

Universal Extradition Treaty

(Represented by Jabir P.K., in relation with UAE Case)

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Universal Extradition Treaty

Jabir' Case, Abu Dhabi



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Representation 1996 (Jabir' Case, Abu Dhabi)

A representation in view of the proposal for an Universal Extradition Treaty.

The representation of the petitioner, dated 24-11-1997
was submitted to the following three addresses:

1.

*The Ministry of External Affairs,
Government of India,
New Delhi.*

A representation in view of the proposal for an Universal Extradition Treaty.

Submitted by:

*Panikaveetil K. Jabir,
Ovungal, Chavakkad,
Trichur, Kerala,
India, Pin-680 506.*



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Representation 1996 (Jabir' Case, Abu Dhabi)

2.

***Shri K.R. Narayanan,
President of India,
Rashtrapati Bhavan,
New Delhi.***

A representation in view of the proposal for an Universal Extradition Treaty.

Submitted by:

***Panikaveettil K. Jabir,
Ovungal, Chavakkad,
Trichur, Kerala,
India, Pin-680 506.***

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3.

The Embassy of United Arab Emirates,

E.P.12, Chandragupta Marg,

Chanakyapuri,

New Delhi-21.

A representation in view of the proposal for an Universal Extradition Treaty.

Submitted by:

Panikaveettil K. Jabir,

Ovungal, Chavakkad,

Trichur, Kerala,

India, Pin-680 506.

From,

Panikkaveettil K. Jabir,

Ovungal, Chavakkad,

Trichur, Kerala,

India. Pin – 680 506.



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Representation 1996 (Jabir' Case, Abu Dhabi)

To,
The Ministry of Foreign Affairs,
Government of India,
New Delhi.

[Representation submitted by Panikkaveettil K. Jabir, hereinafter referred to as the Petitioner].

The petitioner is a citizen of India and is now a resident of the state of Kerala.

This representation is an earnest attempt to place before the Government of India some relevant facts and materials for the kind attention and serious consideration of its contents in the light of the reported proposal for a Universal Extradition Treaty. Given the history of extradition and its use with criminal justice system of countries antithetical to ours, it is inevitable that we exercise some caution. Signing a treaty of this sort with a country like UAE without a second thought would be like getting wedded to calamity. Copies of reports referring to the negotiations already held indicating a distinct possibility of concluding such a treaty is enclosed herewith (Annexure – A1, AA2 & AA3).

It is submitted that extradition being a formal surrender of a fugitive criminal to a requesting state under bilateral treaties, the Government should be keen in presenting the need for modernization and harmonization of extradition procedures with countries like the UAE. It would be unfortunate if the Government is to ignore the plight of its citizens in these countries, while entering into a treaty of this kind. Innocent citizens have been like flies to wanton boys for these oil gods who flog them for their sport rather than faith, and therefore the Government should not fail to foresee the consequences of signing such a treaty.



LEGAL CELL

Representation 1996 (Jabir' Case, Abu Dhabi)

The modern system of extradition depends upon an often 'ad hoc' network of bilateral treaties. Once a request for extradition is made by the authorities of one state to another, extradition becomes a matter for the domestic law of the requested state. Keeping this in view it is humbly submitted that we should not have any standing extradition arrangements with countries with deplorable Human Rights record and whose criminal justice system lack confidence.

Extradition is, in fact, a part of international co-operation in supporting crime. Extradition was by its nature a political tool, not an instrument of criminal law, for its aim was to repress political crime. Extraditing a national to a country like UAE to be a flogged by a criminal justice system which is beyond comprehension in its brutality, would be ignoring the well-settled principles of International Law. It may be recorded that the Government of India is a party to the U.N. Convention relating to the protection of Human Rights. This fact is referred to and recorded in the judgment of the Supreme Court reported in (1997) 1 SCC 301. The judgment has indicated the obligations of a Government which a party to the aforesaid conventions in the matter of protection of Human Rights. Likewise the principles relating to the history of Extradition law have been recently explained and elucidated by the Supreme Court in the decision of Roselin George Vs. Union of India, (1994) 2 SCC 80.

Many articles and editorials have appeared in various newspapers depicting the Land of Arabia as a desert of injustice. (Annexure – A2, Indian Express 6-10-1997). Beheading and lashing is quite alien to the modern judicial system and is frighteningly medieval. Instances of antique terror unleashed on Indians in the Gulf are innumerable. The law and order in relation to the export of labour has always been ignored. Are we to haul up our citizens to be tried by such a brutal system? Awful treatment meted out to Indian under-trials like the petitioner in the gulf countries, for no fault of theirs, are increasing over the day. The unfortunate episode of the petitioner himself is annexed with this representation. (Annexure – A3).



LEGAL CELL

Representation 1996 (Jabir' Case, Abu Dhabi)

It must be recalled how in the recent past a Filipino girl was sentenced to death, for having killed her aged sponsor with a knife. The girl confessed the act as self-defense. The entire nation expressed solidarity with her and protested against the verdict. Later, she was released from Abu Dhabi jail.

Similar was the case of a British nurse, Mclauchlan, who was sentenced to jail and five hundred lashes. The other nurse was sentenced to be beheaded. Britain was quite horrified at such a sentence and therefore pressed in its diplomacy to ease the situation. Significantly its stratagem worked in a dramatic fashion and the harsh regime had to concede to accommodate a compromise. Though this accomplishment seems incredible, a message rings loud and clear for those who are conscious of any violations of Human Rights. For those who don't, these sentiments would be like pearls of wisdom, quite un-oblivious of good things.

There is nothing which prevents New Delhi from taking up the matter with the Gulf states to try and find ways to mitigate the problem at that level. It should occur to the Indian Government that it is absolutely essential that the country to which the citizen of one country is extradited has an established procedure of administration of justice. The adherence to the Rule of Law is yet another basic requirement for the extraditing country to justify a demand for extradition under a treaty.

It is a well-known fact, that none of the Gulf countries adhere to the Rule of Law or provide the basic requirements for the administration of justice.

The petitioner is appending herewith a copy of the writ petition, which had been filed before the Hon'ble High Court of Delhi, giving minute details of the sordid experiences of the petitioner in Abu Dhabi, UAE.



LEGAL CELL

Representation 1996 (Jabir' Case, Abu Dhabi)

With a particular pattern of administration in these countries, it is extremely difficult to escape the clutches of policemen who act in collusion with bigwigs and the resultant prison life. Many fall prey to these, particularly Indians and those belonging to the weaker sections of southern states, who have sacrificed their entire youth and health for the prosperity of that nation and in equal measure helped in earning foreign exchange for this country.

Now, at the fag end of their lives, they are swindled of their assets and savings which duly belong to them. Here, where faith permeates through all segments of life, many things are wrought by citing scriptures for their purpose. It is submitted that many of these were innocent and had not misconducted themselves so as to be deported for public good. Since deportation is an executive and not a judicial procedure, such deportation as above mentioned is a flagrant and illegal misuse of an administrative procedure. Moreover, deportation procedure avoids all the technical difficulties of extradition. Therefore, this is more often resorted to by Gulf countries in an arbitrary manner similar to that of a purge.

It should occur to the Government of India that the judgment concerning the integrity of another state's system of criminal justice and the integrity of its prison system is left to the executive of the requested state.

Since the petitioner had lived through the agony of an incarcerated life in Abu Dhabi, he is better qualified to recount his experience to pinpoint the pitfalls and potholes of an extradition treaty. The following paragraph briefly narrates his experience.

The petitioner was prosecuted by the police in Abu Dhabi for reasons only known to themselves. Out of the corrupt motives of the police establishments, which colluded with the local bigwigs, the petitioner was arrested and imprisoned for no offence. This is evident from the fact that the court of that country before which the trial against the petitioner was conducted, acquitted the petitioner. The



LEGAL CELL

Representation 1996 (Jabir' Case, Abu Dhabi)

court, during the arguments, condemned the prosecution for its illegal and manipulated tactics. To avoid embarrassment, the prosecution filed an appeal, and the appellate court, a Division Bench of judges, affirmed the decision of the trial court upholding the innocence of the petitioner. It further reiterated the condemnation of the Prosecutor. Copies of the original judgments translated in English are appended herewith. (Annexure – A4 & A5).

The high-handed and arbitrary action of the police executive by means of deportation, deprived him the fruits of 18 long years of labour. Besides that, the act could be seen as an affront to the whole judicial system. Such an injustice anywhere is an injustice everywhere. A copy of this executive order of deportation served on him is produced herewith marked Annexure 6.

As a matter of fact, the petitioner was deported virtually with empty hands to India on 28-9-1996. It is humbly submitted that these documented facts clearly establish beyond doubt that the minimum standards of law are not respected in the Gulf countries. Moreover, it is submitted that the case of the petitioner is not an isolated one. Scores of outrageous treatment recorded by the media are also annexed along with this representation. (Annexure A7 – A14). The subjective decision of the Executive or of the Diwan in deporting an Indian citizen is, however, against all canons of justice practiced in a democratic state.

In the case of an extradition, the 'specialty principle' should always be borne in mind by the Government. This principle requires that a fugitive should not in any case be extradited or tried for any other offence other than for the specific offence for which extradition was sought. Of more importance is that the person should always be given an opportunity first to leave the country with all his assets before any procedure for deportation or extradition is commenced. Trial in breach of the specialty principle will usually be in breach of international treaty obligations.



LEGAL CELL

Representation 1996 (Jabir' Case, Abu Dhabi)

Many like the petitioner were subjected to torture both physically and mentally in the prisons of Abu Dhabi. Instances of such treatment meted out to Indian Hindus have appeared in the press. But, unfortunately, many in the media hesitate to publish these tragic episodes due to varied personal considerations. Likewise, many official news stories have been suppressed and what finally scoops up in the front pages of newspapers are unofficial personal experience of those who have lived through it. Such gruesome instances have been briefly narrated in Annexure A7 – A14.

Indians employed here belong to varied sections of the society, many of them workmen, quite often skilled workmen, who have given the Divans and the opulent good quality cheap labour to build their multistoried mansions. Many have served as expert drivers, good mechanics and erudite engineers, learned doctors and well-trained nurses. Every segment in the society of that country has benefited and utilized in profusion the expertise and sincere services of Indians. It should be noted that they work under compelling conditions of life in the hot desert land. Despite these goodwill intentions of Indians the basic freedom cherish able to humanity are deprived to them.

Perhaps, before winding up on this representation it would be note-worthy to take note of the contents given in the writ petition filed before the Supreme Court of India. The Supreme Court enabled us to withdraw the same so as to help us file it in the appropriate forum. The copy of the writ petition filed before the Hon'ble Court is attached as Annexure A15.

The facts enumerated therein would clearly establish the callous attitude of the authorities in UAE. The very fact that the Supreme Court enabled us to withdraw the petition and file it under Article 226 of the Constitution in the Court shows that the Hon'ble Court found merit in the case. The Hon'ble High Court of Delhi, after hearing the Senior Counsel, Mr. K. Sukumaran, on behalf of the petitioner who filed the writ petition, was pleased to issue a mandamus to the Government to dispose-off the petitioner's case within two months from the date of Order (20-11-1997).



LEGAL CELL

Representation 1996 (Jabir' Case, Abu Dhabi)

The petitioner humbly suggests that the Government of India may be pleased to consider the above related arguments before taking a final decision in the matter of Extradition Treaty.

In the light of these submissions it is submitted that an Extradition Treaty with countries like UAE should not be signed without getting absolute agreement about the adherence to Human Rights.

In short, the truth can be summed up as follows:- “Extradition is possible only between ‘commendable’ states, that is, towards countries in which the minimum standards of the state of law are respected.

The petitioner is prepared to give further additional materials in evidence to support his case if the Government so desires. Moreover, it is humbly prayed that he may be given an opportunity of personal presentation of his grievances.

It is fervently hoped that these efforts of the petitioner would be appreciated and yield positive results. If ignored, it would be like the aspidistra, a plant which requires no attention till it breaks its pot, and when done, it needs to be put in fresh compost. The innocuous Extradition Treaty would crave attention only when it breaks human sensibilities. Therefore these humble submissions of the petitioner, to enable the Government to reconsider the proposal of signing an Extradition Treaty with Gulf countries for offences other than from the notions of terrorism.

Settled by

Petitioner

Sd/-

Sd/- (24/11/1997)

K. Sukumaran

P. K. Jabir

Senior Advocate, Supreme Court of India



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