



ISSN: 2583-7753

LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

[ISSN: 2583-7753]

Volume 4 | Issue 1

2026

DOI: <https://doi.org/10.70183/lijdlr.2026.v04.105>

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LAW ON EXTRADITION- BALANCING SOVEREIGNTY, JUSTICE AND HUMAN RIGHTS IN THE GLOBALISING WORLD

Ritu Shukla¹

I. ABSTRACT

Extradition stands for the process of turning over a fugitive by one nation to another for prosecution and punishment, if found guilty. Differences in the idea of crimes across nations has led to a question whether this difference have resulted in allowing fugitives to misuse it and evade prosecution by absconding to the nation where a particular offence is not a crime and where dual criminality is recognized? Through this paper it is being tried to explore how different jurisdictions reconcile conflicts between national interests and international obligations; how sovereign nations are balancing between their sovereignty and pursuit of global justice. It is also being tried to assess the human rights implications of extradition, including risks of unfair trial or inhumane treatment. It is seen that in spite of many frameworks and treaties present for extradition of a fugitive still inconsistencies in enforcement and interpretation of the treaties undermines its effectiveness. As seen in Bhopal gas tragedy case, the attempt of extradition of Warren Anderson, Chairman and CEO of Union Carbide Corporation, failed due to difference in interpretation of treaties resulting in undermining of accountability and denial of justice to the victims. The objective of this paper is to do a doctrinal and comparative research to suggest reforms that can enhance uniformity, safeguard human rights, and strengthen cooperative mechanisms, thereby contributing to both academic discourse and policy development.

II. KEY WORDS

Extradition, Sovereignty, Human Rights, Justice, International Cooperation

III. INTRODUCTION

Globalization has profoundly altered the landscape of crime and criminal justice. Globalization led to advances in transportation, communication and financial systems

¹ LLM student DSNLU (India). Email: ritushukla76@gmail.com

that enabled individuals accused of serious offences to move easily across borders frustrating domestic criminal processes.² The case of Warren Anderson, accused of Bhopal Gas Tragedy is one of such examples. It is labelled as the worst industrial disaster in history resulting from a massive release of methyl isocyanate (MIC) gas from the Union Carbide India Limited plant exposing nearly half of Bhopal's population to lethal toxins within hours.

The gas leaked for approximately forty minutes spreading over a twenty-five square mile area killing thousands and leaving hundreds of thousands with permanent respiratory, neurological and ocular injuries. Even though the scale of human suffering was unmatched, but what followed has been described as the "second tragedy" of Bhopal as the domestic and international legal systems failed to ensure timely criminal accountability and justice for victims. Although Indian courts initiated criminal proceedings and later upgraded charges against senior Union Carbide officials including Chairman Warren E. Anderson from manslaughter to murder, but Anderson was allowed to leave India shortly after the disaster and never returned to face trial.

Despite the issuance of arrest warrants by Indian courts and consistent judicial findings of liability, Union Carbide and its senior executives effectively evaded criminal prosecution. This exposed the profound limitations of transnational criminal enforcement and extradition mechanisms when corporate power, jurisdictional barriers and sovereign discretion intersect.³

Traditionally extradition was considered as an act of sovereign discretion rather than a binding international obligation of the nation.⁴ A state is under no obligation to extradite in the absence of a treaty and even where treaties exist compliance often depends on political will and domestic legal interpretation.⁵ This structure driven by sovereignty has resulted in fragmented extradition practices that allows fugitives to

² M. CHERIF BASSIOUNI, *CRIMES AGAINST HUMANITY IN INTERNATIONAL CRIMINAL LAW: SECOND REVISED EDITION* (2nd ed. 1999).

³ R. Clayton Trotter, Susan G. Day & Amy E. Love, *Bhopal, India and Union Carbide: The Second Tragedy*, 8 J. BUS. ETHICS 439, 439-49 (1989), <http://link.springer.com/10.1007/BF00381810>.

⁴ IVAN SHEARER & I.A. SHEARER, *EXTRADITION IN INTERNATIONAL LAW* 23 (1971).

⁵ U.N. Charter art. 2(7).

exploit inconsistencies between national legal systems. Differences in criminal definitions, procedural safeguards and punishment regimes particularly with respect to dual criminality have frequently enabled accused persons to evade justice by relocating to jurisdictions where their conduct is not criminalized or where thresholds to extradition are higher.⁶

In present times the growing influence of international human rights norms has caused extradition law to undergo significant transformation. Courts are increasingly required to assess whether extradition would expose an individual to a real risk of torture, inhuman or degrading treatment, denial of a fair trial or capital punishment.⁷ The incorporation of human rights considerations has introduced essential safeguards against abusive or politically motivated extradition requests.⁸ However, it has also complicated the extradition process by adding subjective assessments and divergent standards. This sometimes results in selective non-cooperation between states.

The tension between sovereignty and international criminal justice is further intensified in politically sensitive or high-profile cases. States may refuse extradition to protect diplomatic relations, economic interests or influential individuals even where treaty obligations exist.⁹ Such refusals undermine the principle of reciprocity which forms the very basis of extradition law and it weakens the collective efforts to combat transnational crime.¹⁰ The failed attempt to extradite Warren Anderson following the Bhopal Gas Tragedy illustrates how conflicting interpretations of treaties, executive discretion and political considerations can lead to denial of justice for victims and erosion of confidence in international legal mechanisms.¹¹

In a globalizing world marked by the rise of transnational crimes such as terrorism, economic offences and corporate misconduct the effectiveness of extradition law is

⁶ Christopher Blakesley, *The Practice of Extradition From Antiquity to Modern France and the United States: A Brief History*, SCHOLARLY WORKS 39,57-58 (1981), <https://scholars.law.unlv.edu/facpub/317>.

⁷ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 3, Dec. 10, 1984, 1465 U.N.T.S. 85.

⁸ *Soering v. United Kingdom*, 11 Eur. H.R. Rep. 439 (1989)

⁹ ANTONIO CASSESE, *INTERNATIONAL LAW* 451-56 (2. ed ed. 2005).

¹⁰ I.A. Shearer, *supra* note 3, at 27.

¹¹ *Union Carbide Corp. v. Union of India*, (1991) 4 SCC 584 (India).

increasingly under scrutiny.¹² Presently, while states continue to assert their sovereign right to control extradition decisions, there is a growing recognition that absolute sovereignty is incompatible with the demands of global justice.¹³ The major challenge is in reconciling differences in national legal systems while ensuring accountability, fairness and respect for human rights.

Against this backdrop, this paper undertakes a doctrinal and comparative analysis of extradition law to examine how states balance sovereignty, international cooperation and human rights obligations. It seeks to identify the structural limitations of the current extradition framework and to explore reforms aimed at enhancing uniformity, accountability and justice in the global extradition regime.

A. Research Problem

How can extradition laws reconcile differences in national legal systems while balancing sovereignty, international cooperation, and human rights? What reforms are needed to ensure uniformity, accountability, and justice in the global extradition framework?

B. Research Objectives

1. To conduct an assessment of the existing legal and normative framework for extradition under international law and domestic law, with particular regard to the principles of sovereignty, dual criminality, and reciprocity.
2. To analyse the changing role of human rights in the area of extradition law, particularly as it relates to reducing state discretion in extraditing individuals to a foreign country when there is a real possibility, they will be subject to torture, denied a fair trial, or subjected to inhumane treatment.
3. To examine the tension between state sovereignty and international cooperation in connection with fulfilling international obligations of extradition within the context of a globalized world.

¹² Richard Allan, *Terrorism, Extradition & International Sanctions*, 3 ALB. L.J. SCI. & TECH. 327, 330–31 (1993)

¹³ Cassese, *supra* note 8, at 449.

4. To conduct a comparative analysis of the extradition regimes of selected states, including India, the United States, and the United Kingdom to identify differences in structure and process between those jurisdictions.
5. To investigate into the practical problems and failures associated with extradition procedures through analysis of case studies such as the Bhopal Gas Tragedy (Warren Anderson), Vijay Mallya, and terrorism-related cases.
6. To identify gaps in the current system of global extradition, including delays, political discretion, and inequitable application of treaties.
7. To develop reform proposals for both the legal and institutional structures of extradition in order to Promote uniformity, accountability, and protection of human rights throughout the extradition process.

C. Research Questions

1. How do differences in national legal systems affect the operation of extradition law, particularly with respect to sovereignty, dual criminality, and reciprocity?
2. To what extent do human rights considerations limit or shape extradition decisions in contemporary practice?
3. How do selected jurisdictions, including India, the United States, and the United Kingdom, differ in their extradition frameworks and processes?
4. What practical challenges arise in extradition proceedings, as illustrated by cases such as the Bhopal Gas Tragedy, Vijay Mallya, and terrorism-related matters?

D. Methodology

This study will primarily use doctrinal research to analyse extradition treaties, domestic laws, landmark cases, and judicial interpretations balancing sovereignty and human rights. A comparative study of extradition frameworks across nations will identify best practices. Finally, practical challenges will be critically assessed, and recommendations will be proposed.

In this globalising world when translational crime is at rise extradition law is a key tool for securing justice, yet inconsistent enforcement of treaties and human rights

risks further undermine its effectiveness. Evolving extradition law into a transparent, uniform, and cooperative framework will ensure it better balances sovereignty, justice, and human rights.

E. Literature Review

The scholarly literature on extradition law situates it at the intersection of sovereignty, inter-State cooperation and emerging human rights obligations. Under classical works of customary international law extradition has been conceptualised as a discretionary act grounded in comity rather than a binding duty. Early foundational work by M. Cherif Bassiouni characterises extradition as an instrument of “world public order” but one constrained by political will, executive discretion and fragmented treaty networks thereby producing inconsistent enforcement outcomes across jurisdictions.¹⁴ Bassiouni further argues that while treaties create formal obligations yet their implementation depends on domestic legal systems and diplomatic considerations resulting in structural gaps that allow fugitives to exploit jurisdictional boundaries.¹⁵ This sovereignty-centred understanding continues to influence contemporary practice.

Subsequent scholarship reflects a normative shift from pure sovereignty toward rights-based scrutiny. The landmark judgment of the *Soering v. United Kingdom* transformed extradition doctrine by holding that surrender may violate international obligations where the requested State knowingly exposes an individual to inhuman or degrading treatment.¹⁶ Academic commentary by John Dugard and Christine Van den Wyngaert documents how human rights norms have moved from outlying considerations to substantive legal limits on extradition by embedding judicial review into what was previously an executive function.¹⁷ Empirical research by Asif Efrat and Abraham L. Newman demonstrates that rights-respecting States systematically

¹⁴ M. CHERIF BASSIOUNI, INTERNATIONAL EXTRADITION AND WORLD PUBLIC ORDER 6–7 (1974).

¹⁵ M. CHERIF BASSIOUNI, INTERNATIONAL EXTRADITION: UNITED STATES LAW AND PRACTICE 7–12 (6th ed. 2014).

¹⁶ *Soering v. United Kingdom*, 11 Eur. H.R. Rep. 439 (1989).

¹⁷ John Dugard & Christine Van Den Wyngaert, *Reconciling Extradition with Human Rights*, 92 Am. J. Int. Law 187,189–92 (1998),

https://www.cambridge.org/core/product/identifier/S0002930000217806/type/journal_article

extradite fewer individuals which indicates that courts and domestic accountability mechanisms significantly shape surrender decisions.¹⁸ Together, these works reveal how the incorporation of human rights safeguards while being normatively essential has increased litigation and delayed cooperation.

Comparative analyses further highlight institutional divergence across jurisdictions. Studies of United States extradition practice emphasises the limited “non-inquiry” role of judiciary and the dominant discretion of executive branch illustrated in cases such as *Ahmad v. Wigen* and *Neely v. Henkel*.¹⁹ Compared to this research on the United Kingdom’s Extradition Act 2003 underscores the centrality of judicial oversight and proportionality review under the European Convention on Human Rights that often leads to prolonged adversarial proceedings.²⁰ Contemporary Indian scholarship reflects these tensions from the perspective of a requesting State. Nitin Joy’s detailed examination of the India-UK extradition relationship demonstrates how procedural safeguards, prison-condition objections and evidentiary challenges have significantly reduced India’s extradition success rate converting extradition into a long-drawn-out diplomatic process rather than a predictable legal mechanism.²¹ This analysis provides concrete doctrinal and empirical insight into the operational failures of bilateral treaty regimes.

Finally, literature on mass-harm accountability situates extradition failure within broader debates on corporate and transnational justice. Studies of the Bhopal disaster by Upendra Baxi and Amita Dhanda, along with later commentary on the Warren Anderson proceedings, illustrate how asymmetrical power relations and executive discretion can render extradition ineffective in cases of industrial catastrophe.²² These works underscore the human consequences of non-surrender of accused linking extradition deficiencies to denial of justice for victims. Complementing this doctrinal

¹⁸ Asif Efrat & Abraham L Newman, *Defending Core Values: Human Rights and the Extradition of Fugitives*, 57 JOURNAL OF PEACE RESEARCH 581 (2020), <https://journals.sagepub.com/doi/10.1177/0022343319898231>.

¹⁹ *Ahmad v. Wigen*, 910 F.2d 1063, 1066–67 (2d Cir. 1990); *Neely v. Henkel*, 180 U.S. 109, 123 (1901).

²⁰ Extradition Act 2003 (U.K.); see also *Gov’t of India v. Vijay Mallya*, [2020] EWHC 86 (Admin).

²¹ Nitin Joy, *The India-UK Extradition Treaty and How Can India Improve Its Extradition Success Rate*, 3 *Indian J. Integrated Rsch. L.* 1,6-16 (May-June 2023).

²² UPENDRA BAXI & AMITA DHANDA, *VALIANT VICTIMS AND LETHAL LITIGATION: THE BHOPAL CASE* (1990)

scholarship guidance from the United Nations Office on Drugs and Crime advocates institutional reforms such as specialised units, standardised procedures, and model treaty provisions to improve predictability and cooperation.²³

Collectively, the literature reveals a persistent tension that is extradition is indispensable for combating transnational crime, yet its enforcement remains fragmented by sovereignty, politicisation and divergent human rights standards. This paper builds on these scholarly debates by integrating doctrinal analysis with case studies from India's recent experience thereby assessing how extradition can be restructured to balance accountability with rights protection.

IV. CONCEPT AND EVOLUTION OF EXTRADITION LAW

A. Meaning and Nature of Extradition

Extradition refers to the formal legal process by which one sovereign state surrenders an individual found within its territory to another state for criminal prosecution or execution of sentence for offences committed within the requesting state's jurisdiction.²⁴ It is not a determination of guilt or innocence but it's preliminary mechanism that facilitates the transfer of jurisdiction over the accused.²⁵ Extradition is grounded in mutual assistance rather than coercive authority, it functions as an instrument of inter-state cooperation and it operates at the intersection of domestic criminal law and international relations.

Extradition is inherently sovereignty-sensitive and treaty-based. As there is no overarching international obligation extradition it depends primarily on bilateral or multilateral treaties which defines its scope, conditions and limitations of surrender.²⁶ These treaties do not create universally applicable law rather it creates contractual obligations binding only the consenting states.²⁷ Consequently, states hold significant

²³ U.N. Office on Drugs & Crime, Manual on Extradition and Mutual Legal Assistance 1-5 (2012).

²⁴ Draft Convention on Extradition, 29 AM. J. INT. LAW 21 (1935), https://www.cambridge.org/core/product/identifier/S0002930000267572/type/journal_article.

²⁵ United States ex rel. Oppenheim v. Hecht, 16 F.2d 955, 956 (2d Cir. 1927).

²⁶ I.A. SHEARER, supra note 3, at 23-24.

²⁷ John Bassett Moore, A Digest of International Law, 7 COLUMBIA LAW REVIEW 222 (1907), <https://www.jstor.org/stable/1109048?origin=crossref>.

discretion in extradition decisions which includes the authority to refuse surrender on specified grounds.

Extradition proceedings are fundamentally inter-state in character where individual occupies a secondary position as the subject rather than a party to the process. Judicial scrutiny in extradition is generally limited to examining treaty compliance, identity of the accused and prima facie evidence while the final decision commonly rests with the executive authority of the requested state.²⁸ Although the contemporary human rights norms increasingly constrains extradition by prohibiting surrender in cases involving torture, unfair trial or inhuman treatment these safeguards operate as limitations on state discretion rather than as sources of a universal duty to extradite.²⁹ As a result extradition remains a cooperative and non-compulsory mechanism reflecting a fragmented and sovereignty-driven legal framework.³⁰

B. Historical Evolution

Extradition has a long and evolving history that predates modern international law. In its earliest manifestations extradition was deeply rooted in political and diplomatic arrangements between rulers rather than codified legal frameworks. One of the earliest known instances of extradition-type obligations can be seen in a treaty dated to approximately 1259 BC between Ramses II of Egypt and King Hattusili III of the Hittites whereby each agreed not to offer refuge to the other's enemies and to return them upon request, depicting an early agreement to surrender political fugitives rather than ordinary criminals. Contemporary scholars recognise such ancient arrangements as primitive antecedents of modern extradition practice reflecting early norms of interstate cooperation and mutual obligation.

Later in ancient Roman legal tradition "Remissio Rule" institutionalised a limited form of criminal surrender where a criminal handed over by kin to a victim's family would be subjected only to personal punishment and not collective retaliation thereby anticipating one of the core features of extradition that is transfer of culpability

²⁸ 18 U.S.C. § 3184; *In re Ezeta*, 62 F. 972 (N.D. Cal. 1894).

²⁹ *Soering v. United Kingdom*, 11 Eur. H.R. Rep. 439 (1989).

³⁰ Antonio Cassese, *supra* note 8, at 449.

without collateral harms. As political entities multiplied and formal diplomacy developed in the Middle Ages extradition evolved into reciprocal agreements among monarchs, for example, treaties in 1176 between the Kings of England and Scotland and in 1313 between the Kings of France and England that obligated the return of personal enemies seeking refuge. With the onset of the early modern period these bilateral arrangements expanded in scope and culminated in the contemporary era's extensive network of extradition treaties.

In the modern system codified bilateral and multilateral treaties govern extradition between sovereign states incorporating procedural safeguards, dual criminality standards and human rights considerations. While most extradition agreements are regulated by bilateral treaties and reflect mutual consent rather than absolute legal obligation yet they have become indispensable tools of international law enforcement cooperation; but this cooperative regime also embodies legal and procedural challenges such as political discretion, evidentiary requirements and rights protection all these have shaped extradition's historical trajectory and continue to influence its practice today.³¹

C. History Of Indian Extradition Law

The development of extradition law in India reflects a gradual transition from colonial administrative control to a sovereign, treaty-based and rights based legal framework. Historically, extradition in India was governed during the colonial period by imperial British legislation predominantly the Extradition Acts of 1870 and 1873 and the Fugitive Offenders Act, 1881 which were selectively applied to British India and excluded princely states.³² Early extradition practices were closely associated with the right of asylum and sovereign discretion rather than enforceable legal obligation.³³ The enactment of the Indian Extradition Act, 1903 marked the first attempt to

³¹ Saliha Khalid Sair, *Law of Extradition: Synopsis of its Basic Principles, Applications, and Challenges* (June 6, 2024), <https://ssrn.com/abstract=5072588>; Ali Asghar Madaber et al., *Principles and Mechanisms of Extradition in International Criminal Law*, MODERN SCIENCE & RSCH., vol. 4, no. 4, at 1772-1776 (2025), <https://doi.org/10.5281/zenodo.15321101>.

³² Kamyah Wahal, *Law of Extradition and Its Implications for Human Rights Violations*, 6 Int'l J.L. Mgmt. & Human. 2128, 2137-38 (2023), DOI: <https://doi.org/10.1000/IJLMH.115052>.

³³ Siska Katalin, *Historical and Legal Perspectives of the Right of Asylum and Extradition*, Miskolc J. Int'l L., 188-197 (2004).

systematise extradition law in India. It largely mirrored British imperial interests and relied heavily on reciprocity rather than uniform treaty obligations.³⁴

After independence India confronted legal uncertainty regarding the continuity of pre-existing extradition arrangements. This uncertainty was resolved through the enactment of the Extradition Act, 1962, it consolidated extradition law into a comprehensive statutory framework applicable across the territory of India.³⁵ This Act reflects India's post-colonial assertion of sovereignty while retaining executive discretion as a central feature of extradition decisions. Judicial interpretation also shaped Indian extradition law through cases such as the Savarkar Arbitration (1911), which clarified that international law does not impose an obligation to reverse an irregular surrender and later through treaty-based extraditions such as Sucha Singh (1964) and Dharam Teja (1971) demonstrating India's reliance on bilateral cooperation.³⁶

In the contemporary era India's extradition practice has been significantly influenced by transnational crime and terrorism. The growth of organised crime and economic offences has made extradition a critical tool of international criminal justice from an Indian perspective.³⁷ High-profile cases such as that of Abu Salem, Vijay Mallya and Nirav Modi illustrates the increasing complexity of extradition where legal cooperation is conditioned by human rights assurances, sentencing limits and prison conditions.³⁸ These developments indicates a shift from a purely sovereignty-based model to a conditional and rights-oriented extradition regime.

V. PRINCIPLES OF EXTRADITION

Extradition law functions through a set of established principles that balance the sovereign interests of States with the rights of individuals who are requested for surrender. These principles in India are derived from statutory provisions under the Extradition Act, 1962, judicial interpretation, treaty obligations and customary

³⁴ Wahal, *supra* note 31, at 2137.

³⁵ The Extradition Act, No. 34 of 1962, INDIA CODE.

³⁶ Savarkar Case (Fr. v. Gr. Brit.), 11 R.I.A.A. 243 (Perm. Ct. Arb. 1911).

³⁷ Shankar Pratap Singh, *Transnational Organized Crime: Indian Perspective*, UNAFEI Ann. Rep. (2000).

³⁸ Wahal, *supra* note 31, at 2146–48.

international law. The most significant doctrines are dual criminality, speciality, reciprocity, extraditable offence and the doctrine of non-inquiry. Together these doctrines structure the legal framework within which extradition requests are assessed and executed.³⁹

A. Doctrine of Dual Criminality

The doctrine of dual criminality requires that the act for which extradition is sought must constitute an offence under the laws of both the requesting State and the requested State.⁴⁰ This principle ensures that an individual is not surrendered for conduct that the requested State does not recognise as criminal. Under the Indian Extradition Act, 1903, this doctrine was expressly codified through the definition of “offence” which included any act that would constitute an offence if committed in India.⁴¹ Although the Extradition Act, 1962 does not expressly define the term in similar language yet the principle continues to operate through treaty practice and judicial interpretation.⁴²

The Supreme Court of India in *Abu Salem Abdul Qayoom Ansari v. State of Maharashtra* primarily examined the doctrine of speciality and held that an extradited person can be tried only for offences for which extradition has been granted, as reflected in Section 21 of the Extradition Act, 1962. While the Court acknowledged principles such as dual criminality within the broader framework of extradition law, its central ruling reaffirmed the binding nature of the rule of speciality in Indian extradition jurisprudence.⁴³

B. Doctrine of Speciality

The doctrine of speciality restricts the power of the requesting State by limiting the trial of an extradited person strictly to the offence for which extradition was granted.⁴⁴ This doctrine prevents abuse of the extradition process and preserves the sovereign

³⁹ Kanhaiya Singhal et al., *Extradition: Procedure and Principles*, 4 Int'l J.L. Mgmt. & Humanities 1169, 1171-72 (2021), DOI: <https://doi.org/10.10000/IJLMH.111452>.

⁴⁰ J. N. Saxena, *India – The Extradition Act, 1962*, 13 Int'l & Comp. L.Q. 116, 118 (1964).

⁴¹ Indian Extradition Act, 1903, § 2(e), Act No. 15 of 1903 (India).

⁴² Kanhaiya Singhal et al., *supra* note 38, at 1173.

⁴³ *Abu Salem Abdul Qayoom Ansari v. State of Maharashtra*, (2011) 11 S.C.C. 214 (India).

⁴⁴ DANIEL PATRICK O'CONNELL, *INTERNATIONAL LAW* 391 (2d ed. 2009).

consent of the requested State. If the requesting State seeks to prosecute the individual for any other offence committed prior to extradition, then it has to fresh consent from the requested State.⁴⁵

In India, the doctrine of speciality is statutorily recognised under Sections 21 and 31(c) of the Extradition Act, 1962.⁴⁶ These provisions ensure that extradition does not become a mechanism for prosecutorial overreach.

C. Doctrine of Reciprocity

The doctrine of reciprocity reflects the principle of sovereign equality and mutual cooperation between States. It ensures that a State does not demand extradition for an offence for which it would not extradite if roles were reversed.⁴⁷ Reciprocity strengthens the diplomatic relations and it facilitates cooperation in fighting transnational crime by fostering mutual trust between States.⁴⁸ This principle operates not only through treaty obligations but also in the situations where no formal extradition treaty exists. States can refuse extradition in the absence of assurances of reciprocal treatment. This doctrine reinforces fairness and balance in inter-State extradition practice.

D. Extraditable Offence

The concept of an “extraditable offence” is central to the operation of extradition law. Section 2(c) of the Extradition Act, 1962 defines an extraditable offence differently depending on whether an extradition treaty exists between the concerned States.⁴⁹ Where a treaty is in force the offences listed therein governs the extradition. In the absence of a treaty any offence punishable with imprisonment of at least one year under the laws of either State qualifies as an extraditable offence.⁵⁰

Certain categories of offences are traditionally excluded from extradition such as Political offences, military offences and offences motivated by persecution on grounds

⁴⁵ Shearer, *supra* note 3, at 138.

⁴⁶ Extradition Act, 1962, §§ 21, 31(c), No. 34, Acts of Parliament, 1962 (India).

⁴⁷ Extradition Act, 1962, § 21, No. 34, Acts of Parliament, 1962 (India).

⁴⁸ GEOFF GILBERT, *TRANSNATIONAL FUGITIVE OFFENDERS IN INTERNATIONAL LAW* 84 (1998).

⁴⁹ Extradition Act, 1962, § 2(c), No. 34, Acts of Parliament, 1962 (India).

⁵⁰ Kanhaiya Singhal et al., *supra* note 38, at 1175-76.

such as race, religion, nationality or political opinion.⁵¹ However, the absence of a universally accepted definition of “political offence” has led to interpretive difficulties which requires courts to assess the factual matrix of each case. The Act further bars extradition where proceedings are time-barred under the applicable statute of limitation or where the fugitive is already undergoing trial or serving sentence in India.⁵²

E. Doctrine of non-inquiry

The doctrine of non-inquiry suggests that the requested State should refrain from examining the fairness of the criminal justice system of the requesting State.⁵³ Traditionally it was followed in jurisdictions such as the United States and Canada. This principle is rooted in mutual respect for sovereign legal systems. However, its application has been increasingly constrained by the rise of international human rights law.⁵⁴

In India this doctrine is not applied in its absolute form due to the country’s international obligations under human rights conventions. Judicial scrutiny of potential violations of fundamental rights including the risk of torture or inhumane treatment has restrained blind adherence to non-inquiry. The landmark decision of the European Court of Human Rights in *Soering v. United Kingdom* exemplifies this shift in this case extradition was denied due to the risk of inhumane treatment in the requesting State in violation of Article 3 of the European Convention on Human Rights.⁵⁵

VI. SOVEREIGNTY, INTERNATIONAL COOPERATION AND HUMAN RIGHTS DIMENSION OF EXTRADITION

Extradition lies at the intersection of State sovereignty, international cooperation and protection of individual rights. At core of extradition is a legal mechanism through which one State surrenders a person present within its territory to another State for

⁵¹ Extradition Act, 1962, § 31(a), No. 34, Acts of Parliament, 1962 (India).

⁵² Extradition Act, 1962, §§ 31(b), 31(d), No. 34, Acts of Parliament, 1962 (India)

⁵³ *Kanhaiya Singhal et al.*, supra note 38, at 1176.

⁵⁴ GEOFF GILBERT, supra note 47, (1998).

⁵⁵ *Soering v. United Kingdom*, 161 Eur. Ct. H.R. (ser. A) (1989).

prosecution or punishment. This process serves the objective of preventing offenders from evading justice by crossing borders and it simultaneously implicates most sensitive attribute of Statehood which is sovereign control over territory and persons within it. Consequently, extradition has long been understood not as an automatic duty under international law but as an exercise of sovereign discretion grounded in treaty consent and diplomatic comity.⁵⁶

From a classical perspective sovereignty implied plenary authority over all persons within national territory. No State had legal obligation to surrender an individual unless it had voluntarily undertaken such an obligation through treaty. Early extradition arrangements therefore operated as matters of inter-state courtesy instead of being enforceable legal commitments. Even today in absence of treaty a State may refuse extradition without breaching international law.⁵⁷ This framework reflects the traditional Westphalian assumption that criminal jurisdiction is territorial and that surrendering an accused person constitutes an exceptional derogation from sovereign power. Extradition thus represents a voluntary limitation of sovereignty rather than its abandonment.

However, the growth of transnational crime such as terrorism, organized crime, cybercrime, and financial fraud has significantly altered the practical realities of enforcement. Criminals increasingly exploit this fragmented jurisdiction to avoid prosecution, hence undermining domestic legal systems. As a result, states have gradually reconceptualized extradition from a purely discretionary act into a necessary instrument of collective security and shared law enforcement. Contemporary practice now rests on dense networks of bilateral and multilateral treaties alongside domestic statutes such as national extradition Acts which institutionalize cooperation and regularize procedures.⁵⁸ In this sense sovereignty has evolved from isolation toward interdependence where States preserve authority while simultaneously recognizing that effective criminal justice requires mutual assistance.

⁵⁶ Ivan A. Shearer, *supra* note 3, at 1–6.

⁵⁷ M. Cherif Bassiouni, *supra* note 14, at 23–27.

⁵⁸ *Id.* at 65–90.

Yet this movement from absolute sovereignty toward cooperative enforcement has not been linear or unqualified. Although cooperation enhances accountability, but it also raises fundamental concerns regarding fairness and individual protection. Extradition requires the forcible transfer of a person from one legal system to another and often to a system with different procedural safeguards, detention standards or punitive philosophies. The individual surrendered may face torture, degrading treatment, discriminatory prosecution or disproportionate punishment. Consequently, extradition exposes a tension between two competing imperatives that is the sovereign interest in punishing crime and the normative commitment to protecting human dignity.⁵⁹

This tension has produced significant transformations in extradition law by incorporating human rights as substantive limits on surrender. Traditionally fugitives were treated merely as objects of inter-state exchange. Modern international law recognizes them as rights-bearing individuals whose liberty cannot be compromised without due process and human safeguards. Extradition has therefore become judicialized and rights-sensitive rather than being purely diplomatic. Courts increasingly scrutinize requests to ensure that surrender will not expose the person to violations of human rights.

The doctrinal foundation for this shift lies in the principle that a State may not indirectly facilitate human rights abuses through extradition. This position was authoritatively expressed in *Soering v United Kingdom* where the European Court of Human Rights held that extradition could breach the prohibition of inhuman or degrading treatment if the individual would likely face the “death row phenomenon” in the requesting State.⁶⁰ The Court reasoned that responsibility does not end at the territorial border. Where foreseeable consequences of surrender include serious mistreatment then the requested State remains internationally accountable. This decision marked a watershed Moment embedding human rights review within extradition proceedings and influencing courts worldwide.

⁵⁹ John Dugard & Christine Van den Wyngaert, *supra* note 16, at 187.

⁶⁰ *Supra* note 54.

In response to these jurisprudential development's extradition treaties and domestic legislation increasingly incorporate explicit safeguards. States commonly refuse surrender where there is a substantial risk of torture, unfair trial or capital punishment without assurances. International instruments including the United Nations Model Treaty on Extradition and the Convention against Torture reinforces the principle that extradition must not result in refoulement to abusive conditions.⁶¹ Human rights considerations have moved from the margins to the core of extradition law, functioning as independent legal constraints on State discretion.⁶²

Human rights scrutiny in extradition generally arises along three interrelated dimensions. First, protections against physical abuse including torture, inhuman detention conditions or coercive interrogation practices. Second are guarantees of procedural fairness such as access to independent courts, legal representation and due process. Third, limits on excessive punishment particularly the death penalty or life imprisonment without review.⁶³ These safeguards ensures that cooperation in criminal matters does not legitimize injustice.

Importantly these protections have tangible consequences for international cooperation. Empirical research demonstrates that rights-respecting States exhibit greater caution in extradition decisions. In comparative study of extradition within the European Union and to the United States it was found that countries with stronger human rights records systematically surrender fewer fugitives.⁶⁴ Their findings suggest that human rights norms are not merely rhetorical commitments but operate as real constraints shaped by judicial review, public scrutiny and domestic political accountability. Governments moderates' extradition practices when it anticipates backlash if cooperation exposes individuals to abuse.

Thus, contemporary extradition law reflects a recalibrated conception of sovereignty. Sovereignty today no longer implies unfettered discretion to surrender or detain individuals irrespective of consequences. Instead, it entails the duty to ensure that

⁶¹ U.N. Model Treaty on Extradition, G.A. Res. 45/116 (1990); Convention Against Torture art. 3.

⁶² Dugard & Van den Wyngaert, *supra* note 16, at 189-95.

⁶³ *Id.*: Shearer, *supra* note 3, at 147-50.

⁶⁴ Asif Efrat & Abraham L. Newman, *supra* note 17, at 581.

cooperation does not violate basic standards of justice and humanity. Modern extradition must reconcile the suppression of crime with “minimum guarantees of fairness consistent with international human rights norms.”⁶⁵ The legitimacy of extradition therefore depends not only on treaty obligations but also on compatibility with constitutional and international rights protections.

In effect extradition now operates within a tripartite normative framework:

1. It remains grounded in sovereignty as surrender is ultimately a decision of the requested State.
2. It facilitates international cooperation by preventing impunity for cross-border offenders.
3. Critically it is conditioned by human rights safeguards that protect individuals from abuse.

The balance among these elements defines the contemporary law of extradition.

VII. CASE STUDY: FAILURE OF EXTRADITION AND THE CRISIS OF ACCOUNTABILITY

A. Extradition Failure and the Accountability Deficit: Structural Concerns

Where extradition mechanisms collapse due to procedural delays, diplomatic reluctance or expansive human rights objections their offenders effectively evade the criminal justice system of the requesting State. Extradition though historically rooted in sovereign discretion is increasingly understood as an essential tool of international cooperation intended to prevent fugitives from exploiting jurisdictional fragmentation.⁶⁶ However, because international law imposes no general binding obligation to extradite so States continue to rely primarily on bilateral treaties whose implementation varies significantly depending on political will and domestic legal standards.⁶⁷

⁶⁵ Bassiouni, *supra* note 14, at 575–82.

⁶⁶ Nitin Joy, *The India-UK Extradition Treaty and How Can India Improve Its Extradition Success Rate*, 3 *Indian J. Integrated Rsch. L.* 1, 2–3 (May–June 2023).

⁶⁷ *Id.* at 4.

In practice, safeguards such as dual criminality, the political offence exception and human rights review though normatively justified to protect fairness are often invoked in ways that frustrate surrender rather than balance justice and rights.⁶⁸ The consequence is not merely procedural delay but substantive impunity. Prolonged extradition proceedings weaken deterrence, undermine public confidence in the criminal justice system and create safe havens for offenders. As demonstrated in India's recent experience delay itself becomes a strategy of evasion.⁶⁹

B. Economic Offences and the India-UK Experience

The accountability deficit created by weak extradition enforcement is most visible in India's extradition relationship with the United Kingdom. Despite the existence of a bilateral treaty, success rate of India in securing fugitives from the UK has remained low due to prolonged proceedings and enforcement challenges. In response to the growing problem of economic offenders absconding from jurisdiction, India enacted the Fugitive Economic Offenders Act, 2018, which provides for the declaration of individuals such as Vijay Mallya and Nirav Modi as Fugitive Economic Offenders and enables confiscation of their properties. While this legislation strengthens domestic enforcement and deterrence, extradition has continued to function as a discretionary and heavily contested diplomatic process rather than a predictable legal obligation.⁷⁰

The proceedings involving Vijay Mallya initially illustrated how the extradition process may be transformed into a tool of delay through prolonged litigation and human rights-based objections. However, both Mallya and Nirav Modi have since exhausted all judicial remedies against extradition before UK courts. Their continued presence in the United Kingdom is no longer attributable to ongoing litigation but to a confidential executive or administrative impediment. This shift indicates that the obstacle has moved from judicial scrutiny to the level of executive or diplomatic enforcement despite the existence of prima facie evidence and treaty compliance.⁷¹

⁶⁸ Id. at 6–8.

⁶⁹ Id. at 10–11.

⁷⁰ Id. at 2.

⁷¹ Id. at 10–12.

Even the relatively successful extradition of Sanjeev Chawla was secured only after India furnished extensive diplomatic assurances concerning prison conditions and human rights protections.⁷² While demonstrating that extradition remains possible this case highlights the disproportionate burden placed on the requesting State which has to repeatedly defend its domestic legal and custodial systems before foreign courts. Such asymmetry illustrates how enforcement deficits convert extradition from a cooperative mechanism into a protracted negotiation.

C. Terrorism-Related Extradition Failures and Security Risks

The consequences of weak extradition enforcement are even more serious in offences related to terrorism where non-surrender directly affects national security and victims' rights. The case of David Headley who was a key conspirator in the 2008 Mumbai attacks demonstrates this limitation. Although the attacks occurred in India still India was unable to secure his extradition and he was instead prosecuted in the United States pursuant to a plea agreement, which continues to bar his surrender. However, the extradition of Tahawwur Hussain Rana, a co-conspirator in the same attacks, from the United States to India in April 2025 marks a significant development in bilateral cooperation. While this demonstrates that extradition in terrorism-related cases is achievable, the inability to secure Headley's custody continues to highlight the constraints imposed by plea agreements and jurisdictional arrangements.

Similarly, the continuing inability to secure custody of Masood Azhar despite international sanctions and India's repeated demands shows how political protection by a host State can neutralize extradition frameworks altogether.⁷³ In such circumstances sovereignty operates as a shield for impunity rather than a facilitator of lawful cooperation, it allows transnational threats to remain beyond the reach of affected jurisdictions.

D. The Warren Anderson Case: Bhopal and the Limits of Extradition

The most enduring illustration of extradition failure affecting accountability is the Warren Anderson episode arising from the Bhopal Gas Disaster. Charged for offences

⁷² Id. at 5.

⁷³ U.N. Security Council, Consolidated Sanctions List (Jaish-e-Mohammed listing of Masood Azhar).

connected to one of the deadliest industrial catastrophes in history, Anderson travelled to Bhopal after the incident, was briefly placed under house arrest, and was subsequently permitted to leave India, never returning to face trial and remaining in the United States.⁷⁴ Despite subsequent extradition requests under the India-U.S. treaty framework United States declined surrender citing evidentiary and treaty-related objections.⁷⁵

Indian courts declared Anderson a proclaimed offender and issued non-bailable warrants, yet these judicial determinations had no practical effect beyond Indian territory.⁷⁶ The result was a complete breakdown of accountability for corporate leadership associated with mass industrial harm. Scholars have observed that the Bhopal litigation exposed the limitations of extradition law when confronted with asymmetrical power relations and corporate influence leaving victims without meaningful criminal redress.⁷⁷ This episode remains a cautionary example of how extradition failure may permanently foreclose justice.

E. Real World Consequences of Weak Extradition Enforcement

These experiences across economic crime, terrorism and industrial disaster demonstrate that weak extradition enforcement produces tangible and severe consequences such as it generates security risks as terrorism suspects remain beyond reach, it results in economic and institutional losses where financial offenders evade recovery proceedings and undermine public trust, it denies victims justice particularly in cases of mass harm such as Bhopal where prosecution carries both symbolic and substantive importance.

VIII. COMPARATIVE ANALYSIS OF EXTRADITION LAW: UNITED STATES, UNITED KINGDOM AND INDIA

A comparative examination of extradition laws across jurisdictions reveals that while United States, United Kingdom and India share foundational principles such as dual

⁷⁴ *Union Carbide Corp. v. Union of India*, (1989) 1 S.C.C. 674 (India).

⁷⁵ India-U.S. Extradition Treaty, India-U.S., June 25, 1997, T.I.A.S. No. 97-625; Ministry of External Affairs, Govt. of India, Extradition Request for Warren Anderson (2004).

⁷⁶ *CBI v. Warren Anderson*, Order dated June 29, 2010 (C.J.M., Bhopal).

⁷⁷ Upendra Baxi & Amita Dhanda, *supra* note 21, 153

criminality, specialty and treaty-based surrender but their extradition regimes diverge significantly in structure, judicial involvement and treatment of sovereignty and human rights. These divergences explain why extradition despite being a principal tool of international criminal cooperation frequently becomes protracted, politicised and uncertain in practice.⁷⁸

In the United States extradition is strictly treaty-based and operates within a dual-track system involving both judiciary and executive. Courts play a limited role which is confined to assessing treaty applicability, identity of the accused and whether probable cause exists, while refraining from evaluating the fairness of the requesting state's legal system under the traditional rule of non-inquiry.⁷⁹ The final discretion to extradite rests with the Secretary of State who may consider diplomatic, political or humanitarian concerns.⁸⁰ This structure reflects a strong emphasis on sovereignty and executive control as illustrated in case of Edward Snowden where the absence of an extradition treaty with Russia and broader geopolitical considerations rendered extradition legally and politically infeasible.⁸¹

The United Kingdom by contrast follows a far more judicialized and human rights-oriented extradition framework. It is governed by the Extradition Act 2003 and constrained by the European Convention on Human Rights. UK courts actively examine allegations of political motivation, prison conditions, risk of suicide and denial of fair trial before approving extradition.⁸² This approach has significantly impacted India's extradition requests with cases such as Vijay Mallya and Nirav Modi initially demonstrating how human rights objections particularly under Articles 3 and 6 of the ECHR can delay extradition. However, both individuals have now exhausted their judicial challenges and the remaining impediments lie at the level of executive or administrative action, reflecting a shift from judicial scrutiny to issues of

⁷⁸ Ashar Hussain, A Comparative Analysis of Extradition Laws around the World, 3 INDIAN J. INTEGRATED RSCH. L. 1, 2-3 (May-June 2023).

⁷⁹ Ahmad v. Wigen, 910 F.2d 1063, 1066-67 (2d Cir. 1990); Neely v. Henkel, 180 U.S. 109, 123 (1901).

⁸⁰ In re Ezeta, 62 F. 972, 999 (N.D. Cal. 1894).

⁸¹ Jonathan Masters, Extraditing Edward Snowden, COUNCIL ON FOREIGN RELATIONS (2022), <https://www.cfr.org/interview/extraditing-edward-snowden>.

⁸² Extradition Act 2003 (U.K.); Soering v. United Kingdom, 11 Eur. H.R. Rep. 439 (1989).

enforcement despite the existence of a valid bilateral treaty.⁸³ While this model strengthens individual rights protection yet it also transforms extradition into a lengthy adversarial process which often frustrates international cooperation.

India's extradition regime is governed by the Extradition Act, 1962 representing a hybrid model combining treaty obligations with detailed domestic procedural safeguards. In addition, legislative measures such as the Fugitive Economic Offenders Act, 2018 have been introduced to address the problem of high-value economic offenders fleeing jurisdiction by enabling their designation as Fugitive Economic Offenders and facilitating attachment and confiscation of assets. India permits extradition both pursuant to treaties and in limited circumstances on the basis of reciprocity or international conventions including counter-terrorism instruments. However, India faces significant challenges as a requesting state due to stringent evidentiary requirements, delays in foreign judicial systems and heightened scrutiny of prison conditions and fair trial standards abroad. As a requested state India retains executive discretion but as a requesting state it remains vulnerable to foreign courts' interpretations of human rights compliance, creating an asymmetry in extradition outcomes.

Overall, comparative analysis demonstrates that extradition law remains deeply influenced by domestic constitutional values and political considerations rather than uniform international standards where United States prioritises treaty compliance and executive discretion, United Kingdom foregrounds human rights and judicial oversight and India struggles to reconcile procedural rigor with international expectations.⁸⁴ These structural differences underscore the absence of a coherent global extradition regime and explain why extradition usually fails to deliver timely accountability despite being central to combating transnational crime.⁸⁵ The comparative analysis thus demonstrates that effective transnational accountability requires integrating the efficiency of the U.S. model, the rights protections of the UK

⁸³ Gov't of India v. Vijay Mallya, [2020] EWHC 86 (Admin); Nirav Modi v. Gov't of India, [2021] EWHC 1912 (Admin).

⁸⁴ Antonio Cassese, *supra* note 8, at 449-51.

⁸⁵ M. Cherif Bassiouni, *supra* note 13, at 6-7.

approach and the statutory clarity of the Indian framework while mitigating their respective deficiencies.

IX. CHALLENGES IN GLOBAL EXTRADITION FRAMEWORK

Although extradition is the primary mechanism for transnational criminal cooperation, yet its effectiveness remains constrained by structural fragmentation, political discretion and human-rights-based limitations. Unlike many areas of international criminal law extradition is not governed by a universal obligation but depends largely on bilateral treaties and domestic implementation. Consequently, surrender often reflects diplomatic will rather than enforceable legal duty. It allows states to refuse or delay extradition even in serious cases.⁸⁶ Scholars therefore describe extradition as a system grounded more in comity and reciprocity than binding obligation.⁸⁷

A central contemporary challenge is the increasing incorporation of human rights safeguards into extradition adjudication. The European Court of Human Rights' decision in *Soering v. United Kingdom* established that extradition must be refused where surrender exposes an individual to inhuman or degrading treatment.⁸⁸ Since then courts routinely assess prison conditions, fair-trial guarantees and proportionality of punishment.⁸⁹ These protections are though normatively essential yet they have also rendered extradition highly litigated and time-consuming. Empirical evidence demonstrates that states with stronger human-rights commitments tend to extradite fewer individuals as courts impose stricter scrutiny on requests.⁹⁰ In practice human-rights review frequently transforms extradition into prolonged judicial proceedings, hence undermining timely cooperation.

Doctrinal safeguards further complicate enforcement. Principles such as dual criminality, political-offence exception and evidentiary thresholds which are designed to protect sovereignty and individual liberty often provide fugitives with procedural

⁸⁶ M. Cherif Bassiouni, *supra* note 14, at 1–7.

⁸⁷ I.A. Shearer, *supra* note 3, at 23–25.

⁸⁸ *Soering v. United Kingdom*, 11 Eur. H.R. Rep. 439 (1989).

⁸⁹ Dugard & Van den Wyngaert, *supra* note 16.

⁹⁰ Asif Efrat & Abraham L. Newman, *supra* note 17.

avenues to resist surrender.⁹¹ The India-UK experience illustrates how repeated appeals and prison-condition objections delayed extradition in cases such as Vijay Mallya and Nirav Modi and effectively converted process into protection.⁹² Such delays weaken deterrence and create de facto safe havens for economic offenders.

These structural weaknesses have tangible consequences. Terrorism suspects may avoid prosecution in the most affected jurisdiction as seen when David Headley was tried in the United States rather than extradited to India following the Mumbai attacks.⁹³ Economic offenders exploit jurisdictional fragmentation to evade accountability abroad. Most starkly the failure to secure Warren Anderson's extradition after the Bhopal Gas Disaster left victims without direct criminal accountability. This demonstrates how political and diplomatic considerations neutralizes treaty commitments.⁹⁴ Together, these examples show that weak enforcement erodes security, frustrates economic justice, and denies to victims the meaningful redress.

Ultimately, the global extradition framework remains caught between sovereignty and accountability. While human rights protections are indispensable but excessive proceduralizing, executive discretion and divergent domestic standards render extradition uncertain and inconsistent.⁹⁵

X. SUGGESTED REFORMS AND WAY FORWARD

The recurring failures of extradition in cases such as terrorism, large-scale financial fraud and corporate or industrial disasters demonstrate that treaty frameworks alone cannot ensure accountability. Although extradition is widely recognised as a central mechanism of inter-State cooperation, but its practical effectiveness continues to be undermined by procedural delays, evidentiary hurdles, diplomatic discretion and human-rights objections. Comparative experience from India, United Kingdom and United States shows that extradition succeeds not merely through legal commitments

⁹¹ Antonio Cassese, *supra* note 8, at 449-51.

⁹² Nitin Joy, *supra* note 65, at 6-12.

⁹³ *United States v. Headley*, No. 09-CR-830 (N.D. Ill. 2010).

⁹⁴ *Union of India v. Union Carbide Corp.*, (1991) 4 S.C.C. 584 (India); Upendra Baxi & Amita Dhanda, *supra* note 21.

⁹⁵ Bassiouni, *supra* note 13, at 53-60.

but through institutional credibility, administrative efficiency and mutual trust. Consequently, reform must address both structural weaknesses within domestic systems and broader shortcomings in the global extradition architecture.

1. Strengthening domestic infrastructure is essential for requesting States such as India. A significant proportion of refusals or delays before foreign courts especially in the United Kingdom arise from concerns about prison conditions, custodial violence and fair-trial guarantees. European courts have repeatedly held that extradition must be denied where there is a real risk of inhuman or degrading treatment. Such jurisprudence makes domestic penal reform a prerequisite for successful extradition. In addition, recent legislative developments such as the enactment of the *Bharatiya Nyaya Sanhita, 2023*, which has replaced the Indian Penal Code with effect from 1 July 2024, require corresponding updates in extradition practice. Since extradition requests frequently rely on the classification of offences under domestic criminal law, India must ensure that treaty documentation, charge descriptions and legal references are aligned with the new statutory framework. Keeping this in mind India has proposed specialised, high-standard detention facilities and dedicated mechanisms for extradited fugitives to address foreign judicial concerns and demonstrate compliance with international human-rights norms.⁹⁶
2. Procedural streamlining is necessary to prevent delay-based evasion. Extradition proceedings often stretch over years because of repetitive appeals, documentation gaps and inter-agency inefficiencies. Scholars have long observed that excessive procedural complexity enables fugitives to exploit technicalities and frustrate surrender.⁹⁷ Establishing specialised extradition cells, standardised evidence formats and statutory timelines for executive and judicial action can significantly reduce delays without compromising due process. The United Nations Office on Drugs and Crime

⁹⁶ Press Information Bureau, Ministry of Home Affairs, Govt. of India, Home Minister Amit Shah calls for special facilities and improved coordination for extradited fugitives (2023).

⁹⁷ M. Cherif Bassiouni, *supra* note 13, at 6–7.

similarly recommends specialised units and clear procedural standards to ensure faster and more predictable outcomes.⁹⁸

3. Human-rights safeguards should be clarified rather than diluted. Modern extradition law must balance accountability with protection against torture, unfair trial or disproportionate punishment. Courts particularly in Europe subjects' requests to strict scrutiny this reflects the growing normative centrality of human rights.⁹⁹ Instead of treating these safeguards as obstacles States should adopt structured diplomatic assurances, independent monitoring and measurable compliance guarantees. This transforms human-rights review from an indefinite barrier into a transparent and manageable requirement preserving both justice and individual protection.
4. Reforms must extend beyond bilateralism. The present system relies heavily on fragmented bilateral treaties resulting in inconsistent standards and politicised outcomes. Scholars argue that stronger multilateral coordination, model treaty provisions and shared enforcement platforms can promote uniformity and mutual confidence.¹⁰⁰ Enhanced use of Interpol notices, joint investigations and information-sharing networks can complement formal extradition by improving evidence gathering and location of fugitives.¹⁰¹
5. Capacity building is indispensable. Effective extradition requires trained prosecutors, judges and investigators capable of preparing treaty-compliant requests and responding to foreign legal scrutiny. Without professional expertise and coordination even strong legal frameworks risk becoming obsolete.

In sum extradition reform must be holistic. Institutional modernisation, procedural efficiency, credible human-rights compliance and multilateral cooperation collectively

⁹⁸ United Nations Office on Drugs and Crime, *Manual on Mutual Legal Assistance and Extradition* 21–29 (2012).

⁹⁹ Asif Efrat & Abraham L. Newman, *supra* note 17, at 584–90.

¹⁰⁰ Antonio Cassese, *supra* note 8, at 449–51.

¹⁰¹ Interpol, About Red Notices, <https://www.interpol.int>.

convert extradition from a discretionary diplomatic exercise into a reliable legal obligation. Only through such structural improvements can extradition fulfil its purpose of preventing fugitives from exploiting borders and ensuring meaningful transnational accountability.

XI. CONCLUSION

Extradition today occupies a critical yet contested space within international criminal law. While designed as a cooperative mechanism to prevent fugitives from evading justice by crossing borders, its practical operation remains shaped less by uniform legal obligation and more by sovereignty, politics and domestic legal priorities. This paper has demonstrated that the contemporary extradition framework though treaty-based and normatively grounded in reciprocity and mutual assistance fails frequently to deliver timely and meaningful accountability. Structural fragmentation, procedural delays and inconsistent human rights standards continue to undermine its effectiveness.

The case studies analysed illustrate the tangible consequences of such weaknesses. The Warren Anderson episode following the Bhopal Gas Disaster revealed how extradition failure can permanently foreclose criminal responsibility in cases of mass industrial harm denying victims both justice and closure. Similarly, India's experience with the United Kingdom in high-profile economic offences including Vijay Mallya and Nirav Modi shows how prolonged litigation and human-rights objections can transform extradition into a tool of delay rather than enforcement. Terrorism-related cases further underscore the security risks of non-surrender where jurisdictional barriers dilute the expressive and deterrent functions of criminal law. Collectively these examples demonstrate that weak extradition enforcement produces not merely legal inconvenience but real-world impunity.

Comparative analysis of the United States, United Kingdom and India confirms that extradition outcomes are deeply influenced by domestic constitutional values such as executive discretion in the United States, rights-based judicial scrutiny in the UK and procedural complexity in India. The absence of harmonised standards results in unpredictability and selective cooperation.

Accordingly, the future of extradition lies in reconciling sovereignty with responsibility. Strengthened domestic institutions, credible human-rights compliance, streamlined procedures and greater multilateral coordination are essential to transform extradition from diplomatic courtesy into a reliable instrument of global justice. Only through such reforms can extradition fulfil its fundamental purpose ensuring that borders do not become barriers to accountability.

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