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Normalizing and Regulating Extradition Laws
between countries.

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What is Extradition?

- Extradition is the formal process of ***one state surrendering an individual to another state for prosecution or punishment*** for crimes committed in the requesting country's jurisdiction. It typically is enabled by ***a bilateral or multilateral treaty***. Some states will extradite without a treaty, but those cases are rare.
- The consensus in international law is that a state does not have ***any obligation to surrender*** an alleged criminal to a foreign state, because one ***principle of sovereignty*** is that every state has ***legal authority over the people within its borders***.
- When no applicable extradition agreement is in place, a country may still request the expulsion or lawful return of an individual ***in accordance to the requested state's domestic law***. This can be accomplished through the immigration laws of the requested state (state from where extradition is requested) or other aspects of the requested state's domestic law.
- Therefore it's important for a country to have ***an extradition treaty or extradition arrangements*** with the country from where it wants to an individual to be extradited.

Important Conventions Governing Extradition

- ***European Convention on Extradition***

The European Convention on Extradition is a multilateral extradition treaty drawn in 1957 by the member states of the Council of Europe and in force between all of them. The Convention is also available for signature by non-members which as of January 2012 are ***Israel, South Africa and South Korea***. The Convention ***does not apply to political or military offences*** and any Party may ***refuse to extradite its own citizens*** to a foreign country.

- ***Inter-American Convention on Extradition***

This convention was signed by the ***member countries of the Organisation of American States***. This convention stated that the States Parties shall not grant extradition when the offense in question is punishable in the requesting State ***by the death penalty or by life imprisonment***. It also states that a person extradited under this Convention shall not be detained, tried or punished in the territory of the requesting State (the country which had asked for the extradition) ***for an offense other than that for which extradition has been granted***.

- ***Inter Governmental Authority on Development Convention on Extradition***

This convention is applicable to the following countries: ***Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan and Uganda***. Under this

convention, the Requested State can refuse extradition if the person whose extradition is requested has been or would be in the requesting State Party ***subjected to torture or cruel, inhuman or degrading treatment or punishment*** or if that person ***would not receive the minimum guarantees in criminal proceedings.***

The Requested State may also refuse extradition if it believes that the request for extradition has been made for prosecuting or punishing a person ***on account of that person's race, religion, nationality, ethnic origin, political opinion, sex or status.***

Prohibitions to Extradition

- ***Death Penalty:*** Many nations around the world have banned the death penalty. At the end of 2018, ***106 countries*** (a majority of the world's states) ***had abolished the death penalty in law for all crimes*** and ***142 countries*** (more than two-thirds) had ***abolished the death penalty in law or practice.*** Therefore, these countries don't extradite individuals to the countries where they might face the death penalty as a punishment.
- ***Torture, Inhuman or Degrading Treatment or Punishment:*** There is a condition that countries won't extradite the requested person if there is ***chance of the requested person facing torture or inhumane treatment.*** Even an international institution like ***European Court of Human Rights forbids extradition to countries where torture is rampant*** even when the countries give assurance that torture as a method will not be part of the interrogation with the requested person.

- **Absence of a Fair Trial: The Article 14 of the International Covenant on Civil and Political Rights provides for certain standards to be met while a trial is ongoing.** Some countries ensure that the individual has a chance of fair and just trial in the requesting country so that the person not arbitrarily convicted of crime. Even the **Article 6 of the European Convention on Human Rights provides for fair trial standards which must be observed by European countries when making an extradition request.**
- **Political Nature of the Alleged Crime:** Most countries around the world forbid extradition if the requesting country is asking the extradition of an individual whose **crime is of political nature.** It's because of this exemption that many countries who have **given asylum to whistleblowers from another country can refuse to extradite them** to that particular country.

These are some of the few exemptions where countries can refuse to extradite an individual to the Requesting Country.

Case Studies

- **Edward Snowden**



Edward Snowden is a **former CIA contractor** who left the United States of America in May 2013 after leaking to the media details of **extensive internet and phone surveillance by American intelligence**. He has been charged in the US with unauthorised communication of national defence information, wilful communication of classified communications intelligence and theft of government property. **Russia granted Snowden temporary asylum in 2013**. He once in an interview even said that **"Without Russian Asylum, I Would Be in Guantanamo or Dead."**



As the above picture shows, the United States of America **doesn't have an extradition treaty** with Russia, therefore the United States of America cannot formally ask Russia to extradite Edward Snowden.

- **Julian Assange**



Julian Assange had **setup Wikileaks**, which publishes confidential documents and images, in 2006, making headlines around the world in April 2010 when it **released footage showing US soldiers shooting dead 18 civilians** from a helicopter in Iraq. But, later that year, he was detained in the UK and later bailed after **Sweden issued an international arrest warrant over allegations of sexual assault**. A long legal battle with Swedish authorities ensued which saw him **seek asylum in the Ecuadorian embassy in London** to avoid extradition. After spending almost seven years inside the embassy, Assange was arrested by British police on 11 April 2019. It came after Ecuadorian President Lenín Moreno had **decided to withdraw his asylum status**. He was sentenced to 50 weeks in jail. The Wikileaks founder had always argued that he could not leave the embassy because **he feared being extradited from Sweden to the US** and put on trial for releasing secret US documents. Officers removed him from the embassy's premises and took him into custody at a central London police station. On 13 May 2019, **Sweden reopened the investigation into the rape allegation** made against Assange, which he denies. Ten days later, the **US filed 17 new charges against Assange for violating the Espionage Act**, related to the publication of classified documents in 2010. Now he is at the risk of being extradited to Sweden where he faces sexual assault

allegations and faces another greater risk of being ***extradited to the United States of America from Sweden as an extradition treaty exists between the two countries.***

- ***Vijay Mallya***



The flamboyant liquor baron, Vijay Mallya who once was hailed as the King of Good Times and Indian version of Richard Branson, is now being chased by almost every institution in the country — the banks, regulators and finally the judiciary — for the Rs 9,000 crores he owes to the lenders. Mallya ***left India in March 2016*** to live in the United Kingdom. On 2nd January 2019, ***Vijay Mallya was declared as the country's first fugitive economic offender*** under the Fugitive Economic Offenders Act. In February 2019, Britain's Home Secretary Sajid Javid ***signed the order for Vijay Mallya's extradition*** to India to face charges of fraud and money laundering, ***following the judgment handed down by Westminster Magistrates Court Chief Magistrate Emma Arbuthnot*** in December. She concluded there was a prima facie case against Mr. Mallya, ***rejected the argument that the case was politically motivated*** and labelled him a “glamorous, flashy, famous, bejewelled, bodyguarded, ostensibly billionaire playboy.” Afterwards in the same month ***he appealed in the High Court of***

Wales and England against UK Home Secretary Sajid Javid's order allowing his extradition but it was rejected by Justice William Davis of the High Court of England & Wales on 5th April 2019. But things changed in July 2019 when ***the Royal Courts of Justice in the UK on Tuesday allowed Vijay Mallya to appeal against his extradition order.*** This order by a two-judge bench of Royal Courts of Justice means that the ***case will now proceed to a full hearing at the High Court of England and Wales that will decide whether the order to extradite him was lawful or not.***

According to Indian Legal Experts, the court could take up to six months to dispose of the appeal. The faith of Vijay Mallya now lies within the hands of the High Court of England and Wales but even if this court does approve his extradition order, he still can appeal against it in the Supreme Court of the United Kingdom.

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