

University

EXTRADITION LAW

Student's Name and Surname

Course

Professor

Due Date

Extradition Law

Introduction

It would be reasonable to say that the topic of extradition is crucial regarding modern international law. The concept of extradition directly relates to human rights and requires an establishment of a unifying legal framework—one that can be effectively used to prosecute international crimes, especially when it comes to terrorism. Currently, international extradition legislature accounts for 157 main jurisdictions, allowing nations to exchange people who committed international crimes.¹ In such a context, all the jurisdictions and international laws concerning extradition face distinct issues. One of the main problems in extradition laws is a tendency of human right violations—an issue that should be resolved in a timely manner. Moreover, without a unified framework for international cooperation regarding legislation, many nations find it extremely difficult to prosecute and acquire people who are known terrorists or people who committed horrific international crimes. As a result, dealing with the issues within existing extradition laws is a benefit for the international community.

Significance of the Study

In the context mentioned above, it is apparent that resolving issues with modern extradition laws are a direct way towards finding a unifying method of fighting terrorism more efficiently. Moreover, while the international community claims to pursue democratic ideals regarding international law, making extradition laws more humane is critical for fulfilling its democratic claims. When referring to the modern world's perspective—a time defined by rapid immigration—extradition is an issue as important as deportation, as it poses an inherent significance. Studies tend to show that even when it comes to prosecuting and exchanging

¹The Law Library of Congress, "Law on Extradition of Citizens," Library of Congress, last modified July 21, 2016, <http://www.loc.gov/law/help/extradition-of-citizens/chart.php>.

criminals, no laws should violate fundamental human rights. In fact, the best scenario is showing that extradition laws should be both humane and effective, making it easier to deal with ongoing international threats and with no damage to fundamental human rights.

Methodology

When it comes to the methodological basis of the research, a systemic literature review proves to be the most appropriate. In other words, the author employs comparative analysis as well as a critical evaluation of various reputable sources to synthesize data and evidence, presenting distinct results and findings. Locating a valid and verified scholarly source focusing on the topic of extradition laws was the most challenging methodological obstacle. To face the issue, the author referred to academic databases, and established particular criteria along with key terms employed in the course of searching for sources.

Literature Review

As a result, there are several sources that pass the established criteria as well as address the overall inquiry posed in the study. The most critical secondary sources used are the following: an article written by Bruce MacDougall exploring distinct issues connected to extradition laws along with proposing specific solutions to such problems; other sources titled “Major Contemporary Issues in Extradition Law,” and “Extradition Law; Issues and Challenges,” proved to offer relevant background data, essential for establishing a general framework of the case with extradition. Finally, several other authors, for instance, Shodh Ganga, Daniel C. Turack, and Geoff Gilbert provided crucial information, allowing the author to address both the challenges of extradition as well as ways of facing the obstacle.

Results and Discussion

While reviewing the selected sources, it became apparent that the topic of extradition, as part of international criminal law, “is in the forefront of the media and minds of public officials, prosecutors, and defense counsels.”² In general, one should say that the concept of ‘extradition’ is based on the principle of reciprocity between different nations that share similar judicial proceedings. More importantly, extradition laws heavily relate to the principle of “no crime is left unpunished.”³ However, the execution of such a principle often leads to violations of human rights.

More specifically, one of the most significant issues discussed in scholarly circles is the fact that extradition laws can be used in terms of political offense exemption, which constitutes a direct violation of human rights of a person extradited, as well as corrupts the very principle of international justice.⁴ As a result, when it comes to nations using extradition for purely political purposes, there is no international legal instrument that can prevent that. One should review the extradition law not only as a part of the international criminal law, but also as an element in the international protection of human rights. In such a sense, there is a huge necessity for having more streamlined and coherent procedures among states signing an extradition agreement. More importantly, such agreements should necessarily include phases that ensure the protection of fugitive’s human rights.⁵ To do so, legislation that establishes the basis of extradition laws should change its focus from operating criminal law to exercising discretion in favor of a fugitive, thus protecting a person’s rights and interests.

²Cherif M. Bassiouni et al., "Major Contemporary Issues in Extradition Law," *Proceedings of the Annual Meeting (American Society of International Law)* 84 (March 1990): 389, <http://www.jstor.org/stable/25658559>.

³Suman. A. “Extradition Law; Issues and Challenges (2014)”’: 1.

⁴MacDougall, B., “Extradition law,” *Criminal Law Forum* 3, no. 1 (1991): 142.

⁵Daniel C. Turack and Geoff Gilbert, "Aspects of Extradition Law," *International Migration Review* 27, no. 3 (1993): xx, doi:10.2307/2547106.

In the context mentioned above, it is apparent that the world is facing new international threats—for instance, terrorism. Extradition should make the prosecution of international criminals more effective rather than problematic. In the study titled “Extradition: Emerging Issues, Challenges & Cases,” the authors suggest that terrorism, defined as a “crime against humanity,” should be offered a unique statute regarding international criminal law.⁶ When it comes to prosecuting international crimes, extradition plays a critical role. Therefore, one nation’s obligation to extradite a criminal is governed by the sources of international law.⁷ With the emergence of terrorism as an international phenomenon, there is a strong necessity of making rules of universal jurisdiction. Namely, when it comes to prosecuting a terrorist, there should be uniformity among states—even if those nations do not have pre-signed extradition agreements. According to Ganga: “it is based on the notion that certain crimes are so harmful to international interests that states are entitled – and even obliged – to bring proceedings against the perpetrator, regardless of the location of the crime and the nationality of the perpetrator or the victim.”⁸

Findings and Conclusions

Considering the results of the systematic review of literature, the findings suggest that particular measures should be taken to make existing extradition legislature more humane as well as more efficient when it comes to battling terrorism. There should be a standardized base upon which extradition laws can rest. Otherwise, authoritative states can use such legislature as a tool of political oppression, without any regard for human rights. Moreover, without a unified effort and base for international law, valuable time in the context of investigating terrorism can be lost,

⁶Shodh Ganga, "Extradition: Emerging Issues, Challenges & Cases," 2012, 174, https://shodhganga.inflibnet.ac.in/jspui/bitstream/10603/135346/15/15_chapter_5.pdf.

⁷Ganga, " Extradition," 174.

⁸ Ganga, " Extradition," 175.

thus leading to other circles of violence. In fact, it is apparent that time is an important variable when facing the problem of global terrorism. Adequate and unified extradition laws can assist the international community in managing such a variable more efficiently.

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