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Law of Extradition and Its Implications for Human Rights Violations: A Critical Analysis in National Perspective

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ABSTRACT

In the 21st century, the concept of extradition has evolved into international cooperation to prevent world social interests and to prevent and suppress crimes, including international crimes. In the context of the development of international humanitarian law, a crisis arose for the full protection of the rights and interests of individuals, including human rights. The Extradition law serves this purpose.

The study of extradition law raises questions about is the extent and scope of the Extradition Act, effects and consequences of the Extradition Act, Implications of human rights principles for extradition law, legal approach to extradition and law reform needed to eliminate the menace. This study therefore aims to find out the nature, purpose and policy of the legal regulation and principle governing extradition rights, to determine current relevance, usefulness, appropriateness, effectiveness and implementation, to determine whether the laws in force in India are satisfactory or whether any special laws need to be amended or enacted in this regard, to determine and investigate the cause of this problem and to attract attention and come up with suitable suggestions to strengthen the law.

Keywords: extradition, human rights.

I. INTRODUCTION

(A) Nature and Scope of Extradition

Extradition is one of the aspects which plays important role in the maintenance of world peace. Extradition means delivery of a criminal or fugitive from justice by one State (Country) to other State (Country) on sufficient grounds shown. This is the transfer of a suspect or convicted criminal from one state to another. Extradition may only be made by a State, at the request of another State, to a person found within its jurisdiction for a criminal offence, for trial and punishment, or, if already convicted, pursuant to law. It can be defined as a procedure to hand over to the latter for punishment. outside the territory of the requesting country;

It is the right as well as responsibility of each and every Country to punish the culprits, criminal

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offenders, anti-social elements and elements involved in international crimes. Otherwise, the peaceful atmosphere of the State blemishes, disfigures or spoils. It is very common that criminal commits an offence in one State and escapes to other State to escape from the punishment. In such circumstances the first State requests the latter State to extradite that person. If that criminal is not extradited he may become dangerous not only for the latter State but for the whole world. Therefore the States (Countries) should co-operate each other by extraditing the criminals to maintain world peace. Extradition plays important role in the maintenance of world peace.. However extradition is not a rule. It depends upon the will of extraditing Country. It is one of the accepted principles under the provisions of International Law that each State has right to give asylum to foreign national. When extradition starts, asylum ends.

The Extradition Law is a branch of the law of criminal law . It deals with the criminals, surrender of criminals from one Country to another Country, to bring the criminals under criminal justice system to protect the world from dangerous activities of the criminals and ultimately to maintain the world peace. An issue of extradition is becoming prime and prominent in the context of international crimes such as international terrorism.

Under the provisions of International Law, it is not obligatory upon any State to extradite criminal or fugitive. No rule of international law imposing obligations on states to extradite fugitives unless an extradition treaty has been signed between those concerned countries. After a surrender of the criminal, he would be prosecuted and punished as per the provisions of the municipal law of that State to which his surrender is given. National courts decide the matter by applying municipal law. However such matters are decided Based on international obligations and relevant rules of international law. However, there is no universal convention governing extradition matters. The States have to avail themselves to bilateral or multilateral extradition treaties concluded between themselves in the matters of surrender of the accused or convict to the requesting state.

An extradition treaty lists the conditions of an extradition. A list of offences for which a fugitive can be extradited is included in it. It is reciprocal in terms of conditions, generally an extradition treaty for successful extradition requires that:

1. The offence is serious;
2. Prima facie there is sufficient evidence to proceed against the fugitive;
3. Principal of dual criminality;
4. Possibility of fair trial to the fugitive if surrendered; and

5. The fugitive will get sentence proportionate to the offence.

United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances came in to force on 11 November 1990². In line with art 29(1) of the Convention in the absence of a bilateral extradition treaty the Convention provides a legal basis for extradition in respect of offences set forth in art 3³ of the Convention. And art 6 makes those offences extraditable⁴

(B) Significance of extradition

Effective criminal justice system and its effective administration are essential for the sake of maintenance and protection of national and international security. But States cannot expand their criminal justice system beyond their national boundaries due to sovereign barriers. As a result, if the offender escapes beyond territorial limits of the State after commission of crime within national boundaries, the State cannot exercise jurisdiction over that criminal.

When a criminal escapes to another nation in order to avoid the criminal justice system of a concerned State, extradition offers the affected State a legal option to bring the criminal back and subject him to its criminal justice system. Extradition is therefore important for the efficient operation of the criminal justice system globally. It promotes the growth and improvement of an attitude of cooperation between the States. Extradition is a method that makes it possible to rescue a politically weak State from its own national or sovereign obstacles. Extradition is a highly important and vital technique that makes it possible for a State's criminal justice system to operate effectively. It is a legal medium of inter-state co-operation.

In the present age, serious crimes such as terrorism, drugs trafficking, economic offences are threatening national as well as international security. These crimes have become serious challenges to the security of international community. Extradition is a tool to regulate these crimes and to enhance inter-state cooperation. It caters to the needs as well as powers of the politically independent States. Extradition assumes fundamental significance as it can effectively deal with crimes and criminals for ensuring international as well as national security.

(C) Changing dimensions of extradition and extradition law

In current era the crimes such as terroristic activities, drug trafficking, economic crimes, and

²United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=VI-19&chapter=6&clan g=_en

³ Retrieved from V. K. Bansal, Law of Extradition in India, Lexis Nexis Butterworths, Wadhwa, Nagpur, 2008 at p. 2

⁴ Retrieved from V. K. Bansal, Law of Extradition in India, Lexis Nexis Butterworths, Wadhwa, Nagpur, 2008 at p. 2.

other international crimes are going on increasing day by day. The number of extradition requests is also increasing. The key factor in the extradition matter is the probability of violation of human rights of the criminal in receiving State. Practices of imposition of capital punishment and infliction of torture in the receiving State have become massive considerations for the rejection of extradition requests. But extradition is an effective legal solution for the administration criminal justice mechanism effectively as well as for the protection of national and international security. So extradition requests should be rejected, on other side, the protection of human rights of the criminal in the receiving State is also significant issue.

II. CONCEPT AND HISTORICAL BACKGROUND OF LAW OF EXTRADITION

(A) Meaning Of Extradition

The term extradition The term extradition comes from the Latin *extradere*. It means forceful return of a person to its sovereign. Extradition is a Latin phrase. It comprises two words, *ex* and *traditio*. It means to give up or to surrender. Extradition means delivery of a criminal or fugitive from justice by one country to another country on sufficient grounds shown.

Removal of a person from a requested State to a requesting State for criminal prosecution or punishment is known as extradition and encompasses both of these actions.

Extradition is defined by the Supreme Court of India as "the surrender by one State to another of a person requested to be dealt with for offences of which he has been charged or found guilty and which are cognizable in the Courts of the other State"⁵

Extradition means the surrender of any person who is sought by the requesting State for criminal prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence".⁶

To put it another way, extradition is the process of obtaining the surrender of a wanted person from one country to another.

From the aforesaid paragraph it is clear that the concept of extradition includes the surrender of criminal, prosecution and punishment to the surrendered criminal as provided by the treaty, convention or national legislation subject to international commitments. Prosecution and punishment to be imposed upon the criminal or fugitive involves law of extradition. Law of extradition is applicable with respect to the extraditable offences subject to provisions of the extradition treaty between the two States concerned. Extradition includes actual delivery of a

⁵ State of W. B. v. Jugal Kishore More and Anr., AIR 1969 SC1171. Also see Daya Singh Lahoria v. Union of India AIR 2001 SC 1716

⁶ United Nations Model Law on Extradition 2004

person from one State to another State.

The State which wants the fugitive back is called the “requesting State”. The State where such fugitive convict is found and to whom request for surrender is made is called the “requested State”. The requesting State makes a request to the requested State that a person who has escaped after committing crime in its territorial jurisdiction, on which the requesting State has a right to prosecute, and who is in the territorial jurisdiction of the requested State be surrendered to face trial or undergo sentence.⁷

(B) Essential Conditions For Extradition

It is the right as well as social responsibility of every country to punish the criminals, offenders, fugitives and anti-social elements. Otherwise the peaceful atmosphere of the nation spoils. Sometimes, a criminal commits an offence in A Country and flies away to B Country to escape from the punishment. In such circumstances A Country requests B Country to extradite that person.

The sole object of this extradition is to secure peace in the society. If that criminal is not extradited, it may be dangerous to B Country too. Therefore, countries should co-operate with each other by extraditing the criminal offenders and to maintain peace in the world.

Essential conditions for extradition are-

- Extradition cannot be claimed as of right. There must be an extradition treaty between two countries.
- It is a worldwide accepted principle that extradition between two countries can be welcome in cases of criminals only, and not for political offenders. Political offenders are entitled to seek asylum. International law does not permit extradition of political offenders.
- The principle of “Double Criminality” is one on the essential principles for extradition.
- Extradition is not allowed in case of military criminals.
- It is not allowed in case of religious criminals.
- Extradition is subject to “Rule of Specialty”. Thus observance of “Rule of Specialty” is one of the essential conditions for extradition. Rule of specialty says that the country should prosecute and punish the criminal only for that offence for the sake of which

⁷ Retrieved from V. K. Bansal, *Law of Extradition in India*, Lexis Nexis Butterworths, Wadhwa Nagpur, 2008 at P. 21

extradition has been carried on, but not for other offences.

- The terms and conditions mentioned in the extradition treaty should be implemented in strict sense by the Country which required extradition.
- There must be proper and sufficient evidence showing that the person extradited committed that offence.
- The country, to which the criminal is extradited, should follow the procedure and trial according to the law of that land.

(C) Basic Conditions For Extradition

The acknowledged norm of international law is that the crime for which extradition is sought must be included on the list of offenses that qualify for extradition or must have been established in conformity with the minimum jail sentence criterion.

Second basic condition for extradition is the conclusion of extradition treaty between the two States. If there is an extradition treaty, extradition process is carried on in accordance with the provisions of extradition treaty. If there is no extradition treaty, the reciprocity principle may be used to determine extradition. One of the basic requirements for the application of reciprocity principle is that the offences must be mutually recognized as extraditable.

In 19th and 20th Century, the concept of extradition has changed vastly, now a day the extradition of military criminals, political criminals, refugees and religious offenders is commonly refused. It has become common practice for states to extradite common criminals and refuses to extradite those they deem political criminals.

Military crimes and tax crimes are two more offenses that have historically been thought to be non-extradable. The former refers to behaviors like deserting and disobeying orders that are solely sanctioned under military law and not by regular criminal law. Military crimes are still regarded as being non-extradable. Contrarily, more recent extradition accords typically allow the extradition of those who have been charged with or found guilty of tax offenses, such as breaking the law on taxes, customs, exchange controls, or other tax-related laws.

Generally speaking, though, the request must identify the person whose extradition is requested and state the reason for that person's desired surrender. Extradition treaties, conventions, bilateral agreements, and national extradition laws frequently demand the following from the seeking State::

- Arrest warrant (original or certified copy)

- the text of the relevant law (or a description of the law applicable to the alleged conduct of the person whose extradition is sought, especially if it violates common law);
- Identifiable information about fugitives;
- a summary of the accusations made against the wanted person, or, in the case of a convicted offender, the verdict

From the aforesaid discussion, the basic conditions for extradition can be summarised as-

- Commission of an offence.
- Conclusion of extradition treaty between the two States or an application of reciprocity rule.
- Jurisdictional and legal basis/ base of requesting State to request for extradition.
- Consideration of extradition request in the context of “political offence exemption rule”.
- Decision of requested State whether to extradite or not to extradite.
- Proper implementation of extradition process.
- Actual surrender of a fugitive criminal from one State to other State.

Thus extradition starts with the commission of an offence and completes with the surrender of a fugitive from one State to another State subject to the jurisdiction of the requesting State with international commitments.

(D) A Brief Overview Of Extradition Procedures

The executive and judicial branches of the requesting State are typically involved in the extradition process. The completion of the formal extradition request and legal requirements must be met before extradition can be decided.

A decision concerning a formal extradition request is usually extended in three phases- administrative phase, phase of proceedings and a phase of a final executive decision. Extradition procedures are not absolute; but subject to judicial review/ control.

Extradition procedures in most of the countries commonly involve following three phases/ stages.

- a. In the first administrative phase, the Minister responsible for receiving the extradition request will examine it and determine whether it is acceptable under the applicable standards in the requested state. This stage of the process usually involves a review of formal requirements, although applicable law may also provide for an initial review of

the possibility of extradition. The Minister may reject the application at this stage if the application does not meet the relevant criteria or if it is already clear that there are grounds for rejection.

- b. If the Minister decides to proceed, the extradition request will be submitted to the judicial authority, who will be responsible for determining whether the conditions set out in the relevant national law and/or the applicable extradition relevant investigations. This includes evaluating all evidence presented by the requesting country against applicable evidence requirements. An extradition judge may also be asked to consider whether there are legal obstacles to extradition, including obstacles to extradition arising from the requested state's obligations under international human rights and refugee law. There is usually an opportunity to appeal the judicial authority's decision. If the conditions have been met, the Judicial authorities will initiate re
- c. A final executive decision is often made by the responsible minister after the judicial stage, who decides whether or not to grant the request. In most nations, the president must refuse extradition if the relevant judicial body determines that the conditions for extradition are not met; in such circumstances. When extradition is permitted by the courts, the minister typically has the option to either accept the fugitive's surrender, sometimes with restrictions, or to reject extradition. The final executive decision may be subject to appeal or review under the law, albeit this is not always the case.

(E) The Procedure Of Extradition In India.

The Extradition law provides that extradition proceedings are initiated when a foreign diplomatic representative in Delhi submits a request to the central government for the extradition of a fugitive offender from a foreign country. Alternatively, a foreign government requesting extradition of a fugitive criminal can communicate with the central government through that country's diplomatic representative.⁸

Upon receiving such a request, the Central Government may order any magistrate who would have been able to conduct an investigation if the crime had been committed within its local jurisdiction. The Central Government may take the request of the foreign State into consideration, as Section 54 of the Act makes abundantly apparent. The word "may" is used, which makes it clear that it is up to the Central Government to decide whether or not to comply with requests. It is not obligatory for the Central Government to order magistrate on the receipt

⁸ The Extradition Act, 1962, No. 34 Acts of Parliament 1962 (India).

of such request.

Thus, in India, the law of Extradition is well settled that it is the discretion of the Central Government whether to assent or not to the request of extradition. The extradition Act, which is a unique law dealing with the extradition of wanted criminals, should be exempt from the general rules of the Code of Criminal Procedure, 1973, according to the Supreme Court of India. When the Central Government after receiving the request for extradition, if satisfied, decides to take action, then the order is given to the magistrate to conduct inquiry. In practice such an order to the magistrate is given by the Ministry of External Affairs.

Unless the magistrate receives a Section 5 order from the Central Government within that time frame, a person arrested on a provisional warrant under this section⁹ may not be held for longer than three months¹⁰.

The different stages of the extradition process in India are:

- Requests to the Central Government of India by Indian diplomatic representatives in that state from abroad, through that country's diplomatic representatives.
- Order a judge to issue an arrest warrant.
- Issuance of arrest warrants by judges;
- Fugitive arrest and
- Bring the fugitive before a magistrate to see if there is sufficient evidence against the fugitive. or not¹¹

Sufficiency of evidence and report to the Central Government are two basic essentials required to be complied prior to the arrest of the criminal under provisional warrants while making an implementation of Indian Extradition Law.

(F) Restrictions On Extradition In India.

Section 31 of the Indian Extradition Act provides certain restrictions on extradition in India..

Restrictions on extradition in India are -

- i. **Offence of political character.** - If the crime for which his surrender is demanded is one of a political nature, or if he proves to the satisfaction of the magistrate or court before whom he may be produced or of the Central Government that the request or

⁹ The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974 (India) §41(1)(g)

¹⁰ Bhaskaran vs State, 2003 (3) CTC 552.

¹¹ Retrieved from V. K. Bansal, Extradition Law in India, Lexis Nexis Butterworths, Wadhwa, Nagpur, 2008, at pp.45-46

warrant for his surrender has, in fact, been made with the intention of trying or punishing him for an offense of a political nature, a fugitive criminal shall not be surrendered or given back to a foreign country.¹²

- ii. **Prosecution for offence being barred by time.** - A escaped criminal may not be turned over if the prosecution for the crime for which his surrender is requested is time-barred under the law of that State or country.¹³
- iii. **Extradition treaty or provision by law of Foreign State that Fugitive Criminal Shall not be tried or detained in that State for any offence committed prior to his surrender or return.** - A fugitive criminal may not be handed over or returned to a foreign State or Commonwealth country unless that State's or country's extradition agreement specifically states that the fugitive criminal may not be detained or tried in that State or country for any offence committed prior to his surrender or return other than those listed in the extradition agreement with the country.¹⁴
- iv. **If accused of some offence in India other than offence for which extradition is sought.**- A fugitive criminal who has been charged with a crime in India unrelated to the one for which extradition is requested or who is serving time after being found guilty there cannot be turned in or returned until after he has been freed, whether through acquittal, the end of his sentence, or another means.¹⁵
- v. **After expiration of 15 days after being committed torsion.** - Lastly until fifteen days have gone since the day the magistrate sentenced him to prison, an escaped offender may not be given over or returned.¹⁶
- vi. The Act gives the Central Government most discretionary and unfettered powers with regard to extradition of any fugitive criminal.¹⁷

III. INDIAN EXTRADITION LAW – A BRIEF OVERVIEW

(A) History And Development Of Indian Law Of Extradition

The evolution of Indian extradition law undergone several changes and it distinguish into four phases:

¹² The Extradition Act, 1962, No. 34 Acts of Parliament 1962 (India) §31(1)(a).

¹³ The Extradition Act, 1962, No. 34 Acts of Parliament 1962 (India).

¹⁴ The Extradition Act, 1962, No. 34 Acts of Parliament 1962 (India).

¹⁵ The Extradition Act, 1962, No. 34 Acts of Parliament 1962 (India) §31.

¹⁶ The Extradition Act, 1962, No. 34 Acts of Parliament 1962 (India) §31.

¹⁷ The Extradition Act, 1962, No. 34 Acts of Parliament 1962 (India).

Part 1 (1903-1947)

Part 2 (1947-1962)

Part 3 (1962-1993)

Part 4 (1993 onwards)

a. Part 1 (1903-1947)

The Indian Extradition Act of 1903 is the country's first extradition law. Before India attained independence, the Indian Extradition Act of 1903 was passed. In addition to adapting the British Imperial Laws to the needs of British India, the Indian Legislature also made provisions for cases that were not covered by the Imperial Statutes prior to the passage of the Indian Extradition Act in 1903 by adopting the Indian Extradition Act. The Extradition Acts of 1870 and 1873 and the Fugitive Offenders Act of 1881 were two laws passed by the English Parliament. A unique Act had to be issued for every new extradition treaty because there was no general law that gave legal validity to agreements His Majesty the King made with foreign governments prior to the Extradition Act of 1870. A later amendment to this 1870 law was made in 1873.

Only instances involving those foreign countries with which England had signed a treaty for the extradition of criminals were covered by the Extradition Acts of 1870 and 1873

Regarding the extradition statute between the Paramount Power and the India State, the Indian Native States had their own distinct political existence. Many Indian States have extradition agreements with the government of Colonial India. These agreements dictated how offenders were turned over. However, there were no extradition agreements of this nature with the bulk of Indian States.

In these situations, the fundamental idea of "reciprocity" was used.

The native states were exempt from the Fugitive Offender Act of 1881 as well as the Extradition Acts of 1870 and 1873. The Indian Extradition Act was passed in this context.

b. Part 2 (1947-1962)

The necessity for 101 extradition agreements with the Indian Native States vanished after India separated from the British Commonwealth in 1947 and proclaimed itself a sovereign democratic republic on January 26, 1950. These were referred to as Part B States and eventually formed an essential portion of the nation.

The new State was now dealing with a number of extradition-related issues. Are the extradition

agreements made by the now-merged India, formerly known as British India and the Princely States, still in effect? If not, was the former extradition statute still in effect in these once-native States? Could the Part II of the Fugitive Offenders Act, 1881's simple procedure for extradition inter se of the British possessions, which were grouped together by an Order in Council based on their proximity to one another and treated as a single territory, continue in light of the new facts?

c. Part 3 (1962-1993)

The Extradition Act of 1962 was properly passed by Parliament on September 15, 1962, and it was signed into law on January 5, 1963. The law governing the extradition of criminal fugitives from India to other countries was codified in the Extradition Act of 1962.

Scheme of the Extradition Act, 1962

Five chapters and two schedules make up the Act.

The Extradition Act of 1962's provisions can be divided into four categories:

- General conditions of extradition.
- Certain restrictions on surrender.
- Procedure regarding extradition of fugitive criminals.
- Miscellaneous provisions

d. Part 4 (1993 Onwards)

The 1993 amendments significantly changed the 1962 Indian Extradition Act. But the old, unaltered Indian Extradition Act of 1962 will be in effect for the cases currently in front of the court.

The original Act of 1962 was amended in 1993

i. The Indian Extradition Act, 1962 as amended in 1993

The distinction previously maintained between Commonwealth countries and other countries has largely been eliminated by the amendment. The previous Act included a separate Second Schedule for extradition with Commonwealth nations, and Chapter III granted the Central Government authority to exclusively reach special extradition agreements with Commonwealth nations. The 1993 Amendment Act now allows India to sign extradition agreements with other nations, including those in the Commonwealth, without giving them special treatment. The sole distinction kept under the legislation as it stands today is that between treaty nations and other foreign states.

ii. Indian Bill on Prevention of Torture, 2010

As the human rights safeguards, particularly those relating to torture, are gaining more and more space in extradition arrangements, India seems to be paying price for its indifference to internally accommodate these international standards of human rights. The recent instances of negative responses for the requests for extradition of even those fugitives, who are most wanted by India from the point of view of national security and public concern, indicate the necessity of India for making adequate attempts to build up a positive image

There are many international instruments which address the issue of torture.

Amongst them, Convention Against Torture stands out for its exclusive focus on the problem of torture. India is signatory to Convention Against Torture in 1987. It has not yet ratified. Currently India is taking steps to have an enabling legislation¹⁸ that supposedly contributes to the fulfilment of obligations of India as and when it becomes a full-fledged party to CAT. India has drafted a Bill on Prevention of Torture in 2010¹⁹ (originally drafted in 2009). It is passed in Lok Sabha²⁰ It is yet to go through Rajya Sabha approval.

Prevention of Torture Bill, 2010 in a Nut Shell

The term "torture" refers to serious injury or threat to life, limb, or health. The Bill states that torture is committed by a public employee or any other person with the employee's permission or complicity if all three elements are met²¹

1. An act is committed that (i) causes great harm to anyone, or (ii) puts anyone in danger for their life, limb, or physical or mental health., and
 2. The act is committed intentionally.
- The act is committed with the intent of coercing someone into making a confession or providing information that could help authorities catch the offender and as well as based on someone's race, religion, ethnicity, nationality, language, caste, community, or any other characteristic.
 - Sanction of Appropriate Government is essential for lodging any complaint against torture.²²

¹⁸ <https://pib.gov.in/newsite/erecontent.aspx?relid=60120>

¹⁹ Text of the Bill available at <http://www.prsindia.org/uploads/media/Torture/prevention%20of%20torture%20bill%202020.pdf>, accessed on 04.08.2015.

²⁰ The Bill was passed Lok Sabha on 6th May 2010.

²¹ https://prsindia.org/files/bills_acts/bills_parliament/2010/prevention_of_torture_bill_2010.pdf

²² Clause 6 of the Bill-

- Complaint has to be lodged within six months.²³

Shortcomings of the bill

The Indian Criminal Code offences that constitute acts of torture are not included in the bill, not even those that clearly define crimes committed by public employees while they are being held in custody.

The Bill addresses only torture. It does not address the problem of cruel, inhuman and degrading treatment or punishment.

It adds requirement of proving the mens-rea of the accused person to commit torture.

No minimum punishment prescribed for the guilty. Since lesser penalties would be imposed as a result, the law would effectively be broken. So, a mandatory minimum term is essential and ought to be greater than the punishment for the most egregious offences.

Time limitation of six months within which complaint should be made is unreasonable. Since victims of torture frequently need additional time before they are willing to talk about it, such riders will substantially impair even the narrow application of the law. However, there are no provisions in the proposed law for crucial components needed for the law's successful implementation, such as witness protection and impartial inquiry.

Requirement of prior permission for lodging complaint creates a very discouraging situation for those who are subjected to torture. According to Section 6 of the draft proposal, prosecution under the statute cannot begin without prior government approval.

Indian Prevention of Torture Bill, 2011

Prevention of Torture Bill (PTB) 2010 has been significantly improvised in some areas of the 2010 Bill. They are,

Revision of the term "torture" to more closely match the definition found in Article 1 of the Convention against Torture. (CAT)

Three extra purposeful elements—two of which are listed in article 1 of the CAT—are added to the original PTB definition of torture. Only one aspect of purposefulness was listed in the 2010 PTB's definition of torture. Further, the 2010 PTB only punished acts of torture where two purposive elements were present conjunctively:

(i) obtaining information or a confession; and

(ii) discriminating against a person on the ground of religion, race, sex, place of residence, birth,

²³ Clause 5 of the Bill

language, caste, sect, colour or community.

The two missing purposive elements listed in article 1 of the CAT's definition of PTB are now included:

- (1) punishing someone for a crime they committed or are being investigated for; and
- (2) intimidating or coercing.

Some other provisions in the bill

- Inclusion of rape and gender-based violence as a form of torture. This is in tune with the UN approach to condemn gender based violence.²⁴
- Elimination of the defence of justification in times of war or emergency which is in tune with UN appeal not to use national security as a justification for infliction of torture.²⁵
- Providing a minimum sentence for torture.
- Establishing a protection mechanism for complainants and witnesses as sought by the CAT.²⁶
- Requiring all people who are being held in custody to have a medical examination. Also, the concerned trial court must receive the medical report.
- Providing compensation for victims of torture.

With these changes, India is one step closer to upholding its general obligation under international law to prohibit torture and other cruel, inhuman, or degrading treatment or punishment (CIDTP), as well as its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Covenant on Civil and Political Rights (ICCPR).

iii. Prevention of Torture Bill, 2017

A draft of the 2017 Prevention of Torture Bill was submitted by the Law Commission in its 273rd report.

The most significant piece of legislation passed by parliament to address torture committed when a person is being held captive was the Prevention of Torture Bill, 2017. It addressed

²⁴ Torture and other cruel, inhuman or degrading treatment or punishment : resolution / adopted by the General Assembly, <https://digitallibrary.un.org/record/701041?ln=en>

²⁵ Ibid.

²⁶ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

concerns pertaining to the original bill and the several reforms that the law commission had recommended to the government. The previous Act failed to address several fundamental principles that were laid out in the convention with regard to broadening the scope of crimes that were to be brought under custodial torture, so it was changed to be more consistent with the UN convention of Torture and other Cruel Activities. The 2017 Act's main goal is to broaden the scope of situations that should be considered to be torture. It aims to bring instances that affect the victim's mental state rather than only those that include physical or gruesome behaviour.

The following are the key features of the bill:

- The law includes provisions for authorities who torture or abuse others inhumanely to be punished, up to and including life in prison. Torture is punishable by up to 10 years in prison and a fine. If torture results in death, the penalty is death or life in prison in addition to a fine.
- It contains measures for paying compensation to torture victims. After considering all relevant case factors, the courts will determine the justified compensation.
- The victim's socioeconomic status will be taken into consideration by the courts as they work to guarantee that the compensation assists the victim in paying for medical care and rehabilitation costs.
- The standalone anti-torture law that is being suggested holds the government solely accountable for any harm that its agents cause to citizens.
- It gives torture a broad meaning that include causing harm that is physical, mental, or psychic which is as follows - Any public employee or person with his or her consent who causes another person to suffer from (i) grave harm, (ii) risk to life, limb, or health, (iii) excruciating bodily or mental agony, or (iv) death in order to get information or punish someone commits an act of torture.
- It stipulates that, unless proven otherwise, any injuries suffered by a person while they are in police custody are presumed to have been caused by police action. The burden of proof shall lie on the police authorities to explain such injuries.
- The state government will provide this protection from the time the complaint is submitted until the end of the trial for the offense. The bill makes state governments responsible for protecting witnesses, complainants, and victims of torture against potential violence and ill-treatment.

The Bill overlooks a number of important issues:

- The idea that the only effective means of conducting investigations are through the use of torture and other harsh measures; Discriminatory grounds used for infliction of torture—religion, sex, age, sexuality, gender etc.—are justifiable.
- Lack of responsibility for detention centers' arrests, investigations, detentions, and other state obligations
- Lack of an effective, victim-friendly complaint process, allowing for unrestrained torture.
- Lack of an impartial inquiry process causes authorities to cover up, disguise, and participate in the torture that their subordinates conduct.
- It includes a limitation period to file the case within the 6 months of the crime.

It should be noted that the following statute does not call for the creation of a distinct body, and cases involving it are left to the discretion of the country's several criminal courts. Due to the lack of transparency and reporting in the system, conviction rates for custodial torture are still low, but stricter laws have reduced the rate of deaths in custodial settings, which, if properly applied, will significantly reduce custodial torture and other torture-based crimes. It is crucial that the nation pass legislation that adequately addresses the problems with the existing laws.

In conclusion, it is critical to realize that even though the 2017 Amendment Act includes a number of provisions listed in the UN convention against torture and other inhumane practices, it still does not cover some crucial aspects of the detainee's life. Since international law forbids the statute of limitations in any action involving torture, the Act's requirement that the case be abandoned within six months of the offense is a clear violation of convention..

India is one of just eight nations out of the 170 that have signed the UN Convention against Torture and other Cruel, Inhuman, and Degrading Treatment or Punishment to not have done so. The bill's statement of purposes and justifications declares that ratifying the Convention confirms the Indian government's commitment to upholding fundamental human rights for all.

Only four states have so far expressed their support for the Law Commission's draft bill: Meghalaya, Sikim, Jharkand, and Himachal Pradesh.

IV. IMPORTANT CASES AND REQUESTS ON EXTRADITION IN INDIA

(A) Selected Examples Of Successful Judicial Decisions Related To An Extradition Of Indians

1. Savarkar case (1911):

Savarkar, an Indian revolutionary, was facing trial in his own nation. While the ship was in the Port of Marcelese, Savarkar eluded capture. But eventually, French police were able to apprehend him. However, the French ship's captain, who feels it is his duty to do so, returns Savarkar to the British ship's captain. Following that, Savarkar was requested to return by the French government, who asserted that Savarkar's extradition had not been subject to rigorous adherence to the law. This issue has been sent to The Hague's Permanent Court of Arbitration. According to the court's decision, the state has no obligation under international law to permit the criminal's return to the giving country. This means that after extradition, even if it occurred illegally, the country receiving the criminal or fugitive is not obligated by international law to send the person back. This decision has come under heavy criticism. They claim that the natural justice grounds do not sustain the judgment.

2. Sucha Singh case (1964):

Sucha Singh, who was wanted by the Government of India after fleeing to Nepal and facing legal action in line with Nepali law, was extradited. He was accused of killing Pratap Singh Kairon, the previous Chief Minister of Punjab. The two countries' extradition agreement was signed in 1953 by Indian envoy B. C. Gokhale and Nepal's then-prime minister M. P. Koirala after Sucha Singh escaped to Nepal after killing Punjab's chief minister Pratap Singh Kairon, it was invoked in 1964 to extradite him.

3. Dharam Teja case (1971):

The managing director of Jayanti Shipping Corporation, Dharam Teja, stole and mismanaged millions of rupees and departed the country. In order to avoid being arrested, he fled from one nation to another. Dharam Teja was in the Ivory Coast when the Indian government asked for his extradition so that Indian legal action could be taken against him. Due to the lack of an extradition agreement with India, the government of Ivory Coast refused to extradite Dharam Teja. Later, when Dharam Teja was in London, the Indian government learned of his presence and notified the British government, asking it to detain Dharam Teja and begin the extradition process against him. India and the Government of Britain have an extradition treaty, according to which both nations are required to return the accused of the other who flee after committing crimes in either nation.

The English government granted India's request, and Dharam Teja was subject to legal action in an English court. The English legal system determined that Dharam Teja may be extradited. Dharam Teja was consequently returned to India. As a result of legal action taken by the Indian

government against him, Dharam Teja was found guilty of embezzling and mishandling millions of rupees from Jayanti Shipping Corporation while serving as that organization's managing director.

4. Naval Officer Extradition case (1975):

While serving as the Indian Navy's Judge Advocate General in the early 1960s, Commander Elijah Ebrahim Jhirhad was accused of misappropriating Rs. 13 Lakhs from the Naval Prize Fund. An ex-sailor who was in charge of managing the Fund complained that he hadn't given him his prize money. After investigating, the naval Headquarters learned that the fund had never been audited and that the man had destroyed all of the paperwork. Jhirhad escaped and went to New York. He was extradited from New York after the judge issued the extradition orders in response to India's plea for his extradition.

5. Narang Brothers Extradition case (1976):

In a village close to Kurukshetra in the Indian state of Haryana, Manoharlal Narang and his brother Om Prakash Narang were accused of defrauding, forging, and importing two stolen antique pillars known as Amia pillars. The Liberian Embassy in Paris is advised financially by Manoharlal Narang. The pillars were retrieved from a nearby London warehouse. India requested extradition. The London Magistrate rejected Manoharlal's claim of diplomatic immunity. India received his extradition.

6. Abu Salem case(2005-2022)²⁷

The custody India had over Abu Salem, the main suspect in the 1993 bombings of Bombay, had to be handed over. The International Convention for the Prevention of Terrorist Bombings and the assurance of reciprocity as they apply under international law led the Portuguese court to originally grant India's plea for extradition. He was returned to India by Portugal after being charged with eight offences, including the Bombay Blast case, and after the Indian government provided a sovereign guarantee. According to Portuguese law, a criminal who faces the death penalty or a sentence of more than 25 years in prison for the crime or crimes they committed cannot be extradited to the country that requested their extradition.

A solemn sovereign guarantee was offered by India to the effect that Abu Salem would not be subjected to the death penalty or imprisonment for more than 25 years because the crimes for which Abu Salem is accused carry the death sentence and life in prison under Indian law. Salem was deported to India on November 11, 2005, as a result. Following additional inquiries, India

²⁷ Decided on 10th November 2017 by the High Court of M. P. Jabalpur.

brought more TADA and IPC charges against Abu Salem.

Abu argued that Abu's failure to face these additional accusations after his extradition would have violated both India's sovereign assurance and the long-standing general principle of Rule of Law, which governs extradition law. The Indian Supreme Court rejected Abu Salem's argument because new or additional accusations were brought against him for offences that were less serious than the ones for which he had been extradited. However, the Lisbon Court of Portuguese reversed the decision approving Abu Salem's extradition.

On September 19, 2011, the Lisbon High Court ruled that the terrorist should be sent to Portugal since India has filed charges against him that will result in the death penalty. India requested a stay of the Lisbon High Court's ruling in an appeal to the Supreme Court of Portugal. The Supreme Court of Portugal is now deliberating on the subject.

(B) Famous extradition requests by india to extradite fugitives

1. Anderson case (1993-2010):

In connection with the Bhopal gas tragedy, one of the biggest environmental tragedies in history that resulted in thousands of deaths and significant environmental damage, India has filed a request with the US asking for the extradition of former Union Carbide CEO Warren Anderson. The two nations have been at odds for the past twenty years over Anderson's extradition, who was declared a fugitive by the CJM court in Bhopal in 1992. The Indian government looked into the situation in 1993 but allegedly did not take any action until May 2003, when it issued the first notification. Gas victims and their organisations in this country have voiced dismay over the development, stating that Anderson's extradition from India requires political will.

On July 2, 2004, however, the US informed India that it would not contemplate extradition since the request did not adhere to the terms of their Extradition Treaty with India. The CBI, the Union Ministry of Law, the Ministry of Foreign Affairs, and the Attorney General of India collaborated to gather more evidence for the case in June 2010. The Tis Hazari Court Chief Metropolitan Magistrate in New Delhi attested a new summons that was delivered to the US.

In 2014 Anderson passed away.

2. Vijay Mallya Case (2012)

An extradition attempt is being made to bring Vijay Mallya, an Indian businessman and former politician, back to India from the United Kingdom. India has asked for his extradition from the UK so that he can answer for financial offences there.

Mallya and his firms have become embroiled in financial difficulties as a result of his lavish

lifestyle. Since 2012, he has been linked to financial controversies. Mallya departed India on March 2nd, 2016. He said that he relocated to the UK in order to be nearer to his kids.

17 Indian banks are attempting to recoup loans totaling almost 9,000 crore rupees. Mallya is accused of using these loans to acquire a full or partial ownership share in 40 businesses around the globe. The Attorney General stated that Mallya's assets abroad are "far in excess to loans taken by him," and that he is being investigated by a number of organisations, including the Income Tax Department (IT Department) and the Central Bureau of Investigation (CBI). In March 2016, the 17 banks filed a joint plea with the Supreme Court of India, and the Enforcement Directorate of India additionally charged him with money laundering. Mallya's passport was withdrawn by the Indian Ministry of Foreign Affairs in April 2016. The Enforcement Directorate is currently asking Interpol to issue a global arrest order for Mallya.

He was also the subject of a non-bailable warrant issued by the High Court of Judicature in Hyderabad. In response to an ED request about Mallya's alleged money laundering of Rs. 9,000 crore, the PMLA court named him a "proclaimed offender" on June 13. On an extradition warrant, Scotland Yard detained the "good times" monarch in April 2017. He was eventually given bail, though, and released after posting a bond.

A British judge ordered the controversial businessman's extradition to India on December 10th 2018. He is sought after to appear before an Indian court on charges of fraud and money laundering.

Mallya committed a fraud involving 9,000 crore rupees in bank defaults before leaving the country in March 2006. He has lost a significant legal dispute with the U. K. court with this most recent verdict of the U. K. judge. The charges that the CBI and Enforcement Directorate were collaborating on political initiatives were also dismissed by the U. K. Court. The claim that he was being set up in a bogus case was dismissed by the court.

A judge of U. K. court ruled as-

- Prima facie evidence suggests that Mallya conspired to launder money.
- No evidence that prosecution was politically motivated.
- Judge will send the case to UK Home Secretary Sajid Javid for final decision.
- Mallya can appeal against verdict within 14 days.
- Either side can also seek permission to appeal the Home Secretary's decision.
- The court rejected Mallya's plea that he was a victim of a witch-hunt.

- Court also rejected allegation that the Indian jails are not safe.

3. Nirav Modi Case (2018)

Nirav Modi, the creator of the "Nirav Modi World Diamond Jewellery House," which was founded in 2010, is the most sought-after Indian businessman on the run. He is currently wanted for fleeing after the Central Bureau of Investigation (CBI) began looking into a \$ 2 billion fraud investigation involving him and Indian banks in the early months of 2018. In February 2018, Nirav Modi was the subject of a dissemination notice from Interpol, the greatest police agency in the world.

At Punjab National Bank, he is the subject of an investigation into a \$ 2 billion fraud case (PNB). The first Indian jeweller to appear on the covers of Christie's and Sotheby's catalogues was Nirav Modi. In Mumbai, India, the business is headquartered. Modi submitted a bankruptcy petition in New York in March 2018. Modi was reportedly in the UK in June 2018 and had submitted a request for political asylum at the British Home Office.

It is evident from the aforementioned situation/position that India's ability to extradite Nirav Modi has become crucial and challenging. India is actively seeking Nirav Modi's extradition. Interpol has currently issued a Red Corner Notice for Nirav Modi.

V. HUMAN RIGHTS AND LAW OF EXTRADITION

(A) Attachment Of Human Rights Ideology/ Theory To Extradition

Commonly it is accepted and adopted that human rights ideology should be followed in extradition process. There should be an attachment of human rights ideology/ theory to extradition and extradition process. It is not a requirement of international law that extradition be accompanied by a commitment to human rights. It is not a requirement of international law that the extradition process be in line with human rights principles or considerations. However, human rights ideology can be adopted and implemented in extradition process as there is no bar under international law for such adoption.

In the context of enhancement of human rights jurisprudence and support for the same from the society, a scope for attachment of human rights ideology has definitely enhanced. Nowadays, it has become common principle that human rights ideology/ considerations should be taken into consideration in the extradition process.

States are now signing more and more treaties with human rights clauses. One widely accepted rule states that extradition shouldn't be permitted in order to punish someone for their race, religion, nationality, or political views. Another such clause bars extradition in cases where the

requesting State still imposes the death sentence and is reluctant to guarantee that it won't be used in the event the fugitive is returned. Another clause gives the requesting state the option to reject extradition if it could result in the person being subjected to torture.

The attachment of human rights ideology to extradition resulted into development of extradition law which is compatible with the present day requirements. Not only bilateral treaties but multilateral treaties have started to take into consideration the human rights considerations while dealing with extradition requests. Bilateral as well as multilateral treaties have started to refuse extradition on the ground of alleged violations of human rights. Imposition of death penalty or capital punishment and torture are considered as the gross and serious violations of human rights. One of the most important human rights recognised by the UDHR, the ICCPR, and other treaties is the right to life, which is violated when the death penalty is applied.

(B) Principles Protecting The Human Rights Governing Extradition

1. Double Criminality

The law of reciprocity requires it. This means that the offence for which the defendant is indicted or found guilty must be a crime in both the nation asking and the nation being requested. The rule of double criminality is a common provision in practically all extradition treaties, to the point where the Swiss Federal Tribunal once ruled that it was a condition precedent for all extradition cases even though the treaty did not expressly state it to be so.²⁸

From the standpoint of human rights, this law performs the crucial duty of preventing a person's liberty from being restricted as a result of offences that the requested State does not recognise as crimes. The rule of double criminality is a crucial safety net for fugitives due to the diversity of criminal laws among nations and the harsh penalties that come with criminal responsibility, such as the impairment of one's right to liberty and dignity.²⁹

2. Rule of Specialty

According to the rule of specialty, the requesting State must commit to prosecuting the fugitive only for the extradition crimes listed in the extradition request, and he cannot receive a punishment that is more severe than what was allowed by the requesting State's applicable law at the time of the request for extradition.

Furthermore, before starting criminal proceedings for any other offence, the requesting State

²⁸ Verma, V. (2020) *Double criminality and extradition law*, *Indian Law Portal*. Available at: <https://indianlawportal.co.in/double-criminality-and-extradition-law/> (Accessed: 04 June 2023).

²⁹ Evans, Alona E. *The American Journal of International Law* 67, no. 3 (1973): 600–602. <https://doi.org/10.2307/2199177>.

must provide the fugitive a chance to depart the nation.

The notion of specialisation essentially "reflects a fundamental concern of governments that those who are turned over should not be subject to indiscriminate prosecution by the receiving authority"³⁰.

The assumption that the fugitive criminal will only be tried for the crimes for which his extradition is approved after following due process of law is thus protected by the rule of specialty on the part of both the requested state and the wanted man. The human right to life and liberty is also protected by this law on two fronts.

3. Political Offence Exception

This rule of exception to extradition states that extradition may be refused if the requesting State considers the crime to be one of a political nature. Almost all extradition treaties include the political offence exception or give the requested State some latitude to refuse extradition, either explicitly or implicitly.

The three main goals of the political offence exception are as follows. The exception, in the first place, acknowledges the legitimacy of political dissent. Second, it protects the accused's rights. Third, both the requesting and the requested nation's interests are safeguarded by the political offence exception. Lastly, there is a humanitarian argument against extraditing a political offender to a country where he would face an unjust trial. The political offence exception reflects states' aim to guarantee the integrity of a trial.

4. Double Jeopardy

Following a justifiable acquittal or conviction, the procedural defence of double jeopardy prohibits a person from being tried again on the same (or comparable) accusations. A defendant may make a peremptory plea that he has already been found guilty or not guilty of the same offence in common law nations. Double jeopardy is a fundamental right in some nations and is legally protected in others. A fundamental legal and human right that is acknowledged in numerous Bills of Rights and human rights treaties is the right to avoid being tried twice for the same offence.

Hence, the double criminality concept guarantees that a person cannot be prosecuted for behaviour that the requested State does not deem unlawful.

There is little doubt that the States are the primary driving force behind extraditions and

³⁰ United States v. Puentes: Re-Examining Extradition Law and the Specialty Doctrine, 1 J. Int'l Legal Stud. 151 (1995).

extradition-related incidents, and that people play a secondary role. Nonetheless, human rights concerns offer some protection against extradition from abuse, and that abuse can be articulated in terms of protections under human rights ideas.

(C) Human Rights Barriers To Extradition

Capital punishment and torture are major human rights barriers to Extradition. Abolition of capital punishment and prevention/ prohibition of terrorism would result into removal of barriers to extradition and development of extradition law.

Human rights barriers to extradition are discussed as-

1. Capital Punishment or death penalty

Capital punishment or death penalty is a major barrier to extradition. It is referred as human rights barrier to extradition. Capital punishment violates the right to life of an individual/ fugitive which is one of the most valuable human rights. Right to life is recognized in almost all the International Human Rights Instruments. Imposition of capital punishment creates barrier in extradition and extradition process. In the context of extradition requests against fugitive criminals/ accused or convicted of serious transnational crimes like terrorism, drug trafficking, the most important human rights standard which work against the acknowledging of such requests is prohibition against imposition of death penalty.

2. Torture

Torture is another major barrier to extradition. It is referred as human rights barrier to extradition. Torture violates the right to live with human dignity of an individual/ fugitive which is one of the most valuable human rights. Right to live with human dignity is recognized in various International Human Rights Instruments. Torture is one of the forms of cruel, inhuman or degrading treatment. It violates right to live with human dignity. Torture creates barrier in extradition and extradition process.

In the context of extradition requests against fugitive criminals/ accused or convicted of serious transnational crimes like terrorism, drug trafficking, the another most important human rights standard which work against the acknowledging of such requests is prohibition against torture.

(D) Removal Of Human Rights Barriers To Extradition

Capital punishment or death penalty and torture are the major human rights barriers to extradition. Removal of these barriers is essential in order to develop extradition law. With these barriers, a development of extradition law is suppressed or hurdled. Removal of human rights barriers includes abolition of capital punishment or death penalty and prohibition/ prevention

of torture.

The following dimensions of removal of human rights barriers to extradition with specific reference to two human rights barriers viz. capital punishment or death penalty and torture are:

- i. Abolition of Capital Punishment or Death Penalty,
- ii. Prohibition of Torture,
- iii. Abolition of Death Penalty in India, and
- iv. Prevention of Torture in India.

VI. SUGGESTIONS AND CONCLUSION

(A) Suggestions and Recommendations:

The following specific suggestions are to strengthen the Extradition Law at Global and National level.

- The extradition policies that different states have established have a number of discrepancies. States should be urged to adopt the U. N. Model Law in order to ensure uniformity in extradition policy and its execution in order to prevent variations in extradition practises.
- In order to increase the effectiveness of extradition in cases involving serious crimes that fall under the purview of the ICC, efforts should be undertaken to persuade nations to turn over suspects to the ICC.
- India should adopt to ICC Statute. To at least lessen the negative perception it carries regarding the use of torture in the administration of criminal justice, it should also ratify the United Nations Convention against Torture.
- As one of the target countries for terrorism and other organized crimes of a serious nature, India has a special stake in facilitating a barrier-free extradition system. Therefore, it is imperative that India investigate the possible technical reasons that could block its extradition and make necessary arrangements to prevent it. In light of its experience that torture acts as a weighty consideration for refusing extradition, it is imperative that India does its best to create a country profile that projects a positive image of itself. In this regard it is necessary to prepare a satisfactory version of the Prevention of Torture Bill incorporating the necessary changes.
- The use of cruel, inhumane, or degrading behaviour must also be clearly defined as a crime.

- Reparations must be given to victims, and in particular, torture must never be repeated.
- The holding of people in secret or private locations must be prohibited. The international convention to safeguard all people from forced disappearances should be ratified by India.
- Information that may have been gathered by torture must be disregarded. It should not be considered for purpose of evidence.
- India should at the earliest ratify CAT (Convention against Torture). Non- ratification of CAT is one of the hurdles for execution of extradition in India.
- Torture must adhere to the non-refoulment principle. Yet there isn't a provision in the Bill. The identical must be comprised. Non-refoulment is the practise of not requiring refugees or asylum seekers to return to a nation where they risk facing legal repercussions.
- Two year limitation on the investigation and prosecution of torture must be removed. Barring the victims from access to privilege for not making complaint within two years is wrong.
- Substantial compensation must be provided to the victims of torture and ensure them non repetition of torture.
- Technicalities in the provisions of extradition treaties and specifically in extradition procedure should be diluted/ removed so that delay in the execution of extradition may be overcome.
- There should be a comprehensive treaty requiring nations to extradite and prosecute individuals for the major crimes of genocide, war crimes, and crimes against humanity.
- Jurisdiction of ICJ (International Court of Justice) should be widened to handle the issues of extradition effectively.
- As there is no specific comprehensive treaty for the extradition of financial offenders, it has become too difficult perhaps impossible. Therefore there is an urgent need of formulation of comprehensive treaties between the countries for the extradition of financial offenders.

(B) Conclusion

The fugitive criminals in modern period are highly mobile and high-tech. It has become too easy for them to commit crime in one nation and to escape in other nation. In such a situation,

the victims are denied justice.

Therefore, extradition and extradition law is needed crucially. The basis of extradition and extradition law is to maintain international co-operation among the states and proper administration of criminal justice system at world level. The extradition law serves a purpose of full protection to individual's rights and interests including the human rights of the individual. Human rights are of great importance in the field of criminal justice system. The protection of human rights by criminal justice service systems is one of the fundamental functions of any system governed by the rule of law. Criminal law and the criminal justice system are the main sources of the development of human rights. The criminal justice system supports the human rights of fugitives. The principles of the criminal justice system and the principles contained in extradition laws are very similar. International human rights law recognizes the need to strike a balance between state power and individual liberty, and sets out minimum guarantees that states must uphold throughout the criminal justice system.

The provisions related to extradition contained under various extradition instruments in modern age essentially cover the human rights aspects. After examining and evaluation the concept of extradition and extradition policy the I came to the conclusion that extradition policy fulfils the concept of human rights ideology in true and reasonable sense. It also covers the prevention of imposition of capital punishment/ death penalty upon the fugitive criminal/s by the foreign state/s. A spirit of protection of basic human rights of the fugitive criminals is must for the cordial, effective and smooth implementation of extradition policy universally.

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