2. Fugitives Located Abroad – International & Relation

According to the 2024-25 annual report of the Department of Personnel and Training (DoPT), the Central Bureau of Investigation (CBI) located 71 people wanted by India in foreign countries, the highest in the last 12 years

Conceptual Background- Fugitives and Extradition

Fugitives- Fugitives are persons accused or convicted of offences who deliberately evade the jurisdiction of domestic courts by fleeing to another country. Their objective is to avoid arrest, trial, sentencing, or punishment, thereby frustrating the criminal justice process. In a globalised world with high capital mobility and ease of travel, fugitives increasingly exploit jurisdictional gaps between national legal systems.

Extradition- Meaning and Purpose- Extradition is a sovereign, treaty-based legal process for the return of fugitives. It involves the formal surrender of an accused or convicted individual by one State (requested State) to another (requesting State).

Core objective-

1. Prevent offenders from escaping justice by crossing borders
2. Uphold the rule of law and international criminal cooperation

Extradition is not automatic; it depends on-

1. Treaty obligations
2. Domestic laws of the requested country
3. Judicial scrutiny and executive discretion

Extradition Requests- India's Recent Experience

Over the last five years, India sent 137 extradition requests to foreign countries. Although many requests were formally accepted, a large number remain pending due to prolonged judicial processes abroad. Letters Rogatory (LRs) face even greater delays- As of 2025, 533 LRs were pending with foreign jurisdictions. This highlights a gap between legal acceptance and actual surrender of fugitives.

Institutional Framework Governing Extradition in India

Role of Investigative and Diplomatic Institutions

Central Bureau of Investigation (CBI)- Acts as India's Interpol National Central Bureau (NCB). Issues Red Notices, Blue Notices, and coordinates with foreign police agencies for tracing fugitives.

Interpol- Facilitates information sharing but does not possess arrest powers.

Ministry of External Affairs (MEA)- Handles diplomatic negotiations, treaty implementation, and communication with foreign governments. Plays a crucial role in persuasion and follow-up beyond legal mechanisms.

Treaty Framework

India has-

1. Extradition treaties with ~48 countries
2. Extradition arrangements with ~12 countries

Treaties create a binding legal obligation, while arrangements are executive and discretionary.

Mutual Legal Assistance and Letters Rogatory

Mutual Legal Assistance Treaties (MLATs)

MLATs enable countries to formally assist each other in

1. Evidence collection
2. Witness examination
3. Asset tracing

4. Service of judicial documents

Aim-

1. Ensure criminals do not exploit cross-border evidence gaps
2. Strengthen prosecution even before extradition is secured

Letters Rogatory (LRs)- LRs are formal judicial requests issued by Indian courts to foreign courts.

Used for-

1. Recording statements
2. Serving summons
3. Collection of documents

Characteristics-

1. Routed through diplomatic channels
2. Procedurally complex and significantly slower than MLATs
3. Often delayed due to foreign domestic legal requirements

Legal Architecture Supporting Extradition

Extradition Act, 1962

Provides the statutory basis for-

1. Surrender of fugitives to foreign States
2. Requesting extradition to India

Applies in cases involving-

1. Treaty countries
2. Non-treaty countries (through executive arrangements)

Incorporates principles such as

1. Dual criminality
2. Specialty principle
3. Prima facie evidence requirement

Multilateral Conventions

India is a party to-

1. United Nations Convention against Corruption
2. United Nations Convention against Transnational Organized Crime

These conventions-

1. Encourage extradition for corruption, money laundering, and organised crime
2. Provide a **treaty substitute** where bilateral treaties do not exist

Fugitive Economic Offenders Act, 2018 (FEOA)- Targets high-value economic offenders who abscond abroad.

Key features

1. Enables attachment and confiscation of properties of fugitive economic offenders
2. Enforcement Directorate empowered to act even in the absence of extradition

Objective

1. Deter flight from jurisdiction
2. Protect financial integrity and public money

Structural Challenges in Extradition

Judicial Scrutiny in Foreign Courts

Foreign courts independently assess

1. Prison conditions in India
2. Speed of trials
3. Human rights protections

Allegations of

1. Overcrowding
2. Custodial violence
3. Trial delays

These factors often delay or block extradition orders.

Asylum and Political Protection Claims

Fugitives frequently claim

1. Political persecution
2. Violation of civil liberties

This transforms extradition into

1. A human rights adjudication
2. A prolonged asylum-linked legal battle

Absence of Extradition Treaties

Many fugitives reside in

1. Tax havens
2. Offshore financial centres

Lack of treaties means-

1. No binding obligation to extradite
2. Dependence on diplomatic goodwill

Outdated Treaty Provisions- Older treaties rely on a list-based approach to extraditable offences.

Limitations-

1. Exclusion of cybercrime
2. Complex financial fraud
3. New-age economic offences

Results in technical rejections of extradition requests.

Governance, Rule of Law, and Security Implications

Impact on Rule of Law

Low extradition success-

1. Weakens deterrence
2. Encourages offenders to flee abroad

Undermines credibility of-

1. Enforcement agencies
2. Judicial outcomes

Internal Security and Financial Integrity

Delayed extradition hampers-

1. Fight against money laundering
2. Counter-terror financing
3. Organised crime networks

Public confidence in the criminal justice system erodes when high-profile offenders evade law.

Way Forward- Strengthening India’s Extradition Regime

Expand extradition treaty network, especially with-

1. Major financial hubs
2. Offshore jurisdictions

Modernise old treaties to-

1. Include cybercrime and economic offences
2. Adopt dual criminality-based frameworks

Improve domestic conditions

1. Prison infrastructure
2. Speedy trial mechanisms
3. Procedural safeguards

Enhance coordination among

1. Investigative agencies

3. MEA
4. Judiciary

Leverage multilateral conventions and diplomatic pressure for time-bound resolution of pending cases

Source- https-//www.thehindu.com/news/national/71-fugitives-located-abroad-in-2024-25-highest-in-12-years/article70542781.ece#-~-text=According%20to%20the%202024