

## EXTRADITION UNDER INTERNATIONAL LAW—AID FOR THE ANGST OF FUGITIVES

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### ABSTRACT

*Oppenheim opined that: "Extradition is the delivery of an accused or a convicted individual to the State where he is accused of, or has been convicted of a crime, by the State on whose territory he happens for the time to be."*

*The need for reshaping the Extradition laws in order to counter the injustice to the innocent individuals being prosecuted garners change to prevent unjust extradition by states. It can be said without any doubt that the extradition principle is sacrosanct under the international criminal law. Moreover, a question may be pertinent i.e. Is extradition a legal duty of a State? This paper draws inference to the principle of prosecution or extradition through expression by the maxim 'aut dedere aut puniare.' This paper further provides an analysis of the principle of extradition, along with the purposes of extraditing a fugitive. The paper attempts to deliberate upon various landmark judgments on the principle invoking extradition as an interface with asylum being another institution under international law. This paper outlines the extradition in case of political offenders and the determinants of a political offence being an exception to extradition in certain circumstances. The paper also attempts to discuss the principle of double criminality whereby a crime is an offence recognized in the territorial as well as in the requesting State. As per this doctrine, no person can be extradited unless this condition is fulfilled. The law of extradition in India has been assessed in this paper, through the Extradition Act of 1962 along with its amendment. Moreover, certain recommendations and suggestions have been derived for prevalence of development as a goal internationally thereby reducing crimes and prevention of fleeing of fugitives from one State to another so as to escape punishment for the offence committed by them.*

Keywords: Extradition, fugitive, international, offenders, principle, state.

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## 1. INTRODUCTION

“Extradition is the delivery of an accused or a convicted individual to the State where he is accused of, or has been convicted of a crime, by the State on whose territory he happens for the time to be.”<sup>2</sup> - Oppenheim

There have been repeated occurrences of persons escaping to other States after commission of an offence in his own State. A pertinent question would be as to whether that particular fugitive is liable to be tried in the country where he committed the crime or the one where he fled.

Where an accused is wanted for trial in another State, then his surrender to that State should be under the extradition laws.<sup>3</sup> The extradition is carried on in Domestic courts as well as tribunals of the State requesting. Extradition has a wider ambit. Along with being a part and subject of International criminal law, its scope spreads to some substantive offences such as war crimes or any such United Nations sponsored anti-terrorist convention.

A State usually is thereby under a dilemma as to the punishment of the offender who committed the crime elsewhere due to lack of jurisdiction. Hence they are surrendered to the State where the crime was committed.

Extradition arised from ‘ex’ and ‘traditum’, which means ‘ delivery of criminals’, ‘surrender of fugitives’ or ‘handover of fugitives’.The first State is a territorial State where the offender or the accused was found and the Requesting State is the one where the crime was committed.

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<sup>2</sup>International Law’ Vol. I, Ninth Edition (1992), p. 949.

<sup>3</sup>Gilbert, G. (1998) *Transnational fugitive offenders in international law: Extradition and other ..* (Accessed: 28 April 2016).

Under International Law, the rules relating to extradition are not well established because it is an arena, which does not come solely under the field of International Law. It is considered to be a Dual law, which has both national as well as international connotations.

Attempts were made to establish rules relating to extradition such as the draft convention by Harvard Law School in 1935 and the International Law Commission in 1949, enlisted it as a topic for codification in its provisional list.

Currently, due to an absence of a multilateral treaty or convention, extradition is carried on by States on the basis of bilateral treaties and in accordance with Municipal law. For instance, India enforced its Extradition Act of 1962, amended in 1993. Other states have their own national laws.

Extradition is itself an element in the international protection of human rights. Contradicting, when returning an accused to face legitimate prosecution for the misdeeds, it is a part of the law of human responsibilities.<sup>4</sup>

The question of extradition lies in the periphery between international law and national law, and its most pertinent problem concerns with extradition in case of political offences, or asylum granted to them. The history of this problem can hardly be sketched in an article of this kind. It is enough to remember cases such as *re Castione*, *re Meunier*, *re Kaphengst*, *re Richard Eckermann* and *re Barratini*.<sup>5</sup>

## 2. LEGAL DUTY OF A STATE?

Grotius enunciated that a State of refuge has a duty either to punish the offender or to surrender him to the State seeking his return. The principle of 'prosecution or extradition' is a legal duty of the State where the offender is found. It is a duty based upon the natural law.<sup>6</sup>

Vattel also similarly viewed extradition as an imposed duty upon the states by the International law in matter of serious crimes. The principle of prosecution or extradition has been expressed by the maxim *aut dedere aut punire*.<sup>7</sup>

The judgement of International Court of Justice, *Belgium vs. Senegal*, elucidates aspects for implementation of the obligation of a State to extradite or prosecute an offender.

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<sup>4</sup> Bailey, *Human Rights and Responsibilities in Britain and Ireland*, esp. at pp. 30 (1988)

<sup>5</sup>Hambro, E. (1952) 'New trends in the law of extradition and asylum', *The Western Political Quarterly*, 5(1), pp. 1-19. doi: 10.2307/442548.

<sup>6</sup> H.O. Agarwal (2014) *International law and Human rights*, 20<sup>th</sup>edn. Central law Publications

<sup>7</sup> H.O. Agarwal, 'Application of *aut dedere aut punire* in Combating International Terrorism' (Paper submitted in the Teacher's Seminar of International Law Association, held in New Delhi on March 31, 1988).

It focused on the relationship between different articles on establishment of jurisdiction (Article 5), obligation to engage in a preliminary inquiry (Article 6) and the obligation to prosecute or extradite (Article 7).<sup>8</sup>

The obligation to prosecute is an obligation or a duty to submit the matter to the prosecuting authorities; but doesn't involve any duty to initiate a prosecution. However, the fulfillment of obligation may or may not result in the proceedings being commenced.

The effective fulfillment of the obligation to extradite or prosecute requires undertaking necessary national measures to criminalize the relevant offences, establishing jurisdiction over the offences and the persons present in the territory of the State, investigating or undertaking primary inquiry, apprehending the suspects and submitting the case to the prosecuting authorities or extraditing, if an extradition request is made by another State with the necessary jurisdiction and capability to prosecute the suspect.<sup>9</sup>

Fulfilling the obligation of extradition can however, not be substituted by deportation, extraordinary rendition or any other informal form of dispatching the accused to the other State.<sup>10</sup>

In the case of *Factor vs. Labubenheimer*, the United States of America Supreme Court held that:

International Law recognizes no right to extradition apart from a treaty. While a Government may, if agreeable to its own Constitution and laws voluntarily exercise the power to surrender a fugitive from justice to the country from which he has fled, and it has been said that it is under a moral duty to do so. The legal duty to demand his extradition and the correlative duty to surrender him to the demanding country exist only when created by treaty.<sup>11</sup>

Therefore, a legal duty arises only when treaties are present between the States. But in exceptional circumstances, a State may extradite an offender on the basis of the principle of reciprocity. It is done not due to any legal duty of the State but only on the subject of reciprocity or courtesy.<sup>12</sup>

### **3. PURPOSES OF EXTRADITING FUGITIVES**

The evolution of extradition treaties was a result of absence of international obligation to surrender an alleged criminal by a State to a foreign state as each state has a right and authority over its citizens and are under no implied obligation to extradite them without

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<sup>8</sup> Questions relating to the Obligation to Prosecute or Extradite (*Belgium vs. Senegal*), Judgment, I.C.J Reports 2012, p. 422, at pp. 450-461, paras. 71-121.

<sup>9</sup>Nations, U. (2014) *The obligation to extradite or prosecute (aut dedere aut judicare) - final report, 2014*. Available at: [http://legal.un.org/ilc/texts/instruments/english/reports/7\\_6\\_2014.pdf](http://legal.un.org/ilc/texts/instruments/english/reports/7_6_2014.pdf) (Accessed: 29 April 2016).

<sup>10</sup>*Bozano vs. France*, Judgment of 18 December 1986, Application No. 9990/82, paras. 52-60.

<sup>11</sup> See *Rauscher vs. United State* 119 US (1886) pp. 407.

<sup>12</sup> *Starke's International Law* (1994), Eleventh Edn., pp.318

an agreement or treaty.

The penal procedures of most nations contain extradition clauses in case of an absence of an extradition treaty.

Thereby enacting legislations and comprising agreements and treaties enable determination of conditions and norms where the extradition requests may be either denied or acknowledged.

The purposes or reasons of a criminal to be extradited to the requesting state are as follows:

1. Criminals are extradited in order to punish or prosecute an offender who fled to a state where he may not be punished due to lack of jurisdiction or technical criminal law norms.
2. It acts as a deterrent measure by warning the criminals who flee to other state after commission of a crime.
3. In order to protect the interests of the territorial state, the offenders are thereby surrendered for peacekeeping.
4. Extradition is based on the principle of reciprocity whereby one state requesting a fugitive's surrender may have to later on extradite a criminal to another state.
5. The aim of the United Nations is to maintain international peace and co-operation and extradition is a means to achieve that desired co-operation.
6. The evidence and witnesses are freely available and accessible in the State where the crime was committed and hence, that state is better suited to punish and try the criminal.

Extradition may resolve international offences to a large extent if the states cooperate with each other and desire to eliminate crimes mutually.

Thus, the most modern extradition treaties seek balancing of rights of individuals with the need to ensure that the extradition process operates and functions effectively and are based on principles that are now regarded as established international norms, which are designed not only to protect the integrity of that process itself, but also to guarantee the fugitive offender a degree of procedural fairness.<sup>13</sup>

#### **4. EXTRADITION OF POLITICAL OFFENDERS**

In the criticized matter of *Karadzole vs. Artukovic*,

the Government of Yugoslavia sought to extradite a former Minister of the Interior Croatia, which took over a part of Yugoslavia after the German invasion in April 1941,

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<sup>13</sup>Bantekas, I. and Nash, S. (2003) *International criminal law*. 2nd edn. Routledge-Cavendish London. p.181

from United States. After the war Artukovic fled to United States after having been charged with war crime of direction of murders of hundreds of thousands civilians in concentration camps between April 1941 and October 1942. The Ninth Circuit Court of Appeals rejected the argument that war crimes are so barbaric and atrocious that they can not be considered as political crimes. United States Supreme Court vacated this decision and remanded the case for an extradition hearing.

The Supreme Court did not comment on any of the substantive issues.<sup>14</sup> The critics assert that the exception is pure haven for terrorists and offenders as there was no clear line of demarcation established in the case, between political violence that furthers a political uprising and violence that is merely contemporaneous with such uprising.

It is an established rule in customary practice under International law that political offenders are not extradited. They are granted an asylum in the territorial State. The Indian Extradition Act of 1962 lays down a similar provision under Section 31(a).

Currently, therefore, non-extradition of political offenders is a norm of International Law and hence, one of the exceptions of extradition.

Humanitarian grounds, fear of unfair-treatment of political offenders, measure of extra legal character by requesting state and the object of taking shelter is different from ordinary criminals, are few considerations on which the rule of non- extradition of political offenders is based upon. Lastly, political offenders aren't dangerous to the territorial state in a similar manner to any ordinary criminal.

But there are always two sides to a coin. Henceforth, the fugitives may take undue advantage of non-extradition of political offenders by imitating as political offenders. For instance, Belgium attempted to avoid and restrict such abuse by introducing an 'attentat' clause in it's extradition law under Article VI which provided that an attempt on life of the head of a foreign Government or of members of his family shall not be considered as a political offence.

Similar to it are the following provisions and clauses;

Article 4(2) of the Extradition Treaty between Germany and Turkey in 1930, Article 4(2) of the Extradition Treaty between France and Czechoslovakia in 1928 and Article 6 of the Extradition Treaty between Belgium and Poland in 1931.

By means of multilateral treaties and bilateral treaties, States have excluded the exception of Political offence in cases of some purely localized criminal offences.<sup>15</sup>

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<sup>14</sup>Karadzole vs. Artukovic, 355 U.S. 393 (1958).

<sup>15</sup> European Convention on the Suppression of Terrorism

Moreover, it has also not protected former Government officials being guilty of abuses in matters of human rights.<sup>16</sup>

Although the non-extradition principle of political offenders is accepted widely, still there is lack of a rule of customary International Law preventing their extradition.<sup>17</sup>

The Extradition treaty between India and Britain that was concluded in the year 1992 prevents the suspected terrorists from arguing that their crimes are political so as to avoid extradition of the offender. For instance, the treaty of extradition between India and U.S.A., concluded on September 14, 1999 under Article 4 Para 2 and the treaty between India and U.A.E, concluded on July 20, 2000 under Article 6 Para 1.

Re Castioni and Re Meunier are the leading landmark cases on this issue whereby in the former Castioni had committed a murder of Rossi, a member of the Government in Switzerland, and he pleaded that it was a political offence for which extradition was unavailable. His extradition was refused as his motive for the act was political.

In the latter case, a French anarchist was charged with causing explosions at a café and in certain barracks in France, resulting in the death of two individuals. The Court upheld the extradition.

According to the decisions, an offence is considered to be political if it is directed hereby, against the State or the Constitutional Order, or be otherwise 'inextricably involved in conditions disturbing the constitutional life' of the country.

It should be committed through an organized movement in order to secure and preserve power in the State against the established prevailing regime.

## **5. INTERFACE BETWEEN ASYLUM AND EXTRADITION**

The term 'asylum', is referred to those cases whereby the territorial state declines to surrender a person to the requesting state and provides shelter and protection in its own territory. Where the traditional hospitality is not offered to an alien, the act is referred to as extra- tradition.

The concept of asylum is traditional as States used to provide an alien with shelter but since later part of 18<sup>th</sup> century, there has been a change for the accused or convicts. The institutions of extradition and asylum are contrasting and contradictory. If a person is surrendered by the territorial state to the requesting state, that is called as extradition whereas, if he is not surrendered, but given protection and shelter, then that is known as an asylum. Asylum is generally granted to political offenders, military offenders and religious offenders because they can not be extradited.

Starke states that, "Asylum stops where extradition begins."<sup>18</sup>

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<sup>16</sup>In the matter of Extradition of Soares Mason 694, F Supp. 676 (N. D. Cal. 1988) p. 705.

<sup>17</sup> Oppenheim, op. cit., p. 963.

The International human rights treaties, including conventions against terrorism and other trans national crime instruments comprise of provisions and regulations setting duty to extradite persons who are under suspicion of being responsible for those crimes, but States parties to extradition need to ensure that unlawful acts are criminal law offences.

The Convention against Torture and other Cruel, Inhuman or Degrading 1984, Article 3 expressly states:

“No State party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”

In Article 13(4) of the Convention to Prevent and Punish Torture explicitly states that:

“Extradition shall not be granted nor shall return the person sought when there are grounds that she risks her life to be subjected to torture, cruel, inhuman or degrading treatment or to be tried by special courts or ad hoc in the requesting state.”

Henceforth, it can be said that asylum has been always and also is a roadblock to extradition, since it being an institution protecting an individual suspected of having committed a crime under foreign laws of a country but for most states extradition is a means of delivery of person accused or convicted of a crime.

## **6. PRINCIPLE OF DOUBLE CRIMINALITY**

### **Introduction**

The doctrine of double criminality denotes that a crime must be an offence recognizable in the territorial as well as the requesting state. It is a principle that is bound traditionally with International criminal law, as double criminality is required under extradition as well as in transfer of criminal proceedings and execution of foreign sentences.

It is a principle recognizable that the right to personal liberty of an individual is limited to him not transgressing the substantive law and the legal rights of other individuals remain unharmed. The person deprived of his right to liberty has a right to access the Court assistance and aid in order to protect himself from such violations.

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<sup>18</sup>Starke, op. cit., pp.317.



Double criminality is therefore a crime that is punishable in both countries; in which a suspect is being held and also the one asking for the accused person's handing over or transfer for trial.

The doctrine has put states in a fix as it has to request another state for extradition in respect of offences which find no place in the list of crimes embodied in a treaty. There is need for general criteria to be adopted instead of the names of various extraditable crimes.

The Extradition treaty concluded between India and Canada in 1987 lays down the principle under Article 3, Para 1 by stating that:

‘An extradition offence is committed when the conduct of a person whose extradition is sought constitutes an offence punishable by the laws of both contracting States by a term of imprisonment for a period of more than one year.’

Similarly, India and United States of America signed an Extradition treaty in 1999, according to which under Article 2, extradition may be made for an offence if it is punishable under the laws of both contracting States by deprivation of liberty, imprisonment for a period of more than one year or by a more severe penalty.

### **Approaches for determination of Double Criminality**

As there has been a continuous increase in the number of offences which are extraditable, the method of enumeration has proven to be extremely inconvenient and also lacks adequacy in matter handling. Henceforth, the treaties of modern times on extradition have been adopting the elimination method whereby the offences extraditable have been defined by reference in terms of maximum as well as minimum penalty as a criteria imposed by both Parties and no express mention of specific offences.

Moreover, any offence, which fulfills this condition, will be regarded as open to extradition.

Bassouni categorized offences as in extradition under two categories:

1. Requirement of offence being charged as being identical to offence which is in the list of treaty or
2. If the offence is not identical to the treaty list, more so acts performed which are supporting the charge must sustain a charge under the laws of the State requesting extradition which charge corresponding to the list of offence in the treaty.

In order to preserve State cooperation and international peace by elimination of crimes, states apply this doctrine in a wide manner. The main aim of extradition is to bring

alleged and suspected offenders to trial so that they may answer allegations inflicted upon them and to punish the guilty for promotion of administration of justice.

Henceforth, there are two methodologies for interpretation of requirement of double criminality; *in concreto* (Objective) and *in abstracto* (Subjective).

The former approach relies upon the label of offence as well as a strict interpretation of legal elements of the same. The latter approach deals with criminality of activity despite of the specific label it comprises of and elements in the laws of the two respective States.

In the landmark judgement of *Blackmer vs. United States*<sup>19</sup>, the extradition of Blackmer was refused to the United States by the French Court in 1928, on the ground that the offence charged was not a prosecutable offence *in concreto* under the French Law. The Court held that the limitation statute for offences similar in nature were lapsed under the French law and extinguished the offender's prosecution and also the act charged wasn't an offence under the French law.

In the case of *re Plevani*<sup>20</sup>, the French Court of Cassation rejected Italy's request for surrender of Plevani who was a convict sentenced for two terms of imprisonment in 1946 in Italy but he had fled from the prison to France. The court held that as per the Article 5 of the Extradition Law 1927, there is a prohibition of extradition of an individual whose sentence becomes barred by time under the French Law.

### **The Solution to Interpretation of the Doctrine- Current trend**

The United Nations Model Treaty on Extradition through Article 2 Paragraph 3, aimed to deduce a solution for the complications which arose among legal systems in interpretation of the doctrine by looking at the entire conduct for decision of combination of acts and omissions for constitution of enforceable offence in the requested State.

Section 3, Model Law on Extradition of 2004 has somewhat affirmed the above provision through the idea that the offence essentials must be comparable under both State laws.

Indications in terms of the proposal of delegations for double criminality abolition caused due to mutual legal assistance except for coercive reasons and measures that were provided for by the Draft United Nations Convention against Trans National Organized Crime.<sup>21</sup> Moreover, it is a decided fact that the principle of double criminality is a deeply ingrained doctrine under the Extradition law.

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<sup>19</sup> 284 US 421(1928).

<sup>20</sup>(1955) 22 ILR 514.

<sup>21</sup> Revised Draft United Nations Convention against Transnational Organized Crime, 1999 United Nations General Assembly Resolution A/AC. 254/18, Vienna, October 4-15, 1999, Article 14.

The latest approach is a general need for conduct punishable under the both State laws and also that the United Nations Model Treaty on Extradition of 1990 and the Model Law of 2004 has solved the problem by and large through proposal of States to consider totality of the act for deciding whether the conducts or omissions constitute a crime or an offence under the State requesting the same.

## 7. EXTRADITION LAW IN INDIA

India enacted its first Extradition Act in 1902. Extradition was regulated on the basis of United Kingdom Extradition Act 1870, prior to the 1962 Act.<sup>22</sup> The 1962 Act consists of 5 Chapters and 2 Schedules.

Under Section 2(d) of the Indian Extradition Act 1962, 'extradition treaty' has been defined as a treaty (agreement or arrangement) made by India with a foreign State relating to the extradition of fugitive criminals and includes any treaty relating to the extradition of fugitive criminal made before 15<sup>th</sup> August 1947, which extends to, and is binding on India.

India prepared a list of 45 pre-independence extradition treaties in the year 1956, which were stated to be in force.<sup>23</sup>

Section 3(1) of the 1962 Act ensures that the Government of India makes a notification to all States with which it had extradition treaties before independence. It would thereby remove all ambiguity and doubts without arising confusions in individual matters.

In *Dr. Ram Babu Saksena vs. The State*<sup>24</sup>,

The issue was regarding the extent of the application of 1869 extradition treaty between the State of Tonk and Government of India, which was affected by the merger of Tonk into India. The Apex Court held that the treaty must be deemed to be ineffective.

In another matter of *The State of Madras vs. C.G. Menon*,<sup>25</sup> the issue was where Fugitive Offenders Act 1881 which was a part of Indian Extradition law regulating extradition of fugitive offenders in respect of commonwealth nations. It was held that the Act was inapplicable in the territories of India.

L.C Green opined that: "although there are inconsistencies in recent judicial practice in the field of continuity, there is a tendency for extradition arrangements to continue to operate despite changes in state personality."<sup>26</sup>

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<sup>22</sup> Act XXIV of 1962

<sup>23</sup> See Lok Sabha Debates, 12<sup>th</sup> Session, 1956, Appendix 4, Annex No. 42, cited in H.O. Agarwal, 'Succession to Extradition Treaties, Supreme Court Journal, (1977) p.53 at p.59.

<sup>24</sup> AIR 1950 SC 155.

<sup>25</sup> AIR 1954 SC 517; (1954) SCJ 621.

<sup>26</sup> L.C. Green, 'Recent Practice in the Law of Extradition' (1953) 6 Current Legal Problems, pp. 274, 295.

The 1993 Amendment Act enabled India for conclusion of extradition treaties with foreign States, including the Commonwealth countries, without treating them in a different manner. The difference is between treaty states and other foreign states, as was the case earlier.

The Amended Act also implies the definition of an 'extradition offence' to mean;

1. In relation to a foreign state being a treaty state; an offence provided for in extradition treaty with that state
2. In relation to a foreign state other than a treaty state an offence, which is punishable with at least a minimum one year imprisonment including a composite offence.

India has extradition arrangements<sup>27</sup> with the countries as mentioned below;

1. Fiji
2. Italy
3. Papua New Guinea
4. Singapore
5. Sri Lanka
6. Sweden
7. Tanzania
8. Thailand

Moreover, India has signed extradition treaties with 37 countries such as for instance; United States of America, UAE, United Kingdom, Switzerland, Russia, Saudi Arabia, Australia, Bangladesh, Bhutan, France, Germany, Korea, Hong Kong, Mexico, Poland etc.

In a situation where a fugitive criminal is an Indian National, then action can be taken under Section 188 of the Code of Criminal Procedure of 1973, in the same manner as if the crime has been committed in any place in India where found. The trial requires a prerequisite sanction of the Central Government for prosecution of such a fugitive.

## **8. SUGGESTIONS**

Firstly, human rights safeguards in terms of international classical law have not been provided for extradition of persons, therefore, the Human Rights Committee needs to initiate efforts in order to appreciate circumstances beyond which a court may not be extradite.

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<sup>27</sup>*Central bureau of investigation* (1982) Available at: <http://cbi.nic.in/interpol/extradition.php> (Accessed: 30 April 2016).

Secondly, there must be a correspondence among the requirement to control serious crimes such as terrorism and concerns regarding human rights. There must be reforms in relation to the extent of the International Criminal Court's concerns such as including terrorism as in purview of the ICC's scope in trial.

Thirdly, states should follow the United Nations Model Law in order to avoid ambiguities and confusions.

Fourthly, there is a dire need to establish that any act of cruel, inhumane and degrading punishment or treatment is explicitly an offence under the legislation in order to prevent arbitrary use of power and its abuse.

Lastly, extradition is in itself an international concern and has a scope of improvement and reform so that the ultimate national and international object is certainly achieved. The Indian Extradition law comprises of enough safeguards in its procedure so as to attain due process and facilitate extradition proceedings in conformity with world practices.

## **9. CONCLUSION**

International criminals to be extradited or prosecuted? This is a pertinent question as per the international standards. But the international courts do not have the sufficient power and means to try every international crime across the globe.

In theory as well as in real terms, the principle of extradition has attained the position of a facilitator of imprisonment or trial in matters where suspected individual escapes the boundaries of a nation to flee from being prosecuted. In order to attain maximum out of the process, there is a dire need to eliminate the vendetta of the criminals by firstly making the procedural law less complicated and more efficient.

Lord Griffiths has established in *R vs. Horseferry Road Magistrates Court ex-parte Bernett*<sup>28</sup>, that the procedure of extradition aims to transfer the criminal who is suspected of committing an offence from a nation to another. It was held that evidence has to be proved so that a prima-facie matter is made against the suspect in order to preserve and respect the accused individual's human rights.

If there is a constant fear in the minds of offenders and criminals where they will be caught or extradited and prosecuted along with being punished severely for committing crimes, it is genuinely going to reduce abundantly crimes and criminals.

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<sup>28</sup>(1994) 1 A.C. 42.

In conclusion, frequent failure to catch fugitives and surrender them to the requested state is the major cause of delay in implicit achievement of international co-operation and a crime-free world. It has also been a lacuna in providing justice to the innocent suspects who are wrongly and mistakenly accused of an offence and even inflicted on them are aids such as cruel and degrading punishment or imprisonment along with capital punishment or death sentence in certain circumstances.

Henceforth, the challenging involvement of all such political, criminal as well as the economic activities in crimes like human trafficking, terrorism, or drug abuse, war crimes etc. has caused greater hardship and blockage in developmental prospects of each nation individually and also together. One way in which this can be attained is through holistic observance of the principle of 'aut dedere aut puniare.'<sup>29</sup>

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<sup>29</sup> 14<sup>th</sup> International Training Course Reports of the Seminar (2010) "Refusal of Mutual Legal Assistance or Extradition" p. 191