# Table of Contents

## International Extradition: United States Law & Practice

### THE VALUES, POLICIES, AND LEGAL FRAMEWORK OF EXTRADITION IN INTERNATIONAL LAW AND PRACTICE

- Introduction
- Historical Introduction
- The Duty to Extradite
- The Duty to Extradite for International Crimes under Conventional International Criminal Law
- Extradition by Multilateral Regional Arrangements
- Bilateral Treaty Practice
- Extradition Without a Treaty
- Surrender to International Criminal Tribunals
- A Policy-Oriented Inquiry into the Values and Processes of Extradition
- A Proposed Conceptual Framework
- Assessing the Contemporary Practice of States

## LEGAL BASES FOR EXTRADITION IN THE UNITED STATES

### LEGAL BASES FOR EXTRADITION IN THE UNITED STATES

- Introduction to the Relationship between the Executive, Legislative, and Judicial Branches
- Extradition as a Part of the Foreign Relations of the United States But Subject to National Legislation
- The Legal Bases of Extradition
Surrender to International Criminal Tribunals

The Constitution, Treaty Making, and Treaty Interpretation

The Duty to Extradite and State Responsibility

**ASYLUM AND EXTRADITION**

Asylum and Extradition

Historical Introduction

Rationale for Asylum

Legal Bases for Asylum

Asylum in the United States

Interrelationship between Asylum and Extradition

An Appraisal of the Relationship between Asylum and Extradition

**DISGUISED EXTRADITION: THE USE OF IMMIGRATION LAWS AS ALTERNATIVES TO EXTRADITION**

Modalities of Disguised Extradition

Immigration Procedures as Alternatives to Extradition

Remedies

The International Law Commission’s Principles of State Responsibility

Particular Remedies Within the United States

Conclusion
ABDUCTION AND UNLAWFUL SEIZURE AS ALTERNATIVES TO EXTRADITION

Typology and Rationale

Abduction

Unlawful Seizure

Abduction and Unlawful Seizure in the Jurisprudence of the United States

Extraterritorial Application of the United States Constitution

Abduction and Unlawful Seizure: State Responsibility under International Protection of Human Rights

United States Remedies for Abduction Abroad

Policy Considerations

THEORIES OF JURISDICTION AND THEIR APPLICATION

Introduction

Territorial Jurisdiction and Its Extensions

The Active Personality or Nationality Theory

The Passive Personality Theory

The Protected Interest or Protective Theory

Universal Jurisdiction

Diplomatic Immunity

Expansionist Approach to Extradition Jurisdiction in the United States
Recommendations for a Policy-Oriented Inquiry into the Problems of Jurisdiction in Extradition and World Public Order

DUAL CRIMINALITY, EXTRADITABLE OFFENSES, SPECIALTY, AND NON-INQUIRY

Reciprocity: The Underpinning of Substantive Requirements

Dual Criminality

Extraditable Offenses

Jurisprudential Applications of Dual Criminality and Extraditable Offenses

Dual Criminality and Complex Crimes

The Principle of Specialty (also referred to as the Rule of Speciality)

The Rule of Non-Inquiry

DENIAL OF EXTRADITION: DEFENSES, EXCEPTIONS, EXEMPTIONS, AND EXCLUSIONS

Introduction

Grounds Relating to the Offense Charged

Grounds Relating to the Person of the Relator

Grounds Relating to the Criminal Charge or to the Prosecution of the Offense Charged

Grounds Relating to the Penalty: The Death Penalty and Cruel and Unusual Punishment

PRE-TRIAL PROCEEDINGS

Sources and Content of Procedural Rules: Some Comparative Aspects
Procedure in the United States

The Initial Executive Process

The Judicial Process

The Request

The Complaint

Documentation

The Meaning of “Fugitive”

Provisional Arrest

Arrest Warrants other than Preliminary Arrest

Timeliness of the Extradition Request and Complaint

Bail

Discovery

THE EXTRADITION HEARING

Introduction

Standing of the Relator in Extradition Hearings

The Requirement of a Charge or Accusation

The Requirement of “Probable Cause”

Evidentiary Matters
THE REVIEW PROCESS AND EXECUTIVE DISCRETION

The Review Process

Executive Discretion

SURRENDER AND MISCELLANEOUS MATTERS

Surrender of a Person Held Extraditable to a Requesting State

Dissolution of the Extradition Order and Release of the Relator for Failure to Surrender

Renewability of Extradition Request

Transit Extradition

Costs

Receipt of a Person from a Foreign State

APPENDICES

Appendix I—Multilateral Conventions Containing Provisions on Extradition

Appendix II—Bilateral Treaties of the United States

Appendix III—U.S. Legislation Applicable to Extradition


Appendix V—Procedure for Requests by the United States

Tables

Table of Authorities
## Table of Cases

## Subject Index