AN ANALYSIS OF INDIA'S FRAMEWORK FOR EXTRADITION OF ECONOMIC FUGITIVES

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ABSTRACT

While globalization has brought the international community closer, it has also introduced accessible ways for offenders to abscond jurisdiction of the state in which they have committed an offence. The same has also resulted in a rapid increase in number of economic offenders absconding from India. The evolution of the principle of extradition in international law acts as a way to ensure the return of such fugitives to India. The Indian government extradites such fugitives by implementing statutes, treaties and arrangements with other states. But has the Indian government been fully successful in doing this, is a question of prime importance. This research article seeks to examine whether the Indian framework for extradition ensures a swift return of economic fugitives to India. The research article analyses: India's legal and institutional procedure for extraditing fugitives, implementation of extradition treaties and arrangements with other states and working of international conventions. The article also examines the factors that influence the outcome of Indian government's extradition efforts.

Keywords: Extradition, Economic Fugitives, Extradition Arrangements, Implementation, State Accountability.

1. INTRODUCTION

The law of a country operates to ensure that justice is served, by punishing offenders and giving redressal to victims. Whenever an offence is committed in a nation, its judiciary tries the case and punishes the offender. But what if the offender absconds to a place where the judiciary of that nation cannot exercise jurisdiction? How would that offender be prosecuted and punished for the offences that he has committed? This question is today faced by almost all the nations of the world. Globalization has indeed brought the world community closer and made distance and time almost disappear, but it has also brought before the nations, the problem of inability to deal with persons who have disrupted the maintenance of law and order on their land, as offenders often abscond the nation in which they have committed an offence to escape justice. International Law offers a solution to this problem in the form of Extradition.

Extradition refers to the 'formal process whereby a state requests from the requested state the return of a person accused or convicted of a crime to stand trial or serve a sentence in the requesting state'.[1] India has an elaborate legal framework to deal with extradition, consisting of statutes, extradition treaties & arrangements India's legal framework governing extradition is quite elaborate comprising of procedural mechanisms, statutes and extradition treaties and arrangements with foreign states. This framework has helped the Indian government in extraditing a considerable number of fugitives to India in the recent years. However, what cannot be overlooked is the number of still pending extradition requests made by India to a number of foreign states, especially the extradition requests made in respect of financial or economic fugitives. There are multiple causes of such delay in the physical surrender of such fugitives to India.

2. RESEARCH METHODOLOGY

This study adopts doctrinal research methodology to analyze India's legal framework governing extradition. This study relies upon various Indian statutes, international conventions, press releases and official guidelines issued by authorities like the Ministry of External Affairs and the Ministry of Home Affairs to conduct the research.

[1] United Nations Office on Drugs and Crime, 'Extradition' (UNODC Teaching Module Series: Organized Crime, Module 11: International Cooperation to Combat Transnational Crime) <https://www.unodc.org/e4j/zh/organized-crime/module-11/key-issues/extradition.html> accessed 5 October 2026.

2.1 RESEARCH QUESTIONS

- What are the components of India's legal framework on extradition?
- How far has India's extradition framework been successful in bringing back fugitives to India?
- What are the reasons for the pendency of extradition requests made by India to foreign states?

2.2 RESEARCH OBJECTIVE

- To study India' legal framework on extradition.
- To study the outcome of India's extradition policy.
- To find out the reasons for pendency of extradition requests made by India to foreign states.

3. LEGAL FRAMEWORK ON EXTRADITION OF ECONOMIC FUGITIVES

India's framework on extradition of economic fugitives operates through statutory provisions, international conventions, principle of reciprocity, treaties and arrangements with other states**.**

The guidelines issued by the Ministry of Home Affairs also reaffirms this by stating that a request for extradition of a fugitive to a foreign state is sent in accordance with the provisions and the Extradition Act, 1962 and the Extradition Treaty in force with that state. The guidelines also provide the step-by-step procedure for making an extradition request, which are as follows:

1. Investigating Agency prepares an extradition request in accordance with the guidelines issued by the Ministry of External Affairs including a number of documents like arrest warrant, legal provisions of the law that the fugitive is alleged to have violated, personal details of the fugitive including photo and fingerprints, proof of evidence establishing a prima facie case before the foreign court trying the case, and diplomatic assurances with regard to death penalty and other punishments.[2]

[2] Ministry of External Affairs, Government of India, 'Extradition Related Guidelines/Treaties' (3 August 2026) <https://www.mea.gov.in/extraditionguidelines> accessed 18 September 2026.

2. The Investigating Agency forwards the extradition dossier to IS-II (Internal Security-II) Division of MHA, which, after conducting a preliminary inquiry, forwards it to Consular, Passport and Visa (CPV) Division of MEA.

3. The CPV Division, after examining the dossier, takes the approval of competent authority and forwards the extradition request to India Mission or Embassy abroad for onward transmission to the country concerned.[3]

The extradition request is then sent to the requested state through its concerned ministry, which then assigns a court of that state to inquire into the request through a judicial proceeding. After being satisfied that the request is in conformity with the extradition laws or treaty of the requested state, the state then surrenders the fugitive criminal to India.

3.1 Extradition Act, 1962

The Extradition Act, 1962 is the legislation which lays down the framework regulating the procedure for sending of extradition requests by the government of India to a foreign state. Section 19[4] of the Act provides that a requisition for the surrender or return of a person, who is accused or convicted for any offence in India and is found to be in a foreign state, can be made by the Central Government to either the diplomatic representative or the government of that state. Section 21[5] of the Act recognizes the Principle of Specialty by prohibiting any legal action being taken against the person extradited, except for which the extraditing state had not given consent before the person was extradited or which is not a smaller offence proven from the facts upon which the extradition was granted**.**

3.2 Fugitive Economic Offenders Act, 2018

The Fugitive Economic Offenders Act, 2018 was enacted by the Parliament to deter fugitive economic offenders from evading the process of law in India by laying down procedure for confiscating their assets both within as well as outside India. This Act does not per se provide for extradition of fugitive economic offenders but does facilitate their extradition by their official declaration as a Fugitive Economic Offender under Section 12[6] and by prohibiting them

[3] Ministry of Home Affairs, Government of India, 'Guidelines on Mutual Legal Assistance in Criminal Matters' <https://share.google/4BkYGSeVkJGbmoPYL> accessed 18 September 2026.
[4] The Extradition Act 1962, s 19.
[5] The Extradition Act 1962, s 21.
[6] The Fugitive Economic Offenders Act 2018, s 12.

from initiating civil proceedings in India or accessing their assets under Section 14[7].

3.3 Treaties and Arrangement

Extradition Treaty or Arrangement refers to an agreement between two nations, outlining the procedure and grounds for sending, accepting or rejecting an extradition request. It facilitates a nation in securing the extradition of a fugitive criminal, ensuring that an offender cannot escape justice by crossing national borders. According to the Ministry of External Affairs, India currently has Extradition Treaties with 48 countries and Extradition Arrangements with 12 countries in effect.[8]

In addition, India has also ratified several **international conventions** which provides it a framework to extradite fugitive criminals from states who have ratified those conventions and with whom India does not have an extradition treaty or arrangement in force. One of such conventions is United Nations Convention against Transnational Organized Crime (UNTOC) which acts as the legal basis for extradition of fugitive offenders, including economic fugitive offenders, between two or more state parties.[9] [check footnote]

3.4 Current Scenario of Extradition

The Ministry of Home Affairs made a press release in August 2026, reiterating the efforts being made by the Indian government to ensure speedy extradition of fugitive criminals, including among others:

• The introduction of trial in absentia in BNSS 2023 (Bharatiya Nagarik Suraksha Sanhita) which enables the Indian courts to conduct the trial of fugitive criminals even in their absence;

• The enactment of Fugitive Economic Offenders Act 2018 which enables the Indian courts to confiscate property of economic fugitives;

• The launch of Operation Trishul which enabled the government to track geo-location of fugitives who have changed their name; and

[7] ibid s 14.
[8] Ministry of External Affairs, Government of India, 'List of Extradition Treaties/Arrangements' (16 June 2026) <https://www.mea.gov.in/leta> accessed 24 September 2026.
[9] United Nations Convention against Transnational Organized Crime (adopted on 15 November 2000, entered into force on 29 September 2003) 2225 UNTS 209.

• Increased coordination between India and different global agencies including INTERPOL.

The press release also shared the **result** of all these efforts made by the government by releasing the data on number of fugitives brought back to India between 2019 and July 2026. The data shares the number of fugitives brought back to India in each year while classifying the fugitives on the basis of types of offences committed by them. A study of the data shows that the number of fugitives brought back to India have increased over the years, depicting that the extradition and repatriation efforts made by the government have been successful. However, a deeper study of the data discloses a concerning pattern. Although, the overall number of fugitives brought back to have increased, the extradition or repatriation of financial or economic fugitives has been the lowest among all the categories of offences specified in the press release. This shows that the efforts made to bring back economic fugitives have not been as successful as the efforts made to extradite other fugitive offenders.[10]

4. OBSERVATION

As we saw earlier, India has an elaborate framework for extradition of fugitives from foreign states, including domestic laws as well as treaties and arrangements with other states. This makes one wonder why the outcome of this extradition policy has not been as desirable as it ought to be considering the efforts being made by the India government. The rates of extradition of financial or economic fugitives have been especially lower. This outcome can be attributed to several organizational and other factors, some of which are:

4.1 Procedural Issues

The procedural requirements of sending an extradition request to a foreign state are quite stringent, making it a tedious process. On its journey from investing agency to foreign state, an extradition request passes through various checks in several divisions of MHA and MEA. This lengthy procedure gives a fugitive plenty of time to find ways to escape justice by leaving the territory of requested state and to make efforts to prevent their assets from being attached and confiscated. The requirement of extradition dossier to be in a particular format and have a detailed information of the fugitive and the offence committed by him makes this procedure

[10] Press Information Bureau, Ministry of Home Affairs, 'Under the leadership of Prime Minister Shri Narendra Modi and guidance of Union Home Minister Shri Amit Shah, 274 fugitive criminals were brought back to India from 36 countries between 2019 and 2026' (Press Release, 4 August 2026) <https://share.google/GWhE0eO1qJHpBrxYI> accessed 3 October 2026.

even more lengthy.

4.2 International Legal Principles

International Law recognizes certain Principles of Extradition which need to be followed while making extradition of a fugitive. These principles secure human rights of individuals as well as international peace. However, these principles can, at times, make the extradition of a fugitive difficult for a requesting state in the following ways:

• **Dual Criminality** requires that in order to make a valid extradition request, the offence for which a fugitive is being extradited should be an offence in both the requesting as well as requested state. This makes it necessary for Indian agencies to satisfy the requested state that the offence committed by a fugitive in India amounts to a punishable offence in requested state also.

• **Rule of Specialty** requires that no extradited person shall be tried or convicted for an offence except for which the requested state granted extradition of the fugitive. This makes the extradition process more challenging for Indian agencies as they have to first be careful with the inclusion of offences in the extradition request, ensuring that no offence is left out. Then the Indian delegates have to negotiate with the requested state to accept the extradition request as a whole, and not to reject the inclusion of any offence in the extradition agreement, as it can render the extradition of that fugitive useless as the Indian courts would not be able to punish the fugitive for those offences even after the fugitive is successfully brought back to India.

• **Non-extradition of Nationals**: Most of the nations prefer not to surrender their nationals to other nations for trial of offences committed by those nationals in the requesting state. This can make it difficult for India to extradite offenders who are nationals of requested state but have committed an offence in India.

4.3 Role Played by Extradition Treaties

Extradition treaties highly influence the success or failure of a nation to extradite fugitives by acting as a formal written agreement between two nations ensuring that a requested state is bound by the provisions of the treaty. This way the party states do not have to rely much on negotiations and reciprocity to agree upon the extradition and surrender of a fugitive. India-UK extradition treaty was of great help in extradition proceedings of Vijay Mallya in UK

courts, as it guided the courts in deciding whether he can be surrendered to India or not. India has extradition treaty in force with only 48 countries. Moreover, no new treaty has been entered into by the Indian government in recent years. This can serve as a major deteriorator in India's extradition processes.

4.5 Rule of Reciprocity

When two nations do not have an extradition treaty or arrangement in effect, they have to reply upon the reciprocity. This means that if a nation accepts the extradition request of another nation and surrenders a fugitive to that nation, then the former nation expects that the latter nation would also surrender the former nation's fugitive if ever so requested in future and a corresponding duty is cast upon the latter state to surrender such fugitive to the former nation. This is known as the Rule of Reciprocity. Thus, if India ever surrenders a fugitive to a nation, then there is higher probability of that nation accepting India's extradition request in future and vice versa.

4.6 Impact of Negotiations

When two nations do not have an extradition treaty or arrangement in effect, they have to depend upon diplomatic discussions and negotiations. In such a situation, if Indian agencies do not frame strong extradition requests and the Indian government does not have a friendly relation with the requested state, then it can become difficult for India to extradite fugitives from such nations.

4.7 Requested State's Extradition Laws

The requested state's extradition laws also influence the time taken in the acceptance of extradition request by them. If their laws require stringent conditions to be satisfied and lengthy formalities to be completed for acceptance of extradition request, then even a perfectly made extradition request and strong negotiations cannot speed up the extradition procedure. Similar is the result when a nation's legal framework requires multiple checks by executive and judiciary of the request. Some nations give a fugitive multiple grounds and opportunities to appeal against the order of surrender, resulting in making it difficult for requesting state to secure his surrender. The same can be seen in the extradition case of Vijay Mallya, wherein he was given multiple opportunities to appeal against the UK courts' decision to accept India's

request to extradite him.

4.8 Human Rights Concerns

International Law imposes a duty upon the requested states to check that a fugitive's human rights would not be violated in the requesting state before accepting the extradition request and surrendering the fugitives. This acts as one of the major reasons of India's failure to extradite fugitives as the condition of prisons in India raises major concerns regarding human rights. This gives fugitives a strong ground for opposing their surrender to India in the courts of the requested state. The same can be seen in the case of Vijay Mallya's extradition wherein, even after his extradition request being accepted by UK, his physical surrender yet seems miles away because of his appeal challenging the extradition on account of poor prison conditions in India.

4.9 Influential Fugitives

Influential and wealthy fugitives often hire skilled counsels in the requested nations and hide their assets recovered from offences committed in requesting state along with their other assets, making it difficult to gain the approval of the courts of requested state on their extradition and making confiscation of their assets by the requesting state almost impossible. This especially holds true in the case of financial or economic fugitives whose extradition India seeks from other nations, as their wealth and contacts help them to successfully abscond India as well as stay in other nations. The same could be seen in the case of Vijay Mallya.

An analysis of all these factors shows us that there does not exist a single cause for the recent trend in extradition of fugitives, particularly economic fugitives, to India. India's success or failure to extradite fugitives rests on a combination of the abovementioned factors, one of which indeed is India's own legal framework, for which the state can at times be held accountable. For example, for the lengthy procedure of sending extradition requests and the inadequacy of extradition treaties. However, it isn't the only factor influencing the rates of extradition to India, some of which can in fact be attributed to the whole international legal framework on extradition as well as on the legal framework of other nations, which lay outside the purview of the Indian government.

6. CONCLUSION

India has a detailed legal framework for extradition of fugitives, which has helped the

government to extradite a large number of fugitives to India in the recent years. However, a considerable number of extradition requests made by India to other nations remain pending. This especially holds true in the case of economic fugitives. This is a result of a combination of factors, ranging from lack of extradition treaties between India and other nations to other nation's own extradition laws. These hurdles can be overcome by signing extradition treaties with more nations, developing speedy mechanism for the preparation and submission of extradition requests and by developing stronger and faster means to confiscate property of economic fugitives.

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