possibility that the requested person will be subject to poor conditions or custodial violence in India’s prisons. Indeed, overcrowding, crumbling infrastructure, poor sanitary conditions and lack of basic amenities, among others, all contribute to making Indian prisons less of places for rehabilitation and mostly for punishment. Frequent instances of police misconduct, such as custodial violence, ill treatment, arbitrary arrests, torture and extrajudicial executions are also taken into

consideration while determining possible Article 3 violations.

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>28</sup> To establish this, foreign courts extensively browsed prison manuals and independent reports by organisations such as Amnesty International, UK High Commission, US Department of State, and the Indian National Human Rights Commission.<sup>29</sup> In 2017, British courts rejected the extradition of alleged bookie Sanjeev Kumar Chawla, stating that his human rights may be violated over severe conditions in Delhi's Tihar jail.<sup>30</sup> 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>31</sup>

Because of the strong inclination of UK and European courts to consider poor prison conditions as a form of human rights violation, fugitives often raise this as a challenge during extradition hearings. For instance, Vijay Mallya's lawyers argued that the poor conditions in Arthur Road Jail (Mumbai) will be tantamount to inhuman and degrading treatment. Mallya, accused of defrauding Indian banks of INR 90 billion, is facing investigation charges from both CBI and the ED.<sup>32</sup> In response to Mallya's challenge, a recent UK Court order requested the Indian government to send a video of Arthur Road Jail for evaluating its conditions.<sup>33</sup> Thus, considering the value of human rights concerns, India must determine whether these countries are at a risk of being considered as "safe havens" by fugitives.

In the event that India succeeds in regaining custody of a fugitive, compliance with treaty terms is necessary. An important treaty clause known as the "rule of speciality" 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>34</sup> Portugal widely criticised the move, and the Supreme Court in Lisbon held that India was in violation of extradition rules.<sup>35</sup> Adherence to treaty commitments is of paramount importance and helps maintain mutual trust, cooperation and reciprocity between countries. Though Portugal and India were party to a bilateral extradition treaty,<sup>36</sup> the same finds no mention on the MEA's updated list of India's extradition treaties. Without an official statement, it is difficult to determine whether the treaty has been suspended or revoked. Nonetheless, the present status of India's treaty with Portugal remains unknown.

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, who have allegedly duped the Punjab National Bank of approximately INR 140 billion.<sup>37</sup> Modi has escaped to London, while Choksi has reportedly taken up citizenship of the Caribbean island of Antigua.<sup>38</sup>

India's track record in securing the return of fugitive economic offenders raises concerns as to whether these cases will be resolved swiftly. In part, the low numbers of extradited

economic offenders (13 as against 28 ongoing investigations) can be attributed to the history of extradition treaties and the legal opinion regarding categorising financial irregularities as a civil offence rather than a criminal one. Historically, some extradition treaties did not provide for the surrender of fugitives involved in fiscal and economic offences.<sup>39</sup> The exclusion for fiscal offences was based on the view that these offences were not criminal conduct, and attracted less moral stigma.<sup>40</sup> Furthermore, since fiscal offenders are of no immediate security threat to foreign nations, there is no urgency to expedite their extradition process and return them to the requesting state.

Most of India's bilateral treaties provide that an individual alleged to have committed fiscal offences would be extradited back to the country. However, 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.

## 2. Effect of investigation, procedural and evidentiary irregularities

Extradition procedures are further complicated by unreasonable delays and variance in documentary requirements of foreign countries. The first step of the extradition process is to transmit a formal extradition request through diplomatic channels to the foreign government. Once investigations are completed by state or central agencies, they forward a request containing full details of the case accompanied with translations (where required) detailing the

offences charged with, witness testimonies, arrest warrant, and documents establishing identity of the requested person. These requests are received by the CPV (Consular, Passport and Visa) division, MEA and are processed in consultation with the Legal and Treaties division of the ministry.

Irregularities that arise at this stage, such as delays in investigation, misbehaviour by police officials, improper or fabricated documents, and incorrect format of affidavits and certificates, may come to fore at the penultimate stage of judicial review before foreign courts.<sup>41</sup> When these issues fall below the expected standards of criminal procedure of foreign countries, extradition may be denied. Further, given that no laws of two countries are alike, and may vary even more so between civil law and common law countries, it becomes imperative to understand the procedural laws and investigational ethos of foreign states.

While denying a request for extradition for fraud against a British Indian couple, Jatinder and Asha Rani Angurala, the UK court heavily criticised the Central Bureau of Investigation (CBI) for delays, which caused the case to remain pending for 25 years.<sup>42</sup> Delays in investigation also retard the process of submitting extradition requests, or invoking Interpol mechanisms like the Red Corner Notice (RCN) that help in locating and provisionally arresting offenders. 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 Premiere League accused of financial irregularities in the tournament's 2009 season.<sup>43</sup>

Documentary and evidentiary requirements for extradition must comply not only with treaty conditions but also with domestic laws 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, for example, 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>44</sup>

### 3. Diplomacy, Bilateral relations and Domestic politics

It is often argued that extradition is as much a political process as it is a judicial one. When the MEA transmits a formal extradition request to its diplomatic counterparts abroad, the foreign government is required to act on the request by issuing an extradition order against the requested person and fight the case, on behalf of India, before their courts. 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.

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>45</sup> Kim Davy's case has been embroiled in cultural and political misunderstandings, such as, factual

discrepancies, potential human rights violations and apprehensions regarding India's true intentions for seeking extradition.<sup>46</sup> For these reasons, Netherlands appeared to be unwilling to process the request expeditiously. It can be argued, however, that the little progress that was made in beginning the process for extradition – in the face of Denmark's reluctance to take up the case – can be attributed to India's efforts to persistently push for the same through diplomatic channels.<sup>47</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, evidence emerged that the then CEO of Union Carbide, Warren Anderson, was aware of the untested technology, faulty design, and unsafe location of the lethal methyl isocyanate in Bhopal's pesticide plant.<sup>48</sup> A few days following the tragedy, Anderson visited Bhopal and was arrested by the authorities upon his arrival. However, he was soon released on bail allegedly on the directions of the central government, which came under US pressure to do so.<sup>49</sup> In May 2003, nearly 20 years after the incident, India requested Anderson's extradition from the US on the basis of the criminal charges.<sup>50</sup> The US, however, declined the extradition request on the grounds that it did not fulfil all conditions under the India-US extradition treaty due to lack of evidence. 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>51</sup>

Professionals and scholars working on the case have long suspected that there has been a “political economic” motive behind India’s delay to forward an extradition request and the US reluctance to accept the same. Concerns regarding the case’s “chilling effect on American investment abroad”<sup>52</sup> created a suspicion about a nexus between Union Carbide Corporation (UCC), the US government, and the Indian government.<sup>53</sup> Eventually, the US gave primacy to its domestic laws and politics and rejected India’s extradition request.<sup>54</sup> Anderson subsequently passed away in September 2014 in Florida, USA.

“Reciprocity”, i.e. an assurance by the Indian government that it will extradite fugitives in similar cases, is an important, diplomatic-level action that can improve India’s extradition success rate. As a condition, reciprocity is indispensable for extradition between non-treaty states. 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, Dubai did not respond positively to India’s request. The 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 42 million dirhams (INR 340 million) from a state-owned travel agency, and Ravji Bhai Pawar, a domestic servant who allegedly assaulted a family in UAE.<sup>55</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.

Over the years, India’s extradition relations with the UAE have improved significantly. Figures from 2002 onwards establish that India secured the return of the highest number of fugitives from the Emirates (Fig. 1.1). These numbers may be attributable to the ease of movement of people, and thus fugitives, between the two countries. After all, the UAE is home to 2.8 million Indian expatriates.<sup>56</sup> However, this upswing in extradition cooperation may also be attributed to the thaw in bilateral relations between the two countries. During the Cold War, the UAE sided with the US and was a strong ally of Pakistan.<sup>57</sup> With the end of the Cold War and the emergence of India as an important partner in South Asia, the two countries have forged strong ties through energy cooperation, investment, trade and movement of labour. These factors have strengthened bilateral relations between them, and helped create better extradition relations.

## A WAY FORWARD FOR INDIA

In spite of binding treaty mechanisms, the process of extraditing fugitives is lengthy, complex and heavily depends on domestic law and politics of the requested state. This is not surprising as extradition is, after all, a sovereign decision. Nonetheless, there are factors involved in extradition over which India can exercise control. India could adopt a targeted approach to resolve these issues, and thereby improve its success rate.

Leveraging diplomacy and bilateral negotiations to persuade countries to process requests expeditiously, is an important step.

Likewise, India should, on the basis of reciprocity and comity process extradition requests received from foreign states swiftly and efficiently. Additionally, the Indian government must make good on its policy “to conclude extradition treaties with as many countries” as possible, and make efforts to enter into more bilateral extradition relations.<sup>58</sup> Other mechanisms that can facilitate arrest and extradition of offenders, viz. mutual legal assistance treaties, issuing letters rogatory<sup>59</sup> and information exchange MoUs can be utilised where necessary. Preventive law and policy measures that can deter the escape of offenders, may also be explored. The recently passed Fugitive Economic Offenders Bill, 2018 – though not without its own challenges – signifies the government’s efforts to shift its focus to preventive, *ex ante* legal mechanisms.<sup>60</sup> These steps will allow India to act quickly and reduce the number of safe havens available for fugitives abroad.

India also needs to take steps to dispel concerns regarding poor prison conditions and potential human rights violations of the requested person. Assurances by the Indian government regarding the same are often not accepted by foreign courts. As a short-term measure, India could propose to detain surrendered offenders to prisons with better facilities. Fugitives who are not accused of violent crimes, such as economic offenders can be housed in well-maintained, minimum-security facilities. However, in the long run, it is prudent to take coordinated action to introduce systematic prison reforms and convert Indian prisons into a secure area for rehabilitation. Additionally, India could consider signing international instruments,

such as the UN Convention Against Torture (1984) to establish India’s zero tolerance towards torture and custodial violence. At the same time, the increasing application of human rights concerns to extradition requests calls for the formulation of rules that achieve a fair balance between crime suppression and the fugitive’s protection.<sup>61</sup>

For addressing investigational delays, it is imperative to improve the capacity and organisational efficiencies of law enforcement agencies so that they may conduct speedy investigation in these cases. At present, 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. The CBI was created to deal with corruption cases, and is understaffed to take up larger cases involving extradition. The Justice Malimath Committee report (2003) recommends 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>62</sup> The US’ FBI, which employs roughly 35,000 individuals,<sup>63</sup> has wide jurisdiction to investigate organised crime, white-collar crime and terrorism, among others. The CBI, on the other hand, staffed with approximately 6,000 officers<sup>64</sup> may be unable to expend the required manpower to complete investigations on time.

To ensure that India’s extradition requests are in compliance with treaty conditions and documentary requirements, India must put in place suitable organisational mechanisms to familiarise itself with laws and regulations of treaty states. India could adopt the good

practices of the US' Office of International Affairs (OIA), Washington's primary body to handle extradition requests, and employ lawyers and station trained liaison officers in countries with which the country has extradition relations.<sup>65</sup> Publishing templates for framing extradition requests and adopting standards for the maintenance of extradition files, will improve the synergy between the MEA and law enforcement agencies. Setting up a separate cell to provide expert legal advice

and assistance on drafting, certification and translation of evidence, will help mitigate the possibility of rejection of requests.

With the benefits of globalisation and integration comes the pressing challenge of offenders fleeing India. Given the obstacles India faces in securing the return of these fugitives, the country must swiftly introduce reforms and leverage diplomacy to create a simpler, frictionless extradition mechanism. 

### ABOUT THE AUTHOR

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### ENDNOTES

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