

Class: B.A.LL.B. 6th Semester
Subject Name: Public International Law
Subject Code: BL 6004

Topic: Extradition and Asylum

INTRODUCTION: - Each State exercises complete jurisdiction over all the persons within its territory. But sometimes there may be cases when a person after committing crime runs away to another country. In such a situation the country affected finds itself helpless to exercise jurisdiction to punish the guilty person. This situation is undoubtedly very detrimental for peace and order. There is a social need to punish such criminals and in order to fulfil this social necessity the principle of **extradition** has been recognised.

Meaning & Definition of Extradition:- Extradition is the delivery of an accused or a convicted individual to the State on whose territory he is alleged to have committed or to have been convicted of a crime.

According to Starke, “The term extradition denotes the process whereby under treaty or upon a basis of reciprocity one state surrenders to another at its request a person accused or convicted of a criminal offence committed against the laws of the requesting state.

According to Grotius:- “It is the duty of each state either to punish the criminals or to return them to the States where they have committed crime.”

Under International Law extradition is mostly a matter of **bilateral treaty**. In principle each state considers it a right to give asylum to a foreign national, thus there is no universal rule of customary international law in existence imposing the duty of extradition.

A famous case **Music director Nadeem** who was accused of the murder of Gulshan kumar. Nadeem fled to Britain. Lack of providing sufficient evidence England refused to extradite Nadeem.

IS EXTRADITION IS DIFFERENT FROM ASYLUM

There is a great difference in between extradition and Asylum. **Extradition means delivery of an accused or a convicted individual to the state on whose territory he is alleged to have committed or have been convicted of a crime** whereas in **Asylum the active protection extended to a political refugee** from another state by a state which admits him on his request.

DIFFERENCE BETWEEN EXTRA TERRITORIAL & TERRITORIAL ASYLUM:- In the asylum case Colombia v/s Peris- ICJ-1950.

Extra territorial Asylum	Territorial Asylum
<p>In case of diplomatic asylum the refugee is within the territory of the state where the offence was committed.</p> <p>Grant of diplomatic asylum involves a derogation from the sovereignty of that state.</p> <p>It withdraws the offender from the jurisdiction of the territorial state and constitutes an intervention in matters which are exclusively within the competency of the state.</p> <p>Grant of extra territorial asylum is</p>	<p>The refugee is within the territory of the state of refuge</p> <p>Territorial asylum is granted by a State in its own territory.</p> <p>Every state has right in the exercise of its sovereignty to admit into the territory such persons as it deems advisable without exercising the Declaration of Asylum.</p> <p>The grant of territorial asylum is an incident of territorial sovereignty</p>

rather a derogation from the sovereignty.	itself.
Right to grant extra-territorial asylum is exceptional and must be established in each case.	Each state has a plenary right to grant territorial asylum unless it has accepted some particular restriction in this regard.

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