

PREFACE

Millions of people are today forced to flee their homes as a result of conflict, discrimination, or other forms of persecution. The core instruments which deal in securing international protection to these people are the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The principle of non-refoulement which is one of the most important principles enshrined in the Refugee Convention has been established as customary international law, prohibiting states from expelling, deporting or extraditing persons to countries where they face torture or ill-treatment. Non-refoulement is a fundamental rule of refugee law and several human rights instruments forbid the return of a person who has reason to fear for his/her life or physical integrity in his/her country of origin.

This research paper examines the overlap between extradition and non-refoulement. Extradition is a formal process whereby States grant each other mutual judicial assistance in criminal matters on the basis of bilateral or multilateral treaties or on an ad hoc basis. Non-refoulement means not to return back those seeking sanctuary because of risk or danger, in compliance with States' obligations under international refugee law, human rights law and customary international law.

Over time, both areas have undergone significant legal and practical developments. On the one hand, since the 18th century, extradition has evolved from being regarded as a matter of State practice, and entirely within the discretion of sovereign rulers, into a concept in law. Thus, extradition came to be governed by a body of rules, which for the most part reflect a consensus among States, and which have changed substantially in response to new types of crime and security concerns, such as, in particular, the emergence of a threat of international terrorism since the 1970s. This has led to restrictions on certain grounds for refusing to grant extradition and the establishment of simplified and accelerated extradition proceedings. On the other hand, developments in various areas of international law from 1945 onward have had a significant impact on the legal framework for extradition. International criminal, humanitarian and human rights law provides a basis for extradition in the absence of

inter-State agreements with respect to certain crimes, and in some cases even imposes an obligation on States to extradite or prosecute the alleged perpetrators of such crimes. At the same time, international human rights law has strengthened the position of the individual in the extradition procedure and established bars to the surrender of a wanted person if this would expose him or her to a risk of serious human rights violations. The principle of non-refoulement, as enshrined in international refugee and human rights law as well as international customary law, plays an important role in this regard and constitutes the principal element defining the legal framework for the interplay between extradition and asylum.

In this thesis I have chosen this topic due to the overlap between the principle of non-refoulement and extradition treaties where countries do not find a proper way out when it comes to the application of either of the two principles.

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