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Measures to improve international extradition



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Introduction

International extradition is an issue that affects several people and countries. It is important to improve the framework and the process. There are several loopholes in the process that sometimes lead to lack of accountability for crimes committed. There are some countries that do not have extraditions and other countries have different regulations regarding this issue. It is important that there is accountability for the crimes committed and justice is served. International extradition is a process that requires cooperation from all countries to be improved.  The UN is an organization that believes in peace and justice in the world. Hence, with the rise of globalization. Improvement in international extradition is an important and pressing issue that needs to be dealt with in today’s world.

Definition of Key Terms

International extradition

International extradition is a process through which a person is surrendered from one country to another for trial and prosecution.

**Jurisdiction**

The authority of a court to make decisions and judgements

**Extradition treaty**

Binding contract between two or more countries that allows extradition of criminals.

**Universal jurisdiction**

Universal jurisdiction is when a national court has the authority to prosecute individuals for international crimes like genocide, crimes against humanity and war crimes.

**Diplomatic immunity**

Diplomatic immunity is given to diplomats working in other nations, it protects them from being arrested.

**Non refoulement**

The principle that extradition should not be granted as a way to punish people for their race, religion, nationality or political opinions.

Background Information

Extradition is an important process through which criminals are held accountable for their crimes. With the rise of globalisation, international extradition also thrives through the agreements between countries. Hence, for criminals to be held accountable for their actions through extraditions it is important that countries work together to improve the rules and regulations. (‘Universal Jurisdiction’)

No extradition

There are some countries that prevent extradition. Russia is one of the countries whose laws prevent extradition. In 1996 Russia exempted itself from Article 61 during convention on extradition, it states, “A Russian citizen cannot be sent beyond the borders of the Russian Federation or given to another state”. In 2007, Russia refused to extradite Andrei Lugovoi to Britain to face trial for the murder of Alexander Litvinenko. This was also because UK and Russia had to bilateral extradition treaty. (‘Harding’) Although, Russia is not the only country that does not cooperation in international extradition. Countries like Algeria, Egypt, Iran, Iraq, Portugal and many more countries deny international extradition. Due to this, several high profile criminals often seek asylum in these countries. It is important that countries cooperate for criminals to be held accountable for the crimes they committed.

The nature of crime has been changing over the years. So, it is important that the jurisdiction also evolves along with time. Due to lack of accountability in the present jurisdiction certain countries like the United States of America have been more involved in cases like prosecution of FIFA executives. They can be seen as policing the international extradition system. (‘Bump’)

**Immunity**

Under the Vienna convention held in 1961, it provides diplomatic immunity when working in a different country from arrests. Although, embassies are not considered local territory in a country due to which several crimes might be committed and there would be no accountability as they legally have diplomatic immunity.

A case of exploitation of diplomatic immunity would be the killing of Jamal Khashoggi. Since the journalist disappeared in a Saudi Arabia consulate, Turkey has no authority to investigate the crime scene. Saudi Arabia have refused to extradite the suspects of the case to Istanbul for trial. (‘Mskernen’)

**Corruption**

So, corruption is also one of the major issue that has to be considered when tackling the issue of extradition. With changing political conditions in different countries the corruption can vary as money and power play an important role in today’s society. An example of this could be the FIFA corruption case, when USA decided to extradite the FIFA executives from Switzerland to prosecute them. (‘Bump’)

**International jurisdiction**

International jurisdiction can be invoked in serious crimes such as crimes against humanity, genocide, war crime and torture. In these cases, national jurisdiction has the right to prosecute individuals.

**Death Penalty**

Countries in the European Union have abolished the death penalty whereas, some countries like United States have not fully abolished death penalty. So, in cases which can result in death penalty as a punishment, countries that do not practise death penalty often refuse to extradite to the United States.

**Heath**

Countries like United Kingdom and United States of America often refuses extradition under humanitarian reasons. They consider the age and health of the person before extradition. Physical and mental health of the prosecuted could be the basis of denying extradition. However, some countries do not regard this factor as a valid reason such as Indonesia.

So, there are several factors that influence the internal extradition laws in today’s world like the social, political and legal environment of different countries. However, to have criminal accountability it is important that criminals are punished. There needs to a better international extradition system in place.

Major Countries and Organizations Involved

Russia

Russia is one of the countries that prevents extraditions through their laws. Due to the tense relationship Russia has with several countries Russia on several occasions has refused to extradition. Their law also prohibits the extradition of citizens to stand trial abroad. (‘Harding’)

United States of America

America is very involved in the issue of extradition. USA’s relation with some countries has led to many people fleeing USA to other countries to escape prosecution. Several countries also refuse to extradite to United States due to death penalty still being legal.

**India**

India is also one of the countries that still has death penalty. India was the last country to suggest universal extradition treaty in 1999 however, it was never adopted. India also believes that international extradition is important because several high profile criminals have fled the country to escape prosecution. Such as, Vijay Maliyah who committed economic crimes. UK recently ordered his extradition.

**Saudi Arabia**

Saudi Arabia is also one of the countries that refuses international extradition. Saudi Arabia have been accused of exploiting diplomatic immunity in the case Khashoggi. They have refused to cooperate and extradite the suspects to Istanbul for prosecution. (‘McKernen’)

Timeline of Events

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| **Date** | **Description of event** |
| 1949 | Geneva convention, discusses the international extradition and several bilateral and multilateral treaties were made. |
| 1961 | Vienna convention providing diplomatic immunity |
| December 14, 1990 | Model treaty on extradition was passed |
| January 1, 2004 | European arrest warrant was adopted |
| July 2007 | Russia refused to extradite Andrei Lugovoi for prosecution |
| December 2009 | Extradition treaty between the EU and Iceland and Norway also known as the Nordic countries extraditions system |
| 2014 | Final report of the international law commission |
| 2015 | USA extradites FIFA executives from Switzerland for wire fraud. (‘Bump’) |

Relevant UN Treaties and Events

* Model treaty on extradition, 14 December 1990 (A/RES/45/116)
* Principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity, 3 December 1973 (3074)
* United Nations convention against transnational organized crime and the protocols thereto

**Previous Attempts to solve the Issue**

There have been previous attempts to improve the international extraditions. There have been several treaties and conventions held between countries.

* European arrest warrant is a cross border surrender process. This means that an arrest warrant issued in one EU countries is valid across the whole European union. It operates via the direct communication between judicial authorities. This extradition has a strict time limit of 60 days. There is also no political involvement as all decision are made by judicial authorities. (‘European arrest’)
* Nordic countries extradition system is a treaty between the EU, Iceland and Norway. The treaty also includes a new warrant and the treaty was based on mutual trust. This makes the implementation more effective. (‘Committee office’)
* Geneva convention was a series of international diplomatic meeting that discussed serval issues including international extradition. It was an important convention for the issue of international extradition. It helped set the framework for the international extradition system followed by several countries.
* Model treaty on extradition was a resolution adopted by the General Assembly in 1990. It focused on international extradition.
* There are also several other treaties made between other countries like the UK-US Extradition Treaty.

Possible Solutions

It is important that all criminals are prosecuted and punished. The rules for international extradition might be made common. So, the same rule could be applied for arrest for all countries. However, in cases of international extradition there are different scenarios such as tax evasion, political criminals, diplomats hence, it is important to consider the external factors that might influence the case.

There could be a new standard arrest system introduced on a more international level for all the countries. There needs to be a mutual trust established between countries for a treaty to be implemented effectively.

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* “Universal Jurisdiction.” International Justice Resource Center, 4 Feb. 2017, ijrcenter.org/cases-before-national-courts/domestic-exercise-of-universal-jurisdiction/.

Appendix or Appendices

Further Reading-

* <https://www.loc.gov/law/help/extradition-of-citizens/chart.php>
* <https://www.theguardian.com/world/2007/may/22/russia.lukeharding>
* <https://ijrcenter.org/cases-before-national-courts/domestic-exercise-of-universal-jurisdiction/>
* <http://classic.austlii.edu.au/au/journals/AUJlHRights/2000/22.html>