
EXTRADITION AND THE POLICIES GOVERNING THEM: A COMPARATIVE ANALYSIS OF INDIA WITH THE U.S.A.

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ABSTRACT

Extradition law is a legal procedure of transferring an individual from one country to another when the requesting country requires indicting the target person with crime or punishment. So, the law ensures that moving to another country will not protect an offender from being arrested for the same crime and this article describes the history of extradition and points out similarities and differences between Indian and US laws. Earlier, the extradition was done based on the personal or moral promises given by the rulers. Currently, it is regulated by official treaties and agreements between the countries. The primary India's law on extradition is Extradition Act of 1962, which provides its functionality along with various agreements made by India with other countries. Extradition in the United States is governed by the constitution, the federal laws, and numerous deals that have been signed with other countries. It is through the paper that one can know how human rights are crucial in contemporary extradition cases. A country will refuse to give extradition to another country once it is likely that the requesting state would torture people or fail to give them fair judicial processes. To ensure extradition is successful, both countries must agree that a crime took place, and politics should not be involved in the process. The paper explains the history of extradition and explains why it is needed more than ever today due to more cases of terrorism, money laundering and cybercrime.

Keywords: Extradition, India, United States, human rights, treaties, international law, crime, cooperation, legal process.

1. INTRODUCTION

The legal procedure of extradition enables nations to provide criminals who committed their offenses abroad to the jurisdiction where the criminal acts took place. International criminal cases involving terrorism, money laundering, drug trading and financial fraud are mainly tackled by the extradition system used by nations.¹ International accords, national laws and conventions for international cooperation are used by various nations to enforce extradition.² To transport offenders and fugitives facing criminal charges, one nation needs to go through several steps with the country to which the individuals are wanted. Around the globe the transfer of criminal suspects occurs under bilateral agreements or treaties, but states may also deliver individuals through reciprocity and comity as displays of good will. The states implement extradition under a standard principle of global public order.³ The history of extradition extends through city state and imperial treaty relations until modern extradition principles developed during the nineteenth century. International law applies to extradition because two nations need to cooperate in this process. Extradition bases its foundations on legal conventions that developed through international customary law as well as through treaty law. The fundamental concept directly connected to this discussion is jurisdiction. Value among nations stems from maintain political autonomy and sovereign national territory and responsibility for internal governance according to the United Nations Charter Article 2⁴, states possess equal rights to domestic non-interference. Countries possess all rights to prosecute their perpetrators for any crimes that occur in their regional territory according to international legal frameworks despite the nationality of the suspects. The territoriality rule applies to all cases including when a suspect is or is not from the prosecuting nation.⁵ The extradition system operates without international treaty regulations and the United Nations provides no monitoring of its operational framework. The juridical relationship is established by an intergovernmental treaty between different states. The procedure of extradition requires countries to work together following mutual agreement rather than legal requirements.⁶

¹ M. C. Bassiouni (2014). U.S. law and practice on international extradition, 6th ed.

² Van den Wyngaert, C., and J. Dugard (1998). balancing human rights and extradition. 187–212 in American Journal of International Law, 92(2).

³ Indian Supreme Court (2013). CBI & Others v. Abu Salem Abdul Qayyum Ansari, 2013 7 SCR 1061.

⁴ United Nations, 1945. The United Nations Charter and the International Court of Justice's Statute. United Nations.

⁵ Van den Wyngaert, C., and J. Dugard (1998). balancing human rights and extradition. P. 187–212 in American Journal of International Law, 92(2).

⁶ G. Gilbert (1998). The European Convention on Human Rights' criminal justice component. 9(3), 677–701; European Journal of International Law.

Extradition systems between India and the United States exist via specific legal frameworks that support their approved judicial systems and international diplomatic agreements. The Extradition Act of 1962 serves as India's primary legislation that enables extradition by both bilateral treaties and international obligations.⁷ The United States applies multiple layers of legal extradition precedents that combine the Extradition Clause present in the United States Constitution along with extradition act of 1870 and extensive bilateral agreements with different nations.⁸ Different procedural protocols and standards of evidence together with executive decision power in extradition procedures demonstrate the complex nature of legal exchange between the United States and India. The Indian legal system operates under treaty regimes but regularly accepts diplomatic promises, yet the United States maintains a strict legal standard by examining probable cause along with double criminality and dangers of persecution within requesting nations.⁹

2. EVOLUTION OF EXTRADITION LAWS

The historical background of extradition can be examined in many perspectives. The history of extradition is long that can be even traced back to ancient and medieval eras. This study cannot present an extensive treatment of extradition history because it focuses on different aspects rather than historical background. To identify the origins of extradition obligations at least a minimum level of explanation becomes necessary.¹⁰ Extradition records unfold through three distinct historical periods starting from the ancient age and proceeding to the classical then the modern era. The modern period will divide itself into two different sections based on how treaties are established between countries. The evolution of multilateral treaties into two periods depends on the progression of arrest warrants while they also form part of classical multilateral treaties.¹¹ The first existing extradition request was documented in religious texts of the Old Testament.¹² The historical document with hieroglyphics marks the first international treaty and extradition protocol which Pharaoh Ramses II of Egypt established with Hittite Prince Hattusili III during the 1350s BC.¹³

⁷ India's 1962 Extradition Act.

⁸ Title 18, Part II, Chapter 209, U.S. Code: Extradition.

⁹ Shearer, I. A. (1971). *International law, extradition*. Manchester University Press.

¹⁰ *International Extradition: United States Law and Practice*, Fifth Edition, pp. 11–25, M. Cherif Bassiouni

¹¹ *Id.* at 27–35.

¹² Old Testament, Judges, 19–20.

¹³ Ivan Anthony Shearer, *Extradition in International Law* (Manchester University Press 1971) 8–10

In ancient Greece the process of extradition was depended on political agreements and treaties that are connected to different city states. The Temple sanctuaries along with specific cities were functioned as asylum locations to protect the fugitive individuals. Those city states they formed extradition treaties mainly relate to war time circumstances to secure the delivery of traitors and criminals between each other.¹⁴ Rome on the other hand they established limited extradition procedures which mostly affected political opponents who challenged the state. Through diplomatic methods rather than treaties the Roman Republic extracted fugitive citizens from their provincial and client territories.¹⁵ The Manusmriti along with the Arthashastra recorded ancient Indian legal practices which allowed extradition specifically for activities that endangered the state and its ruler. Political necessity guided criminal transfers as Kautilya described them within his 4th century BCE book Arthashastra.¹⁶ The legal system of China during the Qin and Han dynasties provided rules for criminals who ran to nearby states to surrender themselves. Hierarchical power systems ruled the surrender process at this time rather than written documentation.¹⁷ The practices of extradition were guided through religious institutions in numerous historic societies across the globe. According to religious teachings which the Hebrews practiced the divine laws required the return of offenders. Moral justice stands at the forefront of Torah laws which guide murder extraditions. The medieval Christian kingdoms in Europe tended to refrain from handing over fugitives when these individuals' found sanctuary in churches based on both moral and religious values.¹⁸ Extradition developed throughout the Classical Era starting from the 5th century BCE to 5th century CE when city states together with empires established extradition treaties for fugitive handovers. The classical period brought advanced legal systems that created treaties alongside extradition frameworks unlike the basic extradition systems used by ancient civilizations. The development of extradition as a legal mechanism for stability and criminal justice emerged first from the Greek city states followed by the Roman Republic up to the Roman Empire.¹⁹ Throne protection became essential during the classical period because it garnered specific attention throughout middle age through pre-modern age. Many treaties would be applied to political criminals because of this protection of throne emphasis. The Treaty of Westminster from 1174

¹⁴ Decline and Fall of the Roman City 87, by J.H.W. G. Liebeschuetz (Oxford University Press, 2001).

¹⁵ A Palingenesia of Third Century Imperial Rescripts 52 by Tony Honoré (Oxford University Press, 1994).

¹⁶ Kautilya, Arthashastra 298–300 (Penguin Books, 1992, trans. L.N. Rangarajan).

¹⁷ The Open Empire: A History of China to 1600 174 by Valerie Hansen (W.W. Norton & Co. 2000).

¹⁸ David M. Lantigua, Early Modern Spanish Contributions to International Legal Thought 156-160, *Infidels and Empires in a New World Order* (Cambridge University Press, 2020).

¹⁹ (Univ. of California Press 2000) Clifford Ando, Imperial Ideology and Provincial Loyalty in the Roman Empire 89-91.

serves jointly with the Treaty of Paris created in 1303 by Henry II of England and Guillaume of Scotland and Edward II of England with Philippe IV of France (Philippe the Handsome, Philippe le Bel). These political and religious agreements were vital for eliminating the political opponents of the signatories.²⁰ The Ottoman Empire under Emperor Mehmet II (Mehmet the Conqueror, Fatih Sultan Mehmet Han) sought extradition of those wanted criminals who escaped to Galata after the failed Pazzi coup attempt of 1478,²¹ the Classical Era established fundamental principles that advanced the current extradition practices in law. The Medieval and current extradition laws developed from the combination of treaties with legal frameworks together with political and legal equilibrium. European legal systems adopted their extradition procedures following Roman justly gentium principles leading to a standard legal framework for extradition.²²

2.1. Modern Framework of Extradition

The modern extradition system experienced drastic changes since ancient times and classical precedents leading to developed legal structures enforced by international agreements and domestic regulations. Nation-states acquired sovereignty together with better diplomatic ties which fostered public international agreements between different governing bodies. Damage of the 19th century elevated extradition law regulation through widespread signature of multipurpose extradition agreements which continue to underpin current global extradition guidelines.²³ Modern times brought substantial changes across the world. The rapid technological development including rail systems and watercraft combined with industrial city growth has built suitable grounds where criminals choose to escape.²⁴ More people migrate leading to increased criminal relocation thereby increasing the need for extradition agreements between independent sovereign states. France has taken responsibility as the leading entity to establish extradition treaties within the modern period of history.²⁵ By the eighteenth-century France established extradition agreements with each neighbouring country except Great

²⁰ Pursuit of Extradition Requests, Alotaibi, 8.

²¹ İç. TDV İslam Ansiklopedisi, Vol. 41, (Ankara: TDV İslâm Araştırmaları Merkezi, 2012), 268; Mahmut H. Şakiroğlu, "Toskana."

²² Cambridge University Press, "Thinking About Property: From Antiquity to the Age of Revolution 107-110," by Peter Garnsey.

²³ The Modern Evolution of International Extradition Law, Sharon A. Williams, 19 Canadian Y.B. Int'l L. 65, 70-75 (1981).

²⁴ Extradition, Shearer, 11 ff

²⁵ Blakesley, from Antiquity to Modern, 51; Shearer, Extradition, 17.

Britain.²⁶ The current extradition system exists through international treaties. Every extradition agreement maintains a fundamental requirement which demands the requested state to provide extradition services.²⁷ Today's extradition process primarily depends on bilateral as well as multilateral treaties which enable nations to cooperate on fugitive sending. The 1842 Webster-Ashburton Treaty represented the first time the United States and Britain formalized the system of controlled extradition procedures in their bilateral agreement. Expansion of treaties throughout history now incorporates an extensive list of offenses which extends to dealing with cross-border crimes like terrorism and drug trafficking and organized crime.²⁸ Human rights factors gained prominence in extradition proceedings starting from the 20th and continuing into the 21st century. Extradition policies derive their influences from international human rights laws by implementing conventions that include European Convention on Human Rights (ECHR) and International Covenant on Civil and Political Rights (ICCPR). The judicial system now carefully investigates extradition cases to stop extradition targets from being sent to nations that could practice acts of physical abuse or unjust prosecution.²⁹ Indian extradition practices regarding fugitive transfer either between India or foreign nations follow the Indian Extradition Act, 1962, Indian extradition laws conduct extradition procedures based on treaties established between India and other foreign nations.³⁰ India enacted its initial extradition law through the Indian Extradition Act of 1903 when the country was still controlled by British rule before achieving independence in 1947,³¹ in India the rules of extradition function through the Extradition Act of 1962³² coupled with existing extradition treaties between India and international nations. The Supreme Court of India formulated the extradition definition through *State of West Bengal v. Jugal Kishore*.³³ The definition of extradition provided by *Jugal Kishore* reveals it as the action where a state transfers a person to another state who requires legal proceedings for documented offenses.

²⁶ Blakesley, *Ancient to Contemporary*, 50 ff

²⁷ Julian Assange: A Case Study of Contemporary Extradition Practice, Daniela J. Restrepo, 11 *Notre Dame L. 149*, *J. Int'l & Comp.* (2021).

²⁸ Geoff Gilbert, *Extradition and Other Mechanisms for Transnational Fugitive Offenders in International Law* 64-69 (Martinus Nijhoff Publishers 1998).

²⁹ "The Principle of Non-Refoulement: Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Comparison with the Non-Refoulement Provisions of Other International Human Rights Treaties" David Weissbrodt and Isabel Hörtreiter, 5 *Buff. Hum. Rts. L. Rev.* 1, 16-19 (1999).

³⁰ 58 *Ind. J. Int'l L.* 245, 250-255 (2018) Anupam Jha, *India's Extradition Law and Practice: An Analysis in Light of International Norms*.

³¹ *The Law of Extradition in India: Its Development and Current Significance*, 32 *Ind. J. Int'l L.* 145, 148-153 (1992), B.S. Chimni.

³² The 1962 Indian Extradition Act

³³ *Jugal Kishore v. State of West Bengal* AIR 1969 SC 1171

The roots of U.S. extradition law grew from English common law tradition before America established its legal framework by means of treaties and federal statutes.³⁴ The United States participated in its initial extradition pact through the 1794 Jay Treaty that Great Britain signed with the U.S. This treaty established mutual rules for deporting fugitives who were wanted for murder or forgery.³⁵ The extradition act 1848 became the federal law for the United States to establish set extradition operations which require formal agreements between America and international countries. Through this legislation the government established a legal process to respond to extradition requests thus shaping subsequent legislative advances.³⁶ Significant extradition law changes occurred during the 1933 Extradition Act passage because it established constitutional safeguards while defining the responsibilities between executive and judicial branches. Through bilateral treaties the United States expanded extraditable offenses with countries from Latin America together with Europe.³⁷ The United States improved its extradition model after 9/11 to confront cases of terrorism along with international criminal activities. The United States Patriot Act of 2001 together with the extradition reform act of 2005 made it easier for country-to-country extradition of terrorism criminals.³⁸ The U.S. and U.K. extradition treaty 2003 accelerated extradition operations by reducing the standards for supporting evidence in extradition request submissions.³⁹ U.S. extradition law remains modernized through international collaboration tools consisting of INTERPOL Red Notices and Mutual Legal Assistance Treaties (MLATs) for effective capture of global fugitives.⁴⁰

3. EXTRADITION TREATIES AND AGREEMENT

3.1 U.S. Extradition Treaties

Extradition treaties operate as bilateral when the United States establishes agreements with foreign countries or entities or as multilateral when many states create such agreements. The extradition statute does not define the proper type of international extradition agreements. According to current beliefs the extradition treaty can be bilateral along with multilateral treaties to serve as proper extradition bases.⁴¹ The United States sends most extradition requests

³⁴ Commentaries on the Laws of England, William Blackstone (1765-1769)

³⁵ Nov. 19, 1794, U.S.-Gr. Brit. Treaty of Amity, Commerce, and Navigation, 8 Stat. 116.

³⁶ Chapter 167 of the Extradition Act of 1848, 9 Stat. 302 (1848).

³⁷ Pub. L. No. 73-200, Extradition Act of 1933, 48 Stat. 1508 (1933).

³⁸ Pub. L. No. 107-56, sec. 504, 115 Stat. 272 (2001), USA PATRIOT Act.

³⁹ U.S.-United Kingdom Extradition Treaty, Mar. 31, 2003, 235 Stat. 251.

⁴⁰ 18 U.S.C. Sec. 3512, Mutual Legal Assistance Treaties (MLATs) (2009).

⁴¹ International Extradition: United States Law and Practice 12-14, by Michael Abbell, 6th ed. (2010).

through bilateral extradition treaties since it finds bilateral arrangements to be the superior mechanism for extradition processes. More than one hundred extradition agreements exist between the United States and foreign countries under its bilateral arrangements.⁴² The extradition process within the United States strongly favors the requesting country through its established system. The provisions within extradition agreements safeguard both the relator from unfair treatments and ensure their human rights remain protected during the proceedings.⁴³ The main function of multilateral treaties was to establish the United Nations institution through Hague conventions which governed warfare laws. States become part of multiple agreements to advance political and human rights protection while working together to enforce their criminal laws.⁴⁴ These states create mutual agreements which establish procedural methods to both track criminal offenders and conduct trials against offenders who specialize in drug trafficking and counterfeiting and terrorism. Periodic treaties from different countries incorporate both extradition provisions alongside human rights safeguards.⁴⁵ As a multilateral treaty the United States recognizes the Convention Against Torture⁴⁶ and Other Cruel Inhuman or Degrading Treatment or Punishment via Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA").⁴⁷ The Convention incorporates international extradition provisions through its 3, 5 and 8 articles.⁴⁸ According to Article 3 of the Convention the United States cannot extradite someone to another jurisdiction when there are solid reasons to indicate torture would take place.⁴⁹ FARRA encompasses the same provision and requires executive regulations to implement Article 3 of CAT.⁵⁰ The Department of State developed regulations under FARRA that demand the Secretary of State to determine extradition risk before granting approval.⁵¹ The United States has ratified different multilateral treaties which provide provisions on extradition procedures. According to Article 6 a state possesses discretion to decline extradition requests that would enable prosecution or punishment of any individual based on their race or political opinions or that might harm someone due to their nationality or religion or political standpoint. A state can refuse extradition cooperation when

⁴² 18 (2012) U.S.C. 3181. Additionally, see BASSIOUNI, *supra* note 3, 1025–35.

⁴³ 418 F.2d 679, 685 (5th Cir. 1969) *Sayne v. Shipley*

⁴⁴ 999 U.N.T.S. 171, International Covenant on Civil and Political Rights, March 23, 1976.

⁴⁵ 18 U.S.T. 1407, 520 U.N.T.S. 204, Single Convention on Narcotic Drugs, Mar. 30, 1961 (effective Dec. 13, 1964; effective June 24, 1967, for the United States).

⁴⁶ December 10, 1984, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/39/51, at 197–98.

⁴⁷ *Id*

⁴⁸ H.R. 1757, 105th Cong. (1998), Foreign Affairs Reform and Restructuring Act of 1998.

⁴⁹ *Id*

⁵⁰ O.A.S. No. A-66 (June 3, 2002), AG/Res. 1840 (XXXII-O/02), Inter-American Convention Against Terrorism

⁵¹ 359 U.N.T.S. 273, European Convention on Extradition, art. 6, Dec. 13, 1957.

prosecution along with punishment does not meet requirements regarding racial discrimination or religious discrimination or nationality-based discrimination or political opinion-based discrimination or discrimination that causes prejudice toward persons. Diverse details appear in the agreements which the United States negotiates with other nations. The United States uses its foreign extradition policy to create 120 bilateral extradition treaties with various international nations. The extradition treaties appear mainly decorative when extradition remains voluntary or major European countries maintain national sovereignty to prevent extraditions of their citizens. Extradition procedures demand that the charged conduct must be treated as criminal offenses in both participating jurisdictions which is referred to as dual criminality. The United States uses Older-generation extradition treaties to operate through specified crime lists present in each treaty with foreign nations.⁵² In *Factor v. Laubheimer* the Court applied the principle that treaties should receive expansive interpretations when two interpretations exist that differ between restricted and expanded rights because treaties should not restrict rights.⁵³ Various lower courts have applied the accepted definition of this language to show that extradition treaties aim solely to facilitate extraditions. Consequently, courts solve text ambiguity by interpreting the meaning liberally to favor extraditions.⁵⁴ The initial principal functions improperly based on an assumption that extradition treaties work solely to enable extraditions. The Court in *Factor* 1933 used the 1848 Webster-Ashburton treaty with Great Britain modified by Blaines-Pauncefote Convention during their determination.⁵⁵ The older extradition treaties fail to include modern protections for country citizens in extradition proceedings because they do not follow contemporary extradition standards of justice and procedural rights. In *Patterson v. Wagner* evaluated within the Ninth Circuit Court of Appeals whether extradition treaty provisions about time limits could be enforced by judges. *Patterson* became the subject of extradition proceedings in South Korea despite meeting U.S. laws for statute of limitations on the charged offense.⁵⁶ Article 6 of the treaty presents the most important text because it contains the provision stating, "Extradition may be denied."⁵⁷ The court established that the discretionary power of the Secretary of State arises from the "may"

⁵² Cong. Rsch. Serv., *International Extradition and the U.S. Constitution* 1 (2010), Michael John Garcia & Charles Doyle.

⁵³ (1933) 290 U.S. 276, 293-94. 21. *United States v. Martinez*,

⁵⁴ *Wright v. Henkel*, 190 U.S. 40, 57 (1903), *Patterson v. Wagner*, 785 F.3d 1277, 1281 (9th Cir. 2015), *United States v. Kin-Hong*, 110 F.3d 103, 110 (1st Cir. 1997), *Martinez v. United States*, 828 F.3d 451, 455 (6th Cir. 2016)

⁵⁵ Blaine-Pauncefote Convention, U.S.-U.K., July 12, 1889, 26 Stat. 1508

⁵⁶ 9th Cir. 2015; *Patterson v. Wagner*, 785 F.3d 1277.

⁵⁷ *Id*

clause in the extradition law. The court drew support from its *Vo v. Benov* decision despite its examination of a provisions from the past extradition treaty. In the *Benov* decision the court decided that analogous "may be denied" text within an extradition treaty gave discretionary authority to the executive branch but not absolute judicial limitations on extraditions.⁵⁸ The court used the State Department's submittal letter to the treaty which clarified Article 6 permits extradition denial for time-barred prosecutions but does not mandate it. Then court discovered more support for the conclusion that the provision grants states autonomy in their choices.⁵⁹ The Fifth Amendment double jeopardy ban exists only between cases brought forth by a solitary government authority based on *Elcock v. United States*, 80 F. Supp. 2d 70 (E.D.N.Y. 2000).⁶⁰ Different nations or sovereign states apply separate sovereign's rules which permit parallel prosecutions for the same conduct without double jeopardy constraints.⁶¹ The extradition treaty contained a prior jeopardy clause which stated extradition should not be granted to someone who received a trial as well as discharge or punishment from the requesting state (U.S.). The court explained how we should apply the term offense to describe actual charged conduct instead of treating it as the same as legal definitions across different jurisdictions. The U.S. prosecution under *Elcock* charged *Elcock* with moving stolen currency and receiving such funds yet the German prosecutor held sole authority to prosecute the bank robbery offenses. The jurisdiction established separate categories between the crimes despite being linked to a single event. The extradition process moved forward because the prior jeopardy clause failed to become a barrier.⁶²

3.2 Indian Extradition Treaties

The Indian government remains the sole authority that concludes pre-independence treaties.⁶³ Indian laws must abide by every treaty of extradition established by the country. In 1956 India created a list of 45 treaties for extradition that had maintained their validity before independence. India maintains extradition agreements with 60 countries and territories at the time of December 2024, the country has signed treaties of extradition with 48 nations while having extradition arrangements with 12 others. The Indian authority responsible for managing

⁵⁸ *Id*

⁵⁹ 785 F.3d. Patterson

⁶⁰ *Elcock v. United States*, E.D.N.Y. 2000, 80 F. Supp. 2d 70.

⁶¹ *Id*

⁶² *Id*

⁶³ ministry of External Affairs, Gov't of India, Treaty-Making Power of India, <https://www.mea.gov.in/treaty-making-power.htm>.

extradition requests belongs to the Ministry of External Affairs. CPV division operates the Indian extradition request handling process through its division. Each law enforcement agency along with the competent courts obtains the authority to submit extradition requests in appropriate complaint cases. The number of bilateral treaties that India signed falls short when compared to the agreements pursued by other nations. In the recent years India secured extradition of 62 people who came from 21 different countries. The transfer of Grant Duncan Alexander for child crimes and Samirbhai Vinubhai Patel for murder charges was made successful by Indian authorities from UK.⁶⁴ The number of extradited criminals since 2002 amounts to 62 individuals where 54 of them hold Indian nationality alongside British and 3 extradited citizens. Among those extradited since 2002 are one American citizen together with citizens from Australia Canada Israel and Thailand. The UK granted asylum to arms dealer Sanjay Bhandari as police agencies investigated him for money laundering and tax evasion crimes. India works together with the Ministry of External Affairs to pursue extradition of this individual from his current location. The Indian authorities brought back Suresh Pujari from the Philippines after he evaded prosecution for multiple extortion cases in Mumbai and Thane and Karnataka. The agreement between two countries does not guarantee substantial results regarding extradition requests. During the period between January 1st 2019 and December 10th, 2024, India made 178 extradition requests to other countries which resulted in 23 successful extraditions throughout this time. There are currently 65 outstanding extradition requests at the United States which involve terrorism-related accused individuals. The process of extradition has become visible due to multiple prominent legal cases. Due to extended legal procedures along with a promise that death penalties would not be used against him Abu Salem received extradition from Portugal to India in 2005, worldwide criminal Chhota Rajan received his arrest in Bali in 2015 before India accepted his extradition to stand trial for multiple legal accusations. Diplomatic efforts enabled India to bring British citizen Christian Michel James back from the United Arab Emirates to face criminal charges pertaining to Agusta Westland practices of cheating and conspiracy.⁶⁵ The government of India successfully brought back Mohammed Yahya from Indonesia because of his crimes involving cheating and forgery and criminal conspiracy.⁶⁶ The extradition of Kumar Krishna Pillai to Singapore for attempted murder and Abdul Wahid Siddibapa from UAE for waging war against India occurred.⁶⁷ The

⁶⁴ Rakesh Dubbudy, *62 Fugitives Extradited to India Since 2002, Another 110 Yet to Be Extradited*, FACTLY (Apr. 20, 2017), <https://factly.in/62-fugitives-extradited-to-india-since-2002-another-110-yet-to-be-extradited/>.

⁶⁵ IANS, '18 fugitives brought back to India in five years' (Business Standard, March 20, 2019) January 16, 2022

⁶⁶ Id

⁶⁷ Id

courts cleared Sanjeev Kumar Chawla for extradition despite charging him for match-fixing offenses.⁶⁸ Formerly the UK government rejected his extradition due to alleged poor conditions in Tihar Jail New Delhi. The Indian government has been actively participating in extradition activities throughout the previous decade. The extradition treaty administration stretches into lengthy periods of time because it faces numerous legal and diplomatic along with political challenges. The extradition requests for twenty-six individuals from India have remained under review by Canada since October 2024 which has excessive their waiting time above a decade for suspects linked to the Lawrence Bishnoi gang. Canada and India continuously dispute this situation since both countries frequently accused each other of internal interference.⁶⁹

4. COMPARATIVE ANALYSIS BETWEEN U.S. AND INDIA EXTRADITION

International cooperation for fighting crime heavily relies on extradition treaties which allow states to transfer criminal suspects to the countries that issued their requests. Under agreed extradition protocols both the United States and India operate separately through their domestic law systems and diplomatic procedures. Based on analysis of international treaties the United States depends mainly on bilateral extradition agreements with more than 120 nations whereas India maintains fewer formal agreements totalling 60 nations in December 2024, the United States extradition system depends on signed international agreements to provide simplified cooperation with foreign governments. While international extradition through the United States does not require treaties for extradition, they show a preference toward extraditions backed by treaties. Extradition demands that the targeted offense would qualify as a criminal matter under the legislation of the country that issued the request and the nation from which extradition would be requested. Older U.S. extradition treaties contained specific crime names, but modern agreements switch to presenting conduct descriptions instead of listing particular crimes. Court systems use extended interpretations of the U.S. extradition treaties for extradition purposes as defined in *Factor v. Laubheimer*. The Supreme Court declared the understanding of treaties as ambiguous until authorities interpret them to make extradition possible per *Factor v. Laubheimer*. The meaning of *Laubheimer* treaties becomes clear after interpretation to initiate extradition proceedings between jurisdictions. The extradition process takes longer in India because of its obligations through extradition laws and treaties

⁶⁸ Hindustan Times, January 7, 2019, "UK court clears extradition of alleged bookie Sanjeev Chawla" on January 16, 2022.

⁶⁹ 26 extradition requests for Lawrence Bishnoi gang members are still waiting with Canada, according to The Indian Express: October 17, 2024, MEA

which limit diplomatic and legal activities. India applies the Extradition Act of 1962 which requires extradition procedures to happen based on treaties but has seen noticeable delays because foreign courts drag out legal processes in fugitive return cases. In U.S. extradition practice multilateral treaties enable protection of human rights. The United States will refuse extradition of suspects to other nations through Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) if there exist clear indications of inhumane treatment awaiting the individual. FARRA established U.S. legal grounds for the Secretary of State to assess human rights concerns during extradition circumstances. The extradition law of India lacks specific legislative control which would connect international human rights protection systems. Indian legal institutions together with diplomatic activities take humanitarian matters into account but final extradition choices primarily rely on political decisions and judicial authority instead of established security against mistreatment or persecution. The extradition frameworks of both nations receive substantial shape from judicial interpretations. Judicial bodies in U.S. courts continually underline that executive branch decisions in extradition proceedings cannot be subjected to legal review thus giving executive officials the final power over extradition grants or denials. It was established by *Patterson v. Wagner* that the U.S. Court of Appeals for the Ninth Circuit granted reduced authority to the Secretary of State under extradition treaty provisions for refusing extradition without court oversight. Similarly, in *Vo v. Benov*, Judicial restrictions on extradition decision-making power received rejection by the judges as the courts determined this authority belongs to the executive branch. Judicial challenges in Indian legal systems create prolongation of extradition procedures because authorities had to obtain specific assurances from Portugal during the extradition case of Abu Salem in 2005, the lengthy extradition process in India becomes inefficient because of legal safeguards and appeals and negotiations between countries that extend the timeline. The two nations experience different barriers when they attempt to obtain extradition requests. European nations create problems for the U.S. by rejecting extradition requests since Germany and France maintain their legal independence before international pacts. The extradition proceedings involving Sanjeev Kumar Chawla revealed difficulties when the U.K. at first refused extradition based on doubts about Indian prisons but later agreed to the transfer. The extradition process of terrorism-linked individuals between India and Canada faces diplomatic conflicts that result in lengthy legal battles demonstrating cooperation barriers. The procedures for international criminal enforcement through extradition treaties differ greatly between the United States and India because each country uses unique methods.

The United States possesses an organized framework which prioritizes bilateral extradition agreements together with judicial interpretations that support extradition procedures. Multiple diplomatic as well as procedural and legal barriers within the Indian extradition framework produce extensive delay times and low extradition success rates. Modern extradition practices demonstrate complexity through the various international law, sovereignty and diplomatic relationship issues which each nation encounters.

5. CONCLUSION

International penal law contains extradition as its essential procedure for transferring detained criminal defendants between nations for trial. The legal systems of India stand apart from those of the U.S. through their incompatible regulations and procedural protocols. The Extradition Act of 1962 guides India to extradite criminals only through treaties but the United States accepts extraditions under bilateral and multilateral treaties without requiring formal agreements. American courts contribute substantially to case evaluation before the Secretary of State takes a final decision, but Indian executive powers dominate without court delays. Extradition cases between both nations experience obstacles related to political mediation along with complex legal systems and human rights violations and diplomatic problems. The U.S. follows human rights protections through the Convention Against Torture (CAT) along with other specific protocols to stop extradition that may lead to torture although India lacks established legal frameworks to protect human rights in extradition cases. Both nations must collaborate to reduce extradition procedures and strengthen legal supervision and enhance transparency along with human rights protection and keep up diplomatic relations.