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EXTRADITION: A TEST OF INTERNATIONAL COOPERATION IN THE ENFORCEMENT OF DOMESTIC CRIMINAL LAW

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ABSTRACT

In this dissertation, I seek to explain why states fail to commit to the exchange of fugitive offenders with every other state, even where there appear to be several benefits to doing so. Commitment is equated with signature to bilateral extradition treaties. Extradition is viewed as a form of international cooperation. I argue that states will cooperate to enhance their perceived security interests. Extradition is a tool which states can use to enhance these interests. However, whether a state will utilize this tool depends on at least two factors. The first relates to the multidimensional nature of security. Although extradition can help a state increase its security by making it easier to bring fugitives to justice and discouraging criminals from taking safe-harbor in its territory, these are not a state's only security concerns. States have long viewed states with dissimilar political, economic, and cultural institutions as threats on numerous other dimensions; including a state's very survival. Accordingly, a state is more likely to use the tool of extradition when potential extradition partners have similar political, economic, or cultural institutions because doing so allows it to reap the security benefits of extradition without concern of threat on other dimensions. In some sense, shared institutions allow states to focus on absolute as opposed to relative gains. When states share institutions, they don't have to worry about the other state gaining a disproportionate amount. The second factor which influences a state's decision to cooperate is whether it is likely that fugitives will be exchanged. There is not much purpose to extradition where fugitive exchanges are unlikely. I argue that similar legal systems, similar culture, geographic proximity and major power status all increase the probability of fugitive exchanges and thus the likelihood of extradition agreements. The theory is fully supported for economic institutions, culture, proximity, and major power status. The theory is partially supported for political institutions and similar legal systems. Democratic political institutions and common laws systems affect signature as expected; however, non-democratic, civil law, and Islamic systems do not. In all other ways the theory is supported.

CHAPTER 1

INTRODUCTION

A Study of Treaty Commitment

There are several studies that address treaty compliance (Morrow, 2007; Kelley, 2007). However, there are comparatively few which address treaty commitment. In other words, researchers are more concerned with whether states will meet their obligations rather than why they agree in the first place. Although not without problems, studies of compliance can be part of a fruitful research agenda when we can determine a useful definition of compliance and when there is variance in compliance behavior. However, in the case of extradition treaties, a good definition of compliance is hard to come by, and given what is probably the most intuitive definition,[1] states seemingly over comply.[2] Furthermore, before we can begin to understand compliance, we need to understand commitment.

For example, Von Stein (2005) argues that studies of treaty compliance are susceptible to selection bias. In other words, you must control for those factors which influence selection into the treaty.[3] In large part, my study will highlight those factors which contribute to selection into extradition treaties; and thus, may prove helpful to those interested in treaty compliance.[4]

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[1] The most intuitive definition of compliance is states extraditing fugitives. In other words, one would judge compliance by determining the percentage of requests granted. However, this is problematic because compliance should mean extraditing if the requirements of the treaty are met. This can only be done on a case by case basis. Accordingly, to adequately assess compliance one would have to analyze each request to see if the treaty requirements are met.

[2] This may support von Stein's assertion that treaties screen rather than constrain. In other words, those states which sign are those likely to comply. This makes a lot of sense, particularly in the domain of bilateral extradition treaties. The parties that sign are those actively involved in the negotiating and drafting of these treaties. It does not make a whole lot of sense to expend the time and effort in a fruitless endeavor. Also, a cursory look at the case law does suggest that countries almost always comply.

[3] However, it is possible that the variables which influence selection into a treaty will vary with the substance of the treaty. For example: contiguity may effect a state's decision to sign an extradition treaty but have little effect on the decision to sign a human rights treaty.

[4] A future study may look at compliance with extradition treaties. However, this may prove difficult for at least two reasons. First as intimated in footnote 1, it is hard to articulate a useful definition for compliance with an extradition treaty. Second, assuming compliance means extraditing individuals pursuant to a relevant treaty, data regarding who are extradited is likely only available for a few countries and even where available it might not be tractable. Few official reports exist (Bassiouni, 2001:56). For example, in the U.S., this data will be in the hands of the Criminal Division of the Department of Justice. From what I can tell, it is probably in the form of case files, about 500 to a 1000 per year (there are some discrepancies even with these figures). An interesting alternative approach might be to determine whether the United

Accordingly, I take a step back, and seek to determine those factors which influence the decision to commit. More specifically, I suggest that there are strong pressures which make extradition desirable for all states; at a fundamental level this leads me to ask: why do states not have extradition treaties with every other state? I analyze this decision to commit primarily through highlighting those factors which influence states' decisions to sign bilateral extradition treaties.

Why is a Study of Extradition Important?

Extradition has been defined in numerous ways. Shearer provides a good working conceptualization:

Extradition is the formal surrender, based upon reciprocating arrangements, by one nation to another of an individual accused or convicted of an offense outside its own territory and within the jurisdiction of the other which, being competent to try and punish, demands the surrender" (Shearer, 1971:21).

From the above, it is clear that extradition requires the cooperation of at least two states; and thus extradition laws must blend different and often competing legal principles and values. On the one hand, a state has the right and a need to enforce its laws. On the other hand, states are sovereign over their territory, and absent a specific obligation (via treaty),[5] no state is required to extradite. Extradition laws acknowledge and respect both these principles.[6]

Policy Importance

The importance of extradition agreements is best highlighted by considering a couple examples. The first concerns the murder of Dian Fossey, the famed "Gorilla Lady.[7] Wayne McGuire, a doctoral candidate from the University of Oklahoma was able to secure a research assistantship with Dian. Dian had been studying gorilla behavior in

States' courts treat all persons the same, in making their determination as to whether an individual is extraditable.

[5] Although states may require extradition in their domestic legislation, it would be hard to argue that there is a binding international obligation absent a treaty.

[6] Some suggest there is a third right at stake; namely the human rights of the individual sought to be extradited. Unfortunately, extradition is still regarded as an institutional practice between and for the benefit of states with little or no regard for the rights of individuals. Accordingly, an individual's most important protection may come from with whom its state signs extradition treaties. After extradition agreements have been reached, the individual is afforded little protection.

[7] For those who do not know of the life of this woman, it was chronicled in the Movie "Gorillas in the Mist," starring Sigourney Weaver.

Rwanda. Dian was found murdered and the Rwandan government alleged Wayne was the culprit. While back in the United States, Wayne was tried and found guilty in abstentia. The Rwandan government sought his return, which was refused. The point is not whether Wayne was guilty but rather that, as far as the United States is concerned, due to a lack of a treaty, his guilt was a non-issue. Furthermore, because the United States does not extradite absent a treaty, Rwanda really did not even have the right to make a formal request.

Another example, where the fugitive's guilt was much less in doubt, concerns Ronald Biggs, a culprit in the Great Train Robbery of 1963. For several decades Biggs was able to avoid extradition from Brazil to the United Kingdom, at least in part because of the lack of an extradition treaty (Von Glahn and Taulbee, 2007).[8] There are also a host of other cases where individuals have been abducted to face charges in a foreign forum. In large part the abduction was the only means to acquire the fugitive because there was no extradition treaty. Again the point is not the guilt or innocence of these individuals, but rather to demonstrate why extradition treaties are important.

This study will help us understand why states tolerate such difficulties instead of signing extradition treaties. As a policy matter, we must first understand the reasons states choose to sign or not sign these agreements before we can determine whether these reasons are still valid and whether a change in policy is warranted.

Research Importance

The study of extradition is essential not only because of the aforementioned pragmatic and policy concerns but also because it fits into a larger research program geared towards understanding international cooperation.[9] I suggest that in order for this research program to be successful, it must acknowledge the symbiotic relationship between the politics of international relations and the study of extradition. In other words, the politics of international relations can help us better understand extradition and simultaneously a knowledge of extradition can inform our study of international

[8] As far as I can tell, Brazil does not per se require an extradition treaty but rather requires reciprocity in order to extradite. A treaty, however, would have established reciprocity.

[9] In fact, the first chapter of Shearer's treatise on extradition is titled: "International Co-operation in the Suppression of Crime" (Shearer, 1971). According to Pyle: "Most of what has been written on extradition law has been 'relentlessly academic,' full of repetitious expositions, and largely oblivious to the political forces that have driven the cases and the law" Pyle, (2001:2). Although I am not as critical of the "relentless academics," I do share Pyle's concern for the political forces behind extradition.

relations.[10] For example, Wagner suggests extradition could be a way to extend democratic peace research to the field of internal security cooperation (Wagner, 2003). Although informative, the Wagner paper serves only as an "explorative" study and is limited to "demonstrating the plausibility that the mechanisms suggested by democratic peace research are at play in European extradition politics and to encourage future studies" (Wagner, 2003:697).

Building off the Wagner study,[11] I develop a model of states' decisions to commit to extradition. The current literature on extradition suffers from several shortcomings: the analyses are often archaic, specific to a particular country, and primarily descriptive. I ameliorate these shortcomings in three ways. First, drawing upon the literature in political science and law, I identify concepts which plausibly influence the decision to commit. Then, from these concepts I develop variables, which I attempt to measure in a reasonable fashion. Last, I test whether these variables influence signature in the manner theoretically expected.

Furthermore, my research moves beyond Wagner's case study. I appreciate Wagner's implication that the European Arrest Warrant establishes a high level of cooperation, worthy of a look on its own. However, if one wishes to gain a proper understanding of extradition, an explorative study of one multilateral extradition treaty is problematic. I believe a better approach is to look at bilateral extradition treaties. I do so for a number of reasons.

First, most extradition agreements are bilateral (Gilbert, 1998:32). For example, the U.S. alone has bilateral extradition treaties with 103 countries.[12] To essentially eliminate from analysis what is the primary mode for interstate cooperation in extradition is troubling. Second, I am reluctant to posit that multinational treaties and the European

[10] According to Pyle: "Most of what has been written on extradition law has been 'relentlessly academic,' full of repetitious expositions, and largely oblivious to the political forces that have driven the cases and the law" Pyle, (2001:2). Although I am not as critical of the "relentless academics," I do share Pyle's concern for the political forces behind extradition.

[11] As far as I can determine, the only peer reviewed publication in political science on extradition is the Wagner paper. Thus, a major element of my research will be to improve upon Wagner's claims. The Wagner study is merely suggestive. No testing is offered. I hope to ameliorate that shortcoming. For example, a primary concern of my research will be to perform a "crucial test" of the democratic peace proposition in the realm of internal security cooperation by testing whether other groups of "like minded states" also sign extradition treaties.

[12] Although the United States is a party to several multilateral extradition treaties, it does not extradite absent a bilateral agreement.

Arrest Warrant, particularly, are more cooperative arrangements than the bilateral treaties.[13] For example, multilateral treaties often contain reservations and states submit various understandings of treaty provisions, which limit the treaty's applicability.[14] Additionally, even in the absence of reservations and understandings, multinational and bilateral extradition treaties, for the most part, are functionally equivalent. In other words, both simultaneously extend a state's extraterritorial jurisdiction and constrict its territorial jurisdiction.[15] Furthermore, those who sign bilateral treaties are actively involved in the negotiation and drafting of the treaty. It is my opinion that this cost makes bilateral treaties the more cooperative arrangement.[16] Finally, the theoretical arguments presented are better suited for dyadic analyses, which do not hold up well in

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[13] This note suggests several alternative reasons why the European Arrest Warrant (EAW) should not be the only treaty studied. First, some countries have said they will still abide by former bilateral treaties, even though EAW is supposed to do away with that. Second, Wagner suggests doing away with the dual criminality requirement (and replacing it with mutual recognition of court judgments) is the most important feature of the EAW (Wagner, 2003:706). However, it must be noted some countries haven't completely done away with the dual criminality principle (i.e. the requirement that the acts be illegal in both states), at least when it comes to their nationals. See Commission Report 2006 at http://www.law.uj.edu.pl/~kpk/eaw/eu/EJN683.pdf. Furthermore, the abolition only applies to those offenses listed in the treaty, and what those terms mean and which crimes fall within those categories will ultimately be up to the particular states where the request is sought. For example, the EAW treaty lists rape as one of the crimes, where double criminality should no longer apply. However, it is unclear whether this includes statutory rape. Consider the following scenario. A citizen of country A travels to country B and has sex with a 17 year old female and then goes back to county A. Let's assume that the citizen of country A is a 19 year old boy and the laws of country B state that sex with a female under 18 is statutory rape, so long as the male is over 18. On the hand, the laws of country A would only criminalize the behavior if the male is more than 3 years older than the female. A judge in country B issues a warrant for the male's arrest. The issue is whether country A must extradite. The answer to this question is unclear because it depends on whether statutory rape is rape as included in the EAW. Finally, the German High court struck down legislation implementing the EAW. Because of these limitations, the principle of double criminality and bilateral treaties among EAW members in many circumstances may still apply.

[14] An understanding is an attempt by a state to specify in advance its own interpretation of certain parts of an agreement. A reservation is a statement by which a state indicates its nonacceptance or interpretation of an article in a multinational treaty (Von Glahn and Taulbee, 2007:276-277). The final draft of this prospectus will contain a primer on treaties and extradition law; as well as an example of an extradition treaty.

[15] Territorial jurisdiction is constricted because individuals that are within a state's territory and subject to its laws and perhaps even its protection are being removed to another state. Extraterritorial jurisdiction is being expanded because extradition allows a state to expand the reach of its laws into another state (Bassiouni, 2000:314). As Bassiouni (2000) suggests, this can be a source of conflict; however, I argue it is also an opportunity for cooperation.

[16] Bilateral extradition treaties are not normally signed perfunctorily, which may not be the case for some multilateral treaties. Furthermore, bilateral agreements may be preferable in assisting reciprocity and meeting individual country needs (Gilbert, 1998:31-43). Finally, one may wish to think of extradition treaties in terms of economies of scale. As the number of parties increase, the cost to each one diminishes.

analyzing commitment to multilateral treaties (Remmer, 1998:35). Accordingly, this study will focus on bilateral extradition treaties.[17]

To understand commitment, I begin with the rough theoretical model suggested by Siverson and Starr (1990, 1991). I do so primarily for heuristic purposes. The likelihood of commitment increases with an increase of opportunity and willingness. This model has been used to understand conflict (Most and Starr, 1980; Siverson and Starr, 1990, 1991) and cooperation (Werner and Lemke, 1997).[18] Although I am not convinced these two factors are completely distinct;[19] nevertheless, willingness seems to answer why states commit, whereas opportunity deals with whether states have the chance or occasion to commit.[20]

The Problem of Uniqueness

Before concluding the introduction, I will briefly address whether a cross-national study of extradition is doomed to fail because of the very nature of extradition treaties. Some scholars argue extradition laws are too idiosyncratic to make worthwhile comparisons (Gilbert, 1998:2). At least when it comes to extradition, this criticism seems to have little merit. Extradition laws are very similar and states try to keep their international extradition agreements relatively uniform (Gilbert, 1998:2). Furthermore, courts from various states frequently cite cases from other jurisdictions (Gilbert, 1998:2). Therefore, it might even be proper to refer to an international law of extradition (Gilbert, 1998:2). Accordingly, I do not believe that this study is doomed by the uniqueness of the phenomena under consideration. However, I do believe the criticism of lack of comparability has more weight when researchers lump all types of treaties into one study.

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[17] This study also does not consider multinational treaties, which contain extradition provisions as part of a larger concern. I do this because these treaties do not signal the same level of commitment since they are limited in the offenses to which they apply (like hijacking, antislavery, etc.); unlike as bilateral treaties which apply to a much larger variety of criminal matters.

[18] Actually, Werner and Lemke (1997) focus on half of the model; arguing that only willingness is important to understand alignment choices.

[19] For example, capability and contiguity are seen as affecting opportunity (Werner and Lemke, 1997:530). However, theoretically these could be seen as affecting willingness in the sense that powerful states and states which share a border are more willing to sign extradition treaties because they have a greater need and interest in tracking down and bringing individuals within the jurisdiction of their courts. It should be noted that the opportunity/willingness model is only used to frame the issues; it is not itself the prime theoretical argument.

[20] Furthermore, opportunity seems mostly concerned with characteristics of the issue which give the parties more opportunity to cooperate; whereas willingness focuses on characteristics of the parties, which make them more or less willing to cooperate.

In other words, although extradition decisions may be comparable to each other, they might not be comparable to other types of agreements.

Organization

The dissertation is organized as follows. In chapter 2, I place extradition in context, both historical and legal. I trace extradition's ancient roots, discuss its legal justification, compare it to its alternatives, and place it conceptually under the Vienna Convention on the Law of Treaties.[21] Chapter 3 places extradition into a social science research program. Doing so moves the study of extradition from primarily a descriptive enterprise to a causal inquiry. The shift is not meant to replace the descriptive analyses but rather to put extradition on firmer ground. In chapter 4 I present results. To test the hypotheses that I develop, I use logit models, three different data sets, and control for temporal dependence. Chapter 5 is the conclusion. In this chapter I also offer suggestions for future research.

[21] A copy of the convention is in Appendix B.

CHAPTER 2

EXTRADITION: HISTORY AND LEGAL ORIGINS

INTRODUCTION

In this chapter, I place extradition into historical and legal context. The goal is to help the reader understand both extradition and treaty law. It is my opinion that treaty studies could benefit from a clarification of important concepts. For example, we will be in better shape to move forward if we first understand what makes a treaty a treaty. I begin with the history of extradition then move on to discuss its legal origins.

A Brief History

States have long recognized the need for cooperation in criminal matters and perhaps the oldest form of such cooperation is extradition. In fact, extradition is one of the earliest forms of interstate cooperation in any domain. Its origins can be traced to ancient civilizations, such as the Egyptian, Chinese, Chaldean, and the Assyro-Babylonian (Bassiouni, 2001:29). The earliest political document, the peace treaty between Ramses II, Pharaoh of Egypt, and the Hittite King Hattusili III contains an extradition provision. It was carved in Hieroglyphics on the Temple of Ammon at Karnak and is preserved on clay tablets in Akkodrain in the Hittite archives at Boghazkoi (Bassiouni, 2001:32).

The term "extradition" is also ancient. Because the surrender of a fugitive was thought of as an unusual remedy, some have said it is shortened from extra-tradition. Others suggest it is more likely derived from the Latin *extradere*, which means forceful return of a person to his sovereign (Bassiouni, 2001:31).

Although extradition is a primeval practice, the old agreements do not suggest a conscious international effort to cooperate to suppress ordinary crimes (Shearer, 1971:6). That did not begin to occur until around the18th century (Shearer, 1971:6-7). Prior to then, extradition was mostly used to obtain political offenders, heretics, refugees, and deserters. Perhaps the clearest way to understand the history of extradition is to view it as a series of epochs

For example, Bassiouni identifies four distinct periods of extradition practice: 1) Ancient times to the 17th century, where the emphasis was almost exclusively placed on religious and political offenders; 2) The 18th century up through almost the first half of

the 19th century. This was a period of treaty making, primarily focused on military offenders throughout Europe; 3) 1833 to 1948—a collective concern for the suppression of common crimes; and 4) Post 1948, ushering a concern for individual rights and due process of law in regulating international relations (Bassiouni, 2001:33). Although I do not completely agree with the conceptualization offered above, it does offer a pretty good taxonomy.

The Legal Basis for Extradition

In this section, I show that states' legal authority to criminalize certain behaviors is based on their sovereignty and coercive authority to suppress disorder. Furthermore, I suggest that if a state has a right to criminalize, it is reasonable to conclude that it has a right to request the return of fugitives who have allegedly broken those laws the state had a right to make. However, the right to criminalize is not equivalent to the right to prosecute and punish. If a fugitive is in another state, the state whose laws allegedly have been violated will need the permission of the state where the fugitive is located in order to legally, at least under international law, prosecute and punish that individual. This is because each state is sovereign and has its own coercive authority.[22]

The Right to Request Extradition

Though extradition has ancient roots, we should not assume its legal justification simply from its pedigree. In other words, it is important to ask: upon what lawful authority does a state send a person within its territory to face prosecution and imprisonment in a foreign state? And conversely, under what lawful authority does a state have the right to request the surrender of fugitives? In this section and the next, I answer these important questions, primarily through synthesizing various jurisdictional theories.[23]

[22] Admittedly, one could ask: upon which authority does legal authority rest? I resist this sort of infinite regress in part because my task here is largely pedagogical. I am trying to put extradition into historical and legal context. I am not arguing that other contexts are irrelevant or uninteresting. Clearly, legal authority is a creation arising from some sort of consensus. Furthermore, I am agnostic as to whether legal authority is the best authority.

[23] Much of my discussion on jurisdiction is a synthesis with some change in nomenclature and emphasis from Bassiouni (2002:313-397), and Von Glahn and Taulbee (2007:2404-227).

A bed-rock principle of international law is that states are sovereign over their territory.[24] Generally, this means that all states can make their own laws; choose their own institutions; and act independently as an international entity.[25] Although there have been violations of this principle,[26] its importance and existence is virtually unquestioned.[27] It is even enshrined in the Charter to the United Nations.

Furthermore, and perhaps implicit in the notion of sovereignty, no state can exist without a coercive authority to "suppress disorder, anarchy and other disruptive elements which are regarded as anti-social acts under its own legal system" (Bedi, 1968:15).[28] This coercive authority is usually associated with a government. In fact, most definitions of a state require a government exercising effective control over a population.[29] Nevertheless, although a government may have the right to exercise the coercive authority, technically that authority rests in the state. This is because a state and its government are not equivalent. This distinction is made clear in the seminal case: The Sapphire.[30]

In The Sapphire, Napoleon III is awarded damages in a United State's court for destruction to a French naval ship. During the appeal he is deposed. The issue is whether the removal of Napoleon III abnegated the suit. The Supreme Court of the United States concluded that the suit was not rendered void. It reasoned that the suit and

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[24] All of my analyses assume the state as the starting point for any discussion of international law. I eschew arguments regarding the individual's role in forming the state or their acquiescence to the state. Although these arguments are interesting, they are almost irrelevant for my present purposes because international law presupposes a state.

[25] In fact, territorial sovereignty might be thought of as an inherent condition of a state. In other words, you cannot have a state without territorial sovereignty.

[26] A conspicuous example of a violation of this principle is Italy's invasion of Ethiopia, just prior to WWII. Interestingly, the British Government, for a time, recognized the Italians as the legitimate government of Ethiopia; even awarding them proceeds from a breach of contract suit originally brought by the Selassie Government. See Haile Selassie v. Cable and Wireless, Ltd. No.2; reprinted in Von Glahn and Taulbee (2007:149). Britain was essentially funding a war against itself.

[27] This is one reason why there was nearly universal condemnation of Saddam Hussein's invasion of Kuwait.

[28] It is difficult to conceive of a state (or the notion of sovereignty) without a coercive authority to suppress disorder. It may be true in some utopian sense that a state will not need to use its authority; but that is different than saying it does not possess such authority. Also, I use the term coercive authority while Bedi (1968) chooses external authority.

[29] For example Aust suggests a state requires "territory with a settled population, a sovereign government, and independence from other states (Aust, 2000:47).

[30] The Sapphire is reprinted in Von Glahn and Taulbee (2007:144).

the compensation always belonged to the French state as a legal entity and not to any particular reigning sovereign.

Accordingly, although a government exercises the coercive authority, that authority is technically vested with the state. This is one reason why international law makes no distinction between a treaty concluded on behalf of states and one concluded on behalf of governments or their representatives (Aust, 2000:48). Thus, even radical changes in government (via coup, etc.) do not vitiate a treaty.

From the fact that a state is sovereign over its territory and vested with coercive authority to suppress disorder, it can reasonably be concluded that it has the right to criminalize behavior that occurs within its territory, even where the negative consequences (either some or all, depending on how you define negative) occur or are to occur outside of its territory.[31] This includes the behavior of its own citizens[32] as well as others that are within its territory.[33] Furthermore, from the notions of sovereignty and coercive authority to suppress disorder, it follows that a state can also criminalize behavior that occurs outside its territory but has effects or will have effects within it.[34]

It would be absurd to grant that a state has territorial sovereignty and the ability to suppress disorder but only where the source of the disorder is within the state. For example, the United States is well within its rights to criminalize drug conspiracies and conspiracies to overthrow the government even where those conspiracies occur outside the United States. Accordingly, a state has a right to criminalize certain behaviors, this

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[31] If the behavior and the consequences occur within the state, this would trigger what is often referred to as traditional territorial jurisdiction. If the consequences occur outside the state, this would be referred to as subjective territorial jurisdiction.

[32] Furthermore, it is near universally accepted that a state may criminalize the behavior of its nationals wherever that behavior occurs. This is the case even where that behavior is not illegal in the country where the acts are committed. This is known as the nationality principle of jurisdiction.

[33] Non-citizens should go further than the old adage suggests and when in Rome do not as the Romans do but as the Romans should do. Although arguably there are minimum standards of justice that everyone is entitled to, if you commit a crime in another state, you are almost always going to be subject to that states justice system with little official protest by your home state.

[34] Technically, if the behavior occurs outside the state and the harmful effects occur within, this is known as objective territorial jurisdiction. However, it is difficult to pinpoint exactly how this principle comes into play. The simplest case would be drug based conspiracies. Conspiracy requires an agreement to commit a crime and an overt act in furtherance of the crime. Let us say an agreement to distribute heroin occurs outside your state but the overt act occurs within your state (e.g. a co-conspirator sets up a buy). If you argue the overt act is a harmful effect, you could exercise object territorial jurisdiction. If no effects occur within a state but the state is in danger, this is called protective jurisdiction.

power flows mostly from its sovereignty and coercive authority.[35] Furthermore, if a state has the authority to criminalize, it would be natural to assume it has the right to request return of a fugitive who is alleged to have broken those laws which the state had the authority to make.[36]

Duty to Return Fugitives

Thus far I have established a state's prescriptive jurisdiction.[37] In other words, states are within their authority to criminalize certain behaviors. From this it is easily shown that states have the right to request fugitives. However, the authority to criminalize and request does not necessarily imply an authority to adjudicate and enforce.[38] In criminal law, to adjudicate and enforce is to prosecute and punish. The authority to adjudicate and enforce will often depend on the location of the defendant. If the defendant is located within the territory of a state, there is no problem. If the state has prescriptive authority, that state will also have the authority to prosecute and punish.[39] However, if a defendant is located in another state, the authority to prosecute and punish will in large part depend on the cooperation of that other state. In sum, the authority to criminalize only means that a state has a right to request extradition; it does not mean that the state is entitled to extradition.

This is because other states are also sovereign over their territory and have their own external authority to suppress disorder. This is why extradition is not per se an international duty. Accordingly, if a state wants to ensure the return of its criminals it must enter into treaties with other states (Shearer, 1971:27). This does not mean that treaties are the only means by which a state can achieve extradition; there are others, both legal and illegal. However, extradition treaties are the only method, which create any

[35] To sum up much of my preceding arguments see Bassiouni: "It is universally recognized that every state has the power to regulate conduct within its territory, and beyond it if such affects its legitimate national interests." This power flows from its sovereignty (Bassiouni, 2001:314).

[36] It must be noted that states do sometimes challenge other states authority to make certain laws but usually this challenge is asserted in the realm of enforcement, when that other state does not wish to recognize the former state's assertion of prescriptive jurisdiction. This is in part addressed in my argument regarding similar legal systems. Different legal systems may accept different theories of jurisdiction, which may frustrate attempts to cooperate.

[37] This may also be referred to as rule-making authority (Bassiouni, 2001:313).

[38] Bassiouni combines adjudicative and enforcement authority into one concept and calls it enforcement authority (Bassiouni, 2001:313). Technically these concepts are distinct; even though in practice they do overlap.

[39] This of course assumes the state had the prescriptive jurisdiction in the first place.

real international obligations. Without the creation of an obligation, you do not have a pattern of cooperation but rather only ad hoc piecemeal exchanges. Accordingly, for the purposes of this dissertation, cooperation in extradition requires the establishment of binding international legal obligations. In the next section, I highlight the more prevalent and inferior forms of extradition (i.e. extradition sans treaty).

Alternatives to Extradition Treaties

Kidnapping

One alternative to extradition is kidnapping. Unfortunately, states do sometimes enter other states without permission to get fugitives and/or prosecute fugitives that have been illegally obtained. For example, if a bounty hunter, a CIA agent, etc. bring a fugitive before the United State's courts, the courts will not question how that individual got there. The United States' position was firmly established in Kerr v. Illinois, where a fugitive in Peru was kidnapped by U.S. agents and tried in the U.S. courts. In upholding the conviction the Supreme Court stated: "there is no language in the extradition treaty with Peru or in any other treaty made by this country on the subject of extradition, which says in terms that a party fleeing from the United States to escape punishment for a crime becomes thereby entitled to an asylum in the country to which he has fled…" (Bedi, 1968:26-27).

This position is also the policy of most other countries (Bedi, 1968:27). It is reasoned that the political and not the judicial branches of government should determine violations of state sovereignty (Bedi, 1968:23). As far as domestic law is concerned, the judicial branch will have the authority to prosecute and punish an individual even if that individual is obtained in violation of international law.

Interestingly, the individual has no right to contest the court's authority or the domestic legislation; only the state whose rights have been violated may make a claim. Nevertheless although kidnappings do occur, they are rare (almost always only for high profile cases), costly in terms of reputation, illegal, and often require more of a states resources than would a normal extradition request. Although a study on kidnappings would be interesting, they are not the subject of this dissertation primarily because they

are extralegal means and difficult to quantify. This dissertation will only focus on legal extradition.

Domestic Legislation

Some states do provide in their own laws for the extradition of fugitives. This can be completely unilateral or in conjunction with another state. However, even when both states agree to pass legislation, such legislation does not rise to the level of an international obligation. This is because each state, if they so choose, can decide through their own proper legal channels to abrogate the legislation. Doing so would not violate international law. On the other hand, as far as international law is concerned, a state has no right to overrule a treaty. It may be the case that for the purposes of domestic courts the treaty will no longer be applicable;[40] nevertheless that does not affect the international legality of the treaty. For example, in the United States, if Congress voids a treaty, the U.S. courts are bound by Congress. However, the United States is still in violation of international law.

Furthermore, even where states provide for extradition in their legislation, they are not prohibited from signing treaties and creating an international obligation. If states are truly serious about cooperating they will establish an international obligation via treaty. Accordingly, this dissertation will focus on the only international legal obligation to extradite (i.e. treaties).

Treaty-making Stages, Their Legal Consequences, and the Scope of This Dissertation

The Vienna Convention

Having shown that extradition via extradition treaty is the best way to establish an international commitment, now I offer a synopsis of treaty law and practice. This is essential because in order to appropriately answer why states sign extradition treaties, it is important to first have a general understanding of what a treaty is and what signature means. Much of this discussion will concern the Vienna Convention on Law of Treaties. A copy of the Convention appears in Appendix B. Although, the Convention does not

[40] Furthermore, some states find international law hierarchically superior to domestic legislation. In those situations, the importance of treaties is even more apparent.

encompass the sole universe of the law of treaties, it is the most influential and is usually applied even where, technically, it is inapplicable.[41]

Article 2(1)(a) of the convention defines a 'treaty' as:

"An international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or two or more related instruments and whatever its particular designation."

There are a few points to this definition that are worthy of note.

First, for our purposes, only states can be parties to a treaty. Although there can be treaties between a state and another subject of international law, such as an international organization, and between international organizations, these are outside the scope of the Convention and this dissertation. Furthermore, agreements where a corporation or an individual are a party are not treaties and should not be treated as such. For example the International Court of Justice ruled that an oil concession granted by a state to a foreign company was not a treaty (Aust, 2000:16). Such agreements are not treaties even where there terms state that they are governed by international law. Accordingly, for our purposes only states can be parties to a treaty.

Second, treaties must be in written form. Although, states may theoretically have binding oral agreements, such agreements are outside the Convention and this dissertation. As a practical matter, oral agreements would be difficult to prove and locate. That is why all fifty states of the United States require certain contracts to be in writing. The writing requirement can be found in each state's "Statute of Frauds." The writing requirement in the Vienna Convention serves a similar purpose. Accordingly, any agreement worthy of note (domestic or international) should be put in writing.

The question then becomes what sort of writing is sufficient. There is no reason why an exchange of telegrams, faxes, emails, etc. can not satisfy the requirement. Of course, this assumes that identities could be authenticated and that the document is tamper-proof. I am unaware of any treaties being "signed" electronically or in any other format other than the traditional tangible forms. However, a Communiqué on Electronic Commerce was issued by U.S. President Bill Clinton and Irish Prime Minister Ahern by

[41] Much of this discussion of treaties is indebted to the work of Aust (2000).

Electronic means (Aust, 2000: 16). Thus, it is not too fanciful to believe that treaties may be accomplished solely through electronic means.

Third, treaties are 'governed by international law.' The International Law Commission's Commentary on this phrase suggests that there must be an intention to create obligations under international law. Without any such intention there is no treaty. In my study this is really not an issue because all my agreements either come from the United Nations Dataset, which deals only with agreements which meet the Convention's definition, or other sources which are only concerned with agreements governed by international law.

Additionally, although international law does not contain any requirement of special wording to create a treaty, in practice lawyers etc. use carefully chosen language to signal their intent of not creating an international obligation but only a mutual understanding of conduct. These agreements are often called Memorandum of Understanding. I do not analyze memorandums of understanding. I study only agreements which give rise to international obligations.

Fourth, treaties may be embodied in more than one instrument. For example, a treaty may be concluded by an "exchange of notes." For extradition treaties, we are almost always dealing with a single document. However, I have encountered some instances of an exchange of notes. These are treaties and in my analysis are treated as such.

Finally, whether an agreement is a treaty does not depend on its designation. It is irrelevant that a document is called a treaty, convention, protocol, etc. What matters is the intent to create an international obligation. Accordingly, my dataset includes agreements called convention, treaties, etc.

Stages of Treaty Making

Although there are many stages in the treaty process, perhaps the two most important are the stage of consent to be bound and entry into force. For purposes of the Convention a 'contracting state' is a state which has consented to be bound by a treaty, even where the treaty has not yet entered into force (Aust, 2000:75). A 'party' is a state who has consented to be bound and for which the treaty has entered into force (Aust,

2000:75). Thus, technically, consent to be bound and entry into force are two distinct steps; even though they can occur simultaneously.

Consent to be bound can be manifested in numerous ways; one of the most important is signature. However, in the case of extradition treaties it is difficult to say whether signature, in and of itself, manifests a consent to be bound. In part, this is because treaties seldom clearly indicate the effects of signature; and more importantly one would have to have a nuanced understanding of each state's constitutional procedures in order to know whether signature is sufficient. Nevertheless, the legal duties which arise from signature itself (when it does not signal consent to be bound) and consent to be bound do not seem significant.

For example under Article 18, if a state has signed a treaty it "is obligated to refrain from acts which would defeat the object and purpose of a treaty…until it shall have made its intention clear not to become a party to the treaty." On the other hand, when "it has expressed its consent to be bound" it must refrain from those same detrimental acts, "pending the entry into force of the treaty." However, even where states have consented to be bound, there is good reason to believe that they may withdraw that consent prior to entry into force (Aust, 2000:95-96). Thus, the duty of article 18 may be withdrawn whether or not the state has consented to be bound. Accordingly, the legal significance of signature and consent to be bound are almost identical. Furthermore, pragmatically, it is very difficult to tell when consent to be bound occurs. Thus, my study doesn't consider consent to be bound, per se, but rather a focus on signature.

The final stage of the treaty making process is entry into force. This is where a state becomes fully bound by a treaty. However, again my focus will be signature for a number of reasons.

First, signature is the closest time available to the initial stage of cooperation.[42] Second, there are multifarious methods by which these agreements are entered into force, which are up to the specific legal framework of the country at issue.[43] The variation is exhaustive and difficult to account for; even in the most straightforward cases. Some countries require implementing legislation, while others do not; in some cases the

[42] Although negotiation occurs before signature, there is no available data on who negotiated.
[43] Furthermore, by looking at signature it is easier to view the state as a unitary actor. For this dissertation I assume the state as a unitary actor.

decision is simply the executive's, others require legislature approval. Also, the matter is further complicated because all the requirements of both countries must be met before the agreement enters into force and it is possible the legislature, which eventually gives its consent to the agreement is different than the one in power when the agreement is signed.

Let us take the United States as an example. Treaty law in the U.S. has been described as "remarkably complex" (Aust 2000:157). At its simplest, there are at least three steps for a treaty to be in force (the following analysis excludes any discussion of the distinctions between self-executing and treaties which require legislation; as well as any discussion of executive agreements). First, there is signature by someone with plenipotentiary power (the Executive or an agent). Second, there is approval by two-thirds of the Senate. Finally, there must be an official ratification by the President. This last step is often unaccounted for in discussions regarding treaty approval, but is crucial. These dynamics can lead to a situation where a treaty is signed by one administration, approved by a different Senate, and ratified by a different President. Although all extradition treaties signed by the United States eventually entered into force, a casual look at the cases show that the aforementioned possibility is a real one: for example, a treaty with Burma is signed in 1931 and entered into force in 1941. Also, according to the American Society of International Law, many agreements which have been approved by the Senate never entered into force because they were never ratified by the President (See http://www.asil.org/insights/insigh10.htm).

Third, much could happen between the time of signature and time of entry into force, which could cause one to be misled. For example: let us say two democracies sign at time t. One of the countries becomes non-democratic at time t plus 5, which occurs before entry into force. If we were to judge cooperation based on time of entry into force, we would incorrectly conclude that joint democracy had no effect on cooperation. Fourth, extradition treaties are signed before they enter into force. Thus, conceptually it is probably reasonable to first gain an understanding of why states sign. Fifth, entry into force might be better understood as a form of compliance. Finally and as previously mentioned, the decision to sign does entail a legal commitment; actually it is the first

place in the treaty making process to do so.[44] This is one possible explanation as to why all extradition treaties signed by the United States eventually enter into force. Accordingly, this dissertation will focus on signature.

Treaty Sources

Now having determined that signature is a good place to gage a state's commitment to cooperate in extradition, it is appropriate to talk about sources of information. Although I focus on their applicability to extradition, these sources are useful for anyone interested in treaty research.

Shearer suggests that putting together a list of extradition treaties would be a monumental undertaking (Shearer, 1971:35). Although the process is time-consuming and contains several potential pitfalls, it is not an impossible task. Probably one of the best sources for post World War II treaties is the United Nations Treaty Series. The United Nations has also created a dataset specifically for extradition called "Database on Bilateral Agreements on Extradition and Judicial/Legal Assistance, Control of Narcotic Drugs and Prisoner Transfer by Country" (hereinafter referred to as the UN Dataset). This data alleges comprehensive coverage from 1945-1995 and although it is not in spreadsheet form, it is listed by country and is easy enough to draw upon. The UN Dataset was compiled from the UN Treaty Series as well as multiple other sources, including internet searches.

A potential problem with the UN Dataset is that the UN Treaty Series only lists treaties which are registered with the UN. Thus, there is the possibility that the Treaty Series (and by extension the UN Dataset) might not contain all extradition treaties. However this possibility is probably not a big problem because if an agreement is truly important there are many reasons to believe that it would be registered with the United Nations. As one scholar has suggested "registration is generally good evidence that the states concerned regard it as a treaty" with its appurtenant obligatory power (Aust,

[44] The sort of duty triggered by signature can be understood by the following example. Assume the United States signs an extradition treaty and before that treaty enters into force, Congress passes a law stating that no woman may be extradited to a foreign country. This is arguably a violation of the aforementioned obligation; assuming that doing so would defeat the object and purpose of the treaty. However, I am only aware of one published case where an interim obligation was at issue. A Greco-Turkish Mixed Arbitration Tribunal held the Turkish Seizure of Greek property before the entry into force for Turkey of the Treaty of Lausanne was invalid, because if the treaty were in force such action would have been a material breach (Aust 2000: 95).

2000:29). Furthermore, non registration would make enforcement before any organ of the UN very difficult (Aust, 2000:29). Lastly, although non-registration does not necessarily mean the treaty is invalid outside the UN, at least one arbitration tribunal has found an international agreement to be unenforceable, for among other reasons, lack of registration (Aust, 2000:29).

Accordingly, the UN Dataset has a lot to offer. Nevertheless, for those who are still suspicious of the UN Treaty Series, I would again stress that the UN Dataset is more comprehensive and draws upon other sources, including many internet cites.

Another fine source for treaty information is The World Treaty Index (1900-1980). It is a five volume set, with a key-word index. For more up to date information, researchers can search country websites, linked to pages such as the Harvard Law School and The World Legal Information Institute's Treaty Database. There is also The World Fact Book of Criminal Justice, which has a list of bilateral extradition treaties for forty-two countries. This list was compiled from a survey of country experts. Unfortunately, the data does not have any dates.

The most comprehensive list of treaties for the pre-League of Nations' period is the Consolidated Treaty Series. It is a 261 volume set; it includes actual texts of many treaties and covers the period 1648-1919. Unfortunately, it is listed chronologically and by country, without an index.

For this dissertation, I create a dataset of bilateral extradition treaties drawing from the UN dataset and the World Treaty Series. Future studies will draw upon other data sources.

CHAPTER 3

A MODEL OF STATES' COMMITMENT TO EXTRADITE

Given the importance of extradition, the dearth of political science literature on the subject is perhaps surprising. I am aware of only one study in the discipline and it is fairly limited; it only suggests that Democratic Peace Theory may help to explain extradition (Wagner, 2003). On the other hand, there is some treatment of the subject in the legal and policy research. However, that research is primarily descriptive and often only focused on a particular country. Furthermore, although the policy and legal research is rich in detail and often in theory, it lacks any quantifiable justification to substantiate many of its claims.

For example, Pyle suggests that the United States has become "the long arm of foreign injustice" (Pyle, 2001:4). He claims that the United States extradites individuals to regimes that are undemocratic, where they will be afforded few protections. This is a serious concern; particularly since 10 to 20 percent of those extradited from the United States are United States' citizens (Pyle, 2001:4). Although he cites a few instances where this is alleged to have happened, there is no systematic attempt to fully address the issue. Without a more in depth analysis it is difficult to say whether the cases Pyle cites are idiosyncratic or whether they are endemic and signal U.S. complicity in corroding human rights.

In this dissertation, I address Pyle's assertion indirectly and attempt to make more general claims. I do not consider whether individuals are extradited to particular countries; that is an issue of compliance and beyond the scope of this dissertation.[45] Furthermore, this project is not per se a project on human rights. Rather I ask a more fundamental question: with whom do states commit to extradite? Commitment is equated with signature. As I have argued earlier, without signature, extradition is increasingly difficult and perhaps even impossible. For example, the United States does not extradite absent a treaty. Thus, Pyle's concern is assuaged if the United States (or any democracy for that matter) is more likely to sign with other democracies than with non-democracies.

[45] As previously mentioned, compliance would be difficult to test directly, due in large part to the lack of data on those extradited.

Accordingly, the ultimate aim of this project is to uncover the factors that influence states' decisions to sign extradition treaties. To accomplish this goal, I place extradition into a social science research program. Specifically, I adopt and modify several theories of international cooperation to address issues of extradition. I begin with a discussion of the extant political science literature. This literature attempts to view extradition decisions as an extension of the democratic peace research agenda. I suggest that such an explanation is incomplete because there are good reasons to believe that states consider more than shared democratic institutions in making their extradition decisions. In fact, this shortcoming is admitted.

To address the problem, I offer a more general and comprehensive explanation. The model in its most distilled form is labeled as an opportunity\willingness model. This nomenclature was chosen so to create a common language from which social science can understand extradition. Admittedly, many of the variables do not always fit neatly into either of these categories. Nevertheless, I adopt these terms because in order to bring extradition into social science research and to clarify its theoretical underpinnings, it is useful to have some common ground from which to move forward. Furthermore, most of my theoretical arguments focus on the willingness part of the equation. This is primarily because those arguments are more nuanced and allow me to better connect the political science literature to extradition. Additionally, in the opportunities section of the analysis I focus mostly on legal systems. I do so because it allows me to introduce the reader to important extradition concepts, which may help future research.

Extant Literature

In this section, I focus on the arguments presented in a particular paper in the political science literature. I do so because this is the only article that I am aware of in political science that attempts to tackle the issue of extradition. Although there are several studies in political science which deal with treaties generally or with other types of treaties; particularly with compliance to human rights agreements, the specific theoretical arguments are often inapplicable. However, these studies do make some useful general claims such as, increasing interdependence creates a functional need for international agreements (Keohane, 1984), or states form agreements where their needs

cannot be met unilaterally or politically met (Bilder, 1989), or that regime type matters (Simmons, 1998).

Consistent with these scholars, extradition does create a form of interdependence, which can only be solved through cooperation. And regime type does matter. Simmons referred to the regime type argument as democratic legalism (Simmons, 1998: 83) and is the same normative argument that I critique below, so I will not spend a lot of time on it here.

However, a more nuanced regime type matters argument that moves away from considering only norms is Leeds (1998) suggestion that domestic political institutions matter in determining leaders' ability to establish bilateral cooperation. Leeds finds that states that have the same political institutions, whether they are democratic or autocratic, will cooperate more often than other types of dyads (Leeds, 1998).

However, unlike Leeds (1998), I do not believe it is wise to lump all forms of cooperation together and assume that that they all have the same causes. More specifically, I suggest that commitment to different treaty types will have different explanations. For example, my arguments regarding security threat and opportunities to benefit would be inapplicable to commitment to multilateral human rights treaties.

Also, although studies of compliance are useful and may indirectly inform our understanding of commitment, I will not spend too much time connecting this study with studies of compliance. As I state elsewhere compliance and commitment are two different stages and should be kept distinct. They have completely separate legal meanings and have different explanations.

Finally, I do not attempt to offer a lengthy exegesis on all the permutations of democratic peace theory; rather I only focus on those presented in this particular article.[46] I believe this is an acceptable way to directly connect my arguments to the extant political science literature. However, after doing so, I will draw on diverse literatures to present my theoretical claims.

[46] Democratic peace research at its core seeks to explain why democracies seldom go to war with each other.

Wagner posits that democratic peace arguments should be expanded to include interstate cooperation to insure internal security (Wagner, 2003:695).[47] According to Wagner, this extension is desirable for two reasons. First, it has the potential to yield additional data, which may help us better understand the mechanics behind democratic cooperation in security policy. Second, security policy choices of democracies can benefit from being incorporated into the democratic peace research program because the program already has a set of well-specified hypotheses, which can be tested (Wagner, 2003:696). Furthermore, he argues extradition policies of Western European liberal democracies provide a fertile testing ground.

Borrowing from the democratic peace research, Wagner offers several interrelated theoretical explanations as to why democracies are more likely to enter into extradition agreements with other democracies than with other regime types. First, democracies have larger win sets[48] than non-democracies and thus must provide more public goods. National security is a public good. Extradition assists in promoting national security; thus, democracies are more likely to pursue extradition agreements (Wagner, 2003:697).

However, institutional constraints make it difficult to pursue extradition arrangements, which endanger individual rights. Judicial safeguards are the pivotal institutional constraint in the realm of internal security cooperation. Accordingly, democracies are likely to enter into extradition agreements with other democracies because of their similar judicial safeguards but not with non-democracies because they lack these safeguards (Wagner, 2003:697).

Finally, Democracies have similar cultures and values, which lead them to view each others' judicial and legal systems as trustworthy and worthy of mutual respect; so much so that democracies are likely to incorporate other democracies' demands for internal security into their own definition of internal security. This may even lead to a zone of law "based on principles of self respect and mutual application of each other's domestic law" (Wagner, 2003:700). Essentially, Wagner's argument can be summed up as: democracies will enter into extradition agreements with other democracies because of their mutually beneficial interest in providing internal security but will not enter into

[47] As Wagner admits, the distinction between internal and external security is becoming increasingly blurred.
[48] A win set is the size of the coalition needed to stay in power.

extradition agreements with non-democracies because those states do not have the same safeguards for individual rights. If this assertion is true then the concerns of human rights "watchers" are overstated.

Democratic Peace

Before moving on to my theoretical argument, I would like to briefly critique the democratic peace explanations for extradition which are suggested by Wagner. Again I will not cover all permutations of democratic peace theory but only the primary ones listed in the Wagner paper. My purpose here is to show which parts of democratic peace theory may apply to extradition and which do not.

The Winning Coalition: Are Democracies More Likely To Sign Extradition Treaties Because Of Their Larger Winning Coalitions?

Of the interrelated theoretical explanations offered by Wagner, I find the size of the winning coalition to be the least plausible. To reiterate, the argument is as follows: Democracies because of their larger winning coalitions are more likely to pursue public goods than non-democracies. National security is a public good. Extradition helps national security. Thus, democracies are more likely to encourage extradition.

I find this argument problematic for several reasons. For one, a small winning coalition may actually be more conducive to extradition than a larger winning coalition. This is because a small winning coalition might make it easier for non-democracies to extradite since they will be less constrained in honoring requests; thus, if we accept the reasoning of the winning coalition theory, contrary to Wagner's expectations, we would believe that non-democracies would form an "extradition regime" and not democracies.

Furthermore, I am not convinced the benefits of being able to bring fugitives to justice can necessarily be considered a public good. This is because benefits may accrue primarily to the state as an entity "vested with the right to exercise … authority to suppress disorder, anarchy and other disruptive elements which are regarded as anti-social acts under its legal system (Bedi, 1968:15). In some societies, this authority may belong to only a small group of people and perhaps it is in their interests rather than the public interest, which is being protected. Additionally, and on a related point, members of the winning coalition may have more to gain than the public at large from the prosecution of criminals. It must be remembered, extradition usually concerns common

crimes (e.g. a thief absconds, a rapist absconds, etc.). Most of the time, these individuals are not connected with the winning coalition in non-democracies. In fact, since the winning coalition is the group without whose support the government cannot rule, it is arguable that they have the most to gain and little to lose in engaging in extradition.

Democratic Constraints: Are Democracies Constrained by Human Rights Concerns So That They Will Likely Sign Extradition Treaties Only With Other Democracies?

The argument that democracies are constrained by their concern for individual rights also seems weak. This position is based on the notion that "the public in democracies expect the government to protect participatory and judicial standards against being undermined …" (Wagner, 2003:701). Accordingly, democracies will only establish extradition treaties with other democracies, which also respect those judicial safeguards. I argue that for most cases of extradition the public is unaware, or even worse, tolerant of the abuse of rights against those who are sought for extradition. Extradition concerns common crimes (e.g. rape, murder, fraud, etc.). I do not think there is much support for the notion that the public will kick their leaders out of office for violating some rights during extradition. In fact, a review of the cases suggests that individual rights are often violated during extradition proceedings without much public outcry. Furthermore, a concern for human rights would actually frustrate a state's ability to seek extradition. Accordingly, I do not believe that there is much theoretical support that democracies are constrained by human rights concerns from engaging in extradition with any other than other democracies.

Norms And Values: Do Democracies Sign Extradition Treaties To Protect And Expand Norms and Values?

I believe that the norms and values argument may have more weight; at least so much of it which suggests that democracies are more likely to sign with other democracies because they wish to protect areas of commonality. These commonalities are referred to by Wagner and others as norms and values. However I do not agree with Wagner that democracies sign extradition treaties as part of the creation of a "zone of peace." I do not think there is much support for the notion that democracies seek peace for its own sake. Also, I do not find the terms norms and values very useful because inherent in the terms are an implication of rightness or wrongness, which I believe is

unnecessary to the analysis. I believe it is more useful to talk in terms of interests.[49] The argument I present in the next section is primarily interest based.

Theory

Introduction

In addition to the previously highlighted shortcomings, Wagner's position is incomplete because it only considers democratic institutional similarity. As Wagner admits, his study says nothing regarding whether other like-minded states have equally effective[50] extradition regimes (Wagner, 2003:702). I rectify the incompleteness of Wagner's position by modifying and subsuming his claims into a comprehensive model, which in its most rudimentary sense grounds itself into the opportunity/willingness paradigm suggested by Siverson and Starr (1990, 1991).

Some may suggest that this explanation is tautological or at best obvious. Perhaps this criticism would be justified if all I argued was that states sign with increased opportunity and willingness without suggesting what factors influence opportunity and willingness. Opportunity/willingness is really only offered as a framework for understanding what is ultimately important (i.e. those factors which influence states' decisions to sign). It is really not critical whether we refer to the variables of this study as opportunity/willingness variables or simply factors which influence signature; now to the task at hand.

Although I agree with Wagner that democracies are more likely to enter into extradition agreements with other democracies than with non-democracies because it

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[49] The argument is not a new one. Shearer suggests that political affinity and also, geographic and economic affinity are factors, which determine states' decisions to enter into extradition arrangements (Shearer, 1971:51). However, these assertions have yet to be tested empirically.

[50] "Effective" is never defined and it is probably better suited for a different type of study. For example, Wagner suggests the democratic peace perspective helps explain why liberal democracies refuse to negotiate effective extradition agreements with countries with few safeguards for individual rights, even where there is a large potential mutual interest in criminal matters, such as with Turkey (Wagner, 2003:710). This assertion might not only be empirically unsupportable, it is unclear what is meant by an effective extradition agreement. If by effective is meant performance of duties under the treaty, lack of effectiveness is, in part, a result of failure to negotiate. In other words, you don't fail to negotiate an effective agreement; it is the failure to negotiate which leads to the lack of an effective agreement (or any agreement for that matter). Effectiveness should be determined after the agreement has been successfully negotiated. Furthermore, non-democracies may be more effective in the sense that they are willing to extradite, even where individual rights are violated. Accordingly, at this point, it is better to ask why countries sign extradition agreements instead of why they refuse to negotiate effective extradition agreements.

allows them to increase their mutual security interests, I do not believe this dynamic should be limited to democracies. All states value their security. Thus, I suggest that a state's willingness to commit to extradition depends on whether the other state is perceived of as a security threat. This perception is likely affected by political, economic, and cultural institution affinity.

My willingness argument starts with the assumption that states seek to enhance their security. Extradition allows states to do so in three ways. First, it increases a state's ability to enforce its laws. In other words, extradition allows states to extend their jurisdiction beyond their borders.[51] Second, and on a related matter, extradition makes it easier to bring fugitives to justice. Without extradition states will have to rely on less palatable and perhaps even illegal means. Last, extradition decreases the probability of your state becoming, what Victor Hugo called "a court of miracles," and what other have referred to as "a den of thieves." In other words, without extradition, a state may become an attractive safe harbor for criminals.

The 1950's and 60's B-movie plot, where a criminal escapes to Buenos Aires to bask in the sun with his ill-gotten gains is really not that farfetched. In chapter 1, I highlighted specific cases where extradition was frustrated due to the absence of a treaty.

Accordingly, it would appear logical for all states to engage in extradition with every other state. They do not. The question is why? There are two primary reasons for failure to cooperate. First, there might not be much to gain. The purpose of extradition is to facilitate the return of fugitives. If an extradition agreement is not likely to accomplish this purpose, there is not much of an incentive to form one. I label this as opportunity benefit. The second impediment to cooperation is threat. States are less likely to cooperate with those states which they view as a threat to their political, cultural, and economic world views. I label this as willingness based on shared institutions. These two explanations do overlap; nevertheless, for heuristic purposes I will try to keep them as distinct as possible. I begin with the willingness explanation.

[51] For a detailed explanation of jurisdiction see chapter 2.

Willingness Based On Shared Institutions

Introduction

Although states would like to reap the benefits of extradition, they will be less willing to cooperate with states with dissimilar institutions than with those with similar institutions. This is in large part because of the reciprocal nature of extradition: the extradition partner will also benefit. States would prefer that certain other states not benefit, even when doing so frustrates their own ability to extradite. Specifically, I propose that when states view each other as potential threats, they become increasingly preoccupied with consideration of relative gains. What becomes most important is not a state's gain from extradition, but rather that the other state will also gain.

The concept of relative gains in the field of international cooperation can be traced at least as far back as Waltz, who suggests that international cooperation will be less frequent than commonly thought, due to states' concern for distributional gains (Waltz, 1979:115-116). In other words, in deciding whether to cooperate states will consider relative gains. This sentiment was echoed by Grieco who argues that due to the anarchic nature of the international system, joint gains could prove problematic by strengthening a potential foe (Grieco, 1990:28-29). As Gilpin succinctly stated: "Nation-States are engaged in the never ending struggle to improve or preserve their relative power position" Gilpin (1975:35).

Although, I agree that relative gains are important; nevertheless, if states were always concerned with relative gains, we would expect that cooperation in extradition would never occur, since it is virtually impossible to insure that the extradition partner will not gain more. States do cooperate in extradition but only when they are able to concern themselves with absolute instead of relative gains.

Absolute gain seekers are more interested in joint benefits than in distribution; and thus will cooperate as long as they are better off, regardless to how much the other state gains (Vezirgiannidou, 2008:42). Furthermore, as Lipson points out, concerns for relative gains will vary depending on, among other things, whether states are allies or adversaries (Lipson, 1984:12-18). I suggest that when states have similar institutions they are less likely to view each other as potential threats (or adversaries, if one prefers Lipson's nomenclature) and are thus able to reap the absolute gains of extradition.

It is very unlikely that in any extradition situation that both states will gain equally. Accordingly, because of the very real likelihood that one state will gain more, states that view each other as potential threats, are unlikely to engage in extradition. I suggest that states with divergent political, economic, and cultural institutions will feel most threatened by each other.[52] Accordingly, they are likely stuck in a relative gains mindset and unlikely to cooperate in the realm of extradition.

On the other hand, states with similar political, economic, and cultural institutions will be desirable partners for several reasons. First, as I have suggested states want the benefits of extradition; if they are free from the aforementioned threats they can now reap those benefits, unencumbered by concern for relative gains. Again, I must reiterate the threat need not be real and can simply be based on perception. Also, for the purposes of analysis it is difficult to distinguish between a real and perceived threat. Accordingly, hereinafter I will only refer to threat. Furthermore, the increased security of like-minded states, which results from engaging in extradition, has the added systemic benefit of fostering the proliferation of their shared institutions. I believe it is reasonable to suggest states would rather exist in a world of friendly states rather than threatening states. Accordingly, states that share institutions can focus on the absolute gains to be reaped through extradition.

The preceding argument begs the question: why are states with dissimilar political, economic, and cultural institutions threatening, while those with similar institutions are not? The answer hinges on the interrelated concepts of identity and interest. In the upcoming paragraphs, I first offer a definition of an institution and then I propose several explanations why I believe that certain states are perceived as threatening while others are not. It may be the case that one of these explanations by itself is insufficient to justify the threat dynamics I propose; nevertheless, taken in the aggregate, I believe they do support my claims.

Definition of Institution

Naturally, not every dimension upon which states vary is an institution. Unfortunately, this important concept is often undefined or ill-defined. Much of the

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[52] To be clear, this is not only a matter of a physical threat. A state may be threatened by another's culture, political institutions, and economic institutions, even when it is vastly superior in terms of military strength.

research on the importance of institutions seems to assume that the reader already knows the definition. I make no such assumption. For the purposes of this project, institutions are rules that govern behavior.[53] They can be singular or bundled. Although, for the most part, the institutions I discuss are embodied in established jurisprudence (e.g. constitutions, codes, and cases) there is no necessary distinction between formal or informal; it seems doing so would be arbitrary and offer little benefit. For example, keeping your contracts could be an institution, regardless to whether it has the official stamp of law.

Institutional Threats: Some General Claims

States, like people, will tend to form in-groups and out-groups based on perceived common interests (Hermann and Kegley, 1995). One way to distinguish between such groups is similarity in domestic institutions (Werner and Lemke, 1997:532). One's in-group is typically less threatening than the out-group (Werner and Lemke, 1997:532). Thus, foreign policy decisions will be biased towards one's in-group.

Furthermore, leaders' interests are closely tied to the institutional structure within which they find themselves and thus they will view states with divergent institutions as threatening (Werner and Lemke, 1997:533). The institutional argument can be traced back at least as far as Kant who proposed that the path to perpetual peace could be achieved where all states shared the same institutional structure. For Kant, this structure was democratic institutional similarity.[54] The reasoning has been extended to institutions more generally, both economic and political; and applies to both cooperation and conflict (Werner and Lemke, 1997; Werner, 2000; Souva, 2004).[55] Accordingly based on these

[53] Some may suggest I am conflating an institution with a norm. That is probably true. Nevertheless, I do not think it really matters to my argument. This is a debate others can engage in, I will just touch on a few points. For one, it makes little sense to me to define an institution as rules or norms that have been institutionalized. Perhaps formalized would be a better word to avoid circularity in the definition. Nevertheless, formal and informal institutions are functionally equivalent. Anyone who finds this confluence offensive can call one a norm and the other an institution. Furthermore for the purposes of the theory, I don't believe it makes a difference if you replace the word institutions with the word norms in the following: states seek to enhance their security by protecting and expanding their institutions and the institutions of those with which they identify.

[54] The institutional explanation is only one facet of Kant's work. For a more thorough treatment see Danilovic and Clare (2007).

[55] Furthermore, since the evidence suggests that states with dissimilar institutions more often engage in conflict, it is reasonable for a state not to desire to increase the security of a state it is likely to be in conflict with.

dynamics, states are more willing to sign extradition treaties with those states which share these similar institutions.

Some Specific Claims

In defining an institution, I intentionally chose the word govern instead of structure because for the purposes of this study, rules must be strong enough to have the potential to generate a threat.[56] Threat is crucial to my analysis. Only rules that are threatening will discourage states from cooperating in extradition. I argue that states with different political, economic, and cultural institutions are threatened by each other for several reasons. First, states with divergent political rules (e.g. rules regarding executive recruitment and constraint, rules regarding political competition, etc.) are perceived of as threatening because political rules determine how leaders acquire and maintain power (Werner and Lemke, 1997:532).

Second, states and their leaders may feel threatened by those states which encourage different economic rules, for among other reasons, these rules can affect the distribution of resources in society and leaders in part maintain power through the allocation of those resources (Souva, 2004:265). Although different institutions may achieve similar objectives, such as managing political life and arranging economic exchange, the form of the institution will affect the identity of the beneficiaries (Werner and Lemke, 1997:532). Since a leader either chooses or is chosen by the institutional structure she finds herself, she would likely feel threatened by a system that alters the class of beneficiaries. For example, a leader of a socialist system who acquired power within a system that favors wealth redistribution will likely be threatened by a system which favors wealth concentration since in such a system the leader will lose the ability to provide those benefits which previously helped him get him into office.

Third, states with divergent cultures will be viewed as a threat to the very fabric upon which those societies are based (Huntington, 1996). Accordingly, I believe it is reasonable to classify culture as a potentially threatening institution. Shortly, I will offer a more involved analysis of culture.

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[56] Institution has been defined as "sets of rules that structure interactions" (Baldez, Epstein, and Martin, 2006:251).

Fourth, the existence of alternatives (political, economic, and cultural institutions) may weaken the legitimacy and inevitability of your system, making it more costly to enforce your rules (Werner and Lemke, 1997:532). Enforcement costs are likely lowest when there is a common consensus as to how things should be done. When alternatives exist, enforcement costs increase because elite and popular expectations regarding acceptable and expected behavior change.[57] For example, it is easier to justify government interference or non-interference with private property (perhaps through taxes), where only one of these approaches is viewed as a valid alternative. This may help explain why, in a system such as the United States, where protection of private property is well entrenched, universal health care is a hard sell.

Fifth, if we believe that divergent institutions are likely to generate disagreements and may lead to intervention, leaders may recognize this and conclude that states with divergent political, economic, and cultural institutions may actively promote their internal challengers (Souva, 2004:266).[58] Accordingly, such states may be particularly threatening.

Finally, if we accept the literature which suggests that states with divergent political and economic institutions are more likely to experience conflict (Souva, 2004), than it is probable that those states view each other as threatening.[59] Clearly, likelihood of conflict could influence threat perception.

Legal system is not included in this part of the analysis because there is not much evidence to suggest that states fear states with different legal systems. As far as I can tell, states do not fight wars or attempt to topple governments based on such things as varying rules of evidence and burdens of proof. These may affect the opportunities to benefit from extradition (as will be discussed, shortly); but it is hard to see how they will pose any threat worthy of note.

Thus far I have established that states with divergent political, economic, and cultural institutions are likely to view each other as a threat. Now the question is: how does threat effect decision to sign. I believe that it is not completely correct to suggest

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[57] Although Werner and Lemke (1997) utilize this argument to support their claims regarding economic institution similarity, I see no reason why it will not hold for culture and political institutions as well.
[58] This argument is suggested by Werner and Lemke (1997). I just expand it to include culture.
[59] And culture, if we believe Huntington's (1996) theoretical arguments.

that states sign because of their shared institutions, per se. I believe it is more correct to argue that shared institutions allow states to reap the benefits of extradition because states with similar institutions do not experience all the aforementioned threats associated with divergent institutions. Accordingly, I argue that institutional similarity should increase the probability of signature. However, because authoritarian regimes may face other obstacles to cooperation, I create two separate variables for institutional similarity. In the next section, I briefly explain why. Admittedly, this section was written with the benefit of hindsight and is offered primarily to explain lack of cooperation between autocracies. I place it here instead of in the results chapter or conclusion because it poses some interesting theoretical discussions.

Authoritarian Dilemmas

Cooperation in extradition requires a state to give up some of its internal independence. Because of their emphasis on concentrated power (in a dictator, a party, etc.), self sufficiency, paranoia in losing power, and perhaps desire to keep internal matters secret, Non-democracies may be unwilling to cooperate on matters which they believe are of a purely internal concern. Accordingly, it is not farfetched that non-democracies may cooperate in alignment choices (Werner and Lemke, 1997) but not in extradition. On the other hand, joint democracies which already share power internally and are more open generally, might find it easier to cooperate in extradition.

The above analysis begs the question whether my concerns regarding the internal dynamics of non-democratic regimes apply equally to economic institutions. I do not believe this is the case. In some sense, the whole theoretical back-bone to economic systems based on government involvement is to cooperate with those systems which have similar values. In fact, that was the system envisioned by Karl Marx. Accordingly, the distrust, fear of losing power, etc. that I mentioned in the previous paragraph applies to non-democratic political systems and not to "totalitarian" economic systems. Accordingly, it is reasonable to conclude that we will find cooperation among totalitarian economic regimes without finding it among non-democratic regimes.

However it is more difficult to dodge a similar question that arises regarding culture. In other words, if autocracies fail to cooperate because of internal matters such as fear and secrecy, can this reasoning equally apply to certain cultures? It seemingly

could, unless cultures cooperate less because of the release of fear due to shared institutions and more because of the opportunity benefits that arise from shared culture. This is difficult to address. Perhaps a better explanation of autocracies not cooperating is below.

Although Non-Democracies might be willing to sign extradition treaties based on their shared political institutions, signature could be prevented due to the lack of opportunity benefits. In other words, non-democracies might not find much need for a treaty. This is because their lack of judicial safeguards would allow for extradition even in the absence of a treaty.

Accordingly, it is difficult to say whether non-democracies will sign extradition treaties with each other. On the one hand, there are all the theoretical arguments that their shared institutions should encourage signature. On the other hand, there are the internal politics and the lack of opportunity benefits vitiating against signature. I suppose this matter could be resolved, at least in part, if we knew whether non-democracies extradite in the absence of a treaty. Among other things, this would clarify whether a treaty was unnecessary.

Unfortunately, there is no way to determine whether non-democracies do in fact extradite. Even for democracies, the data on extradition is sporadic; for non-democracies it is non-existent. While I admit that there are problems, I equate signing a treaty with cooperation; as I have argued previously, extradition without a treaty is not really international cooperation because it does not establish an international obligation. Accordingly, if non-democracies do not sign, I conclude that they do not cooperate. To be clear, this does not mean that they do not extradite, only that they have not obligated themselves to do so. Thus, to test the political institutions argument, I create two dichotomous variables; one each for joint democracy and joint autocracy.

Although from the foregoing it is clear much remains to be done, this dissertation will begin to shed light on the ever-increasing important topic of extradition by clarifying the theoretical justifications for signing extradition treaties and hopefully offer some theoretical support for those justifications.

A Brief Note on Culture

Before moving on, I would like to stress that culture affects both willingness and opportunity to benefit. I have included it in the willingness portion of the analysis primarily for heuristic purposes. In part, putting the cart before the horse, here I will briefly offer both a willingness and opportunity explanation for cultural cooperation. Although Huntington argues that culture is a potential source of conflict (Huntington, 1996), I suggest that where states share a similar culture, we are more likely to see cooperation in extradition.

Huntington breaks the world into nine cultural groups. These groups are the African, Sinic, Japanese, Islamic, Budhist, Hindi, Latin American, Orthodox, and Western (Huntington, 1996:45-48). Huntington's primary contention is that post-Cold War conflict will be between these civilizations and not ideological or economic (Huntington, 1993:207). These differences in cultural identities will generate disagreements and the formation of an "us" versus "them mentality, leading to polarization and an increase in conflict (Huntington, 1993:211). I suggest that in addition to increasing the likelihood of conflict, divergent cultures will also experience less cooperation. Consistent with the forgoing willingness based explanations, if different cultures create an "us" versus "them" mentality and increase the likelihood of conflict, it is reasonable to believe that these differences create the perception of threat that adversely effect states' decisions to sign.

Another reason culture matters is that fugitives fleeing a particular society will find it easier to relocate to places with a similar culture to their home country. There they will less likely be viewed as a stranger and will find it easier to survive (Shearer, 1971:7). Accordingly, states with similar cultures have a greater opportunity to benefit from extradition, since states which similar cultures are the very states where fugitives will likely flee. Admittedly, culture is an elusive concept that is difficult to define; it is often equated with religious/and or ethnic similarity. For the purpose of this project, I will not engage in the polemics regarding the conceptualization of culture. For the most part, I assume that Huntington's conceptualization is adequate. From the foregoing, I generate three hypotheses.

H1: Similar political institutions increase the probability of signature

H2: Similar economic institutions increase the probability of signature

H3: Similar culture increases the probability of signature.

Opportunities to Sign

Introduction

Thus far, I have argued that states are more willing to cooperate when they have similar political, economic, and cultural institutions. However, that is only part of the story. States may be willing to cooperate because of their shared institutions; nevertheless, there may not be much opportunity to reap the benefits of extradition. States are more likely to sign extradition treaties when opportunity to benefit from extradition increases. Opportunity to benefit is equated with the likelihood of fugitive exchanges. In this section, I highlight the three most important opportunity variables: similar legal systems, geographical distance, and major power status. I spend more time on legal systems than on the other opportunity variables because the argument regarding similar legal systems is more involved and doing so allows me to introduce some important extradition concepts.

Similar Legal Systems

I conceptualize similar legal system as an opportunity variable because I do not believe states' willingness to sign is affected by threats generated from divergent legal systems; rather states sign with those states that share similar legal systems because those situations provide a greater opportunity to capitalize on mutually beneficial reciprocal relationships.[60] I am primarily concerned with how legal systems vary on their understanding and interpretation of criminal laws. Where states have divergent understandings and interpretations, they will find it increasingly difficult to benefit from

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[60] Admittedly the opportunity/willingness distinction can become blurred. One could argue that states are more willing to cooperate when there are more opportunities to benefit. In attempt to avoid this problem, willingness should be defined narrowly as: states desire to cooperate in extradition (as manifested by signature) based on perceptions of threats to its political, cultural, and economic institutions. These perceptions are, in large part, independent from whether there are in fact concrete opportunities to benefit. In fact, some scholars have argued and there are some serious theoretical reasons to believe that there will always be some benefits to extradition. These scholars have suggested a universal declaration on extradition.

extradition.[61] Legal system is used as a proxy to tap into states' beliefs as to whether they will benefit.

This argument is close to the one highlighted by Powell (2006). Powell suggests that international cooperation can be viewed as a contractual relationship. Additionally, legal system types influence the probability of signing interstate contracts because they affect the costs, benefits, and uncertainties associated with such agreements (Powell, 2006:5). This is because different legal systems interpret and apply various legal doctrines (such as stare decisis and pacta sunt servanda) in disparate ways (Powell, 2006:20).

My argument differs from Powell's in at least two aspects. First, I do not believe it necessary to refer to international cooperation (or more specifically and for present purposes, extradition treaties) as a contractual relationship in order to argue that costs, benefits, and uncertainty matter. Furthermore, many contract principles are not applicable to treaties. For example, today third parties (those not explicitly parties to the contract) can often sue to enforce contracts, if they were incidental or intended beneficiaries. This is not true for most treaties and is certainly not true for extradition treaties where individuals have no right to enforce. Also, unlike contracts where parties can be required to perform, states cannot usually be compelled to comply with a treaty. Treaties may create obligations and duties under international law but given that there is no party which can compel compliance, I do not believe it appropriate to refer to treaties as contracts.

Second, Powell considers broad legal doctrines as influencing cooperation, generally. I focus on legal principles that are relevant in a specific issue area (i.e. criminal law and perhaps, even more narrow, the law of extradition). Some of the doctrines Powell highlights are not applicable in the domain I study.

For example, it is difficult to understand how the adherence to precedent (common law systems) or the lack of adherence to precedent (civil law systems) would effect a state's decision to sign an extradition treaty. Perhaps, adherence to precedent

[61] Perhaps one could argue that these similar understandings decrease transaction costs as well as negotiating and bargaining costs. However, I prefer to think of this in terms of potential benefit, instead of costs. This is because, due to the importance of extradition, states will be willing to bear the costs of negotiating and bargaining (in part to reduce potential transaction costs) where they believe it will increase their ability to bring fugitives to justice (i.e. benefit from extradition).

serves to highlight the role of judges and the importance of judicial decisions. Even if this is the case, judges, if they have a role at all, are heavily constrained during the extradition proceedings. In the United States, where judges have more power than in many other places, they still play only a very limited role; they determine whether the individual is extraditable pursuant to the treaty. They do not determine whether the treaty is fair, whether the individual will in fact be extradited, or what punishment or protections he will be afforded if he is extradited.

Neither does the doctrine of pacta sunt servanda play a major role in state's decisions to enter into extradition treaties. The mantra pacta sunt servanda is often heralded as an admonishment to keep your promises. The emphasis is almost exclusively on states performing their duties in good faith. Additionally, the impact of this principle may vary across legal systems (Powell, 2006:30-32). For example, Powell suggests that common law systems are much more likely to find that contracts are terminated by some event which occurs after formation, such as the destruction of the subject matter of the contract. (Powell, 2006:30). Additionally, the principle of pacta sunt servanda serves a cornerstone of Islamic legal systems (Powell, 2006:31). Although I agree that legal systems vary in their understanding and interpretation of pacta sunt servanda, it is irrelevant in the realm of extradition. This is because I do not view pacta sunt servanda as requiring that you keep your obligations, but only that you attempt to do so in good faith.

I suggest that states will always attempt to keep their extradition promises if they desired to make such promises in the first place. For example, if the United States is deciding whether to sign an extradition treaty with China (or any other state), it would not be concerned with whether China will meet its obligations in good faith (make reasonable efforts to perform its duties). This is because the benefits of compliance accrue to the state while the costs of overzealous compliance primarily hurt the individual who is being extradited. Nevertheless, it is reasonable to believe that similarity in legal system may matter when it affects a state's ability to reap the benefits of extradition

In this section, I argue that variance in certain legal understandings relevant to extradition proceedings may hinder a state's ability to benefit from extradition. This is a different question from whether states will use good faith efforts to comply.

Extradition is grounded in the concept of reciprocal benefit. In other words, I will extradite in the case of A, B, and C; so long as you extradite in the case of A, B, and C. I argue that it is the potential for reciprocal benefits, which determine whether states will commit to extradite. Whether states will gain reciprocal benefits is intimately connected with whether states have similar understandings regarding important extradition concepts. The notions of extraditable offenses, jurisdiction, and double criminality all arise out of the elements of reciprocity (Gilbert, 1998:84). When states share similar notions regarding these concepts, they are more likely to enter into extradition treaties.[62] The body of law for any one state is massive, complex, and in flux. No treaty can account for all exigencies, nor can any state be certain the terms they use will have the effect they intend. Accordingly, all other things equal, states will have to use "rules of thumb" in choosing who to enter into extradition agreements with. In other words, they will try to pick states with similar overall legal understandings. In the next few sections, I highlight some legal principles, where there could be potential disagreement, in order to demonstrate why rules of thumb are necessary.

Extraditable Offense

Although, it harkens as a truism: in order for a person to be extradited, the offense they committed must be extraditable. The extraditable character of an offense is usually determined in two ways (or some combination of both): 1) the treaty contains a list of extraditable offenses (enumerative method); or 2) the treaty lists a minimum penalty requirement (eliminative method) (Gilbert, 1998:84). If neither of these is shown, the individual is not extraditable. Problems with reciprocity can result from misunderstandings under either of these standards.

For example, let us say the treaty lists arson as an extraditable offense. If one country requires intentional conduct, while the other requires only negligent conduct, the treaty may result in inconsistent rights and duties. Because of the enormous quantity and complexity of law, countries are going to be unable to account for every contingency

[62] Obviously, there are other legal principles at play, such as varying evidentiary rules (Gilbert, 1998:127). I am only highlighting those I believe are the most salient.

prior to entering the agreements, thus to insure that there is a good likelihood of reciprocity, they will have to rely on overall commonality.[63]

Problems may also result when the eliminative method is used. Countries have different sentences for the same crimes. Let's assume a treaty states that in order for extradition to occur the offense must carry a minimum sentence of 1 year, in both countries. If in one country the crime has a minimum sentence of 1 year and the other the minimum sentence is 6 months, you have a situation where the former would have intended that extradition would occur, but it won't because the disjuncture in sentencing.[64]

Jurisdiction

Although jurisdiction is not always mentioned explicitly in treaties, it is always in the background. Obviously, the requesting state must have the competence to prosecute the offender, if surrendered (Gilbert, 1998:86). However, there are potential problems, when the requested and requesting states recognize different principles of jurisdiction.[65] For example, common law states have traditionally relied exclusively on territorial jurisdiction (i.e. no jurisdiction for acts and/or consequences which occur outside the state); while civil law states have relied on various forms of extraterritorial jurisdiction Gilbert, 1998:86). Whether a requested state will surrender often depends on whether it will respect the asserted claim of jurisdiction (Gilbert, 1998:87). Accordingly, I argue that countries are more likely to enter into extradition treaties when they have similar understandings of jurisdiction without which surrender of fugitives may be difficult to achieve.

[63] Assuring commonality before hand is even more important where some have required not only that the offense be the same, but also that it have the same name (Shearer, 1971:132).
[64] The situation is exacerbated, where a country has no minimum for certain crimes. This may even be for serious crimes, such as manslaughter (Shearer, 1971:136).
[65] Some states have tried to ameliorate these problems by providing that extradition is only warranted where the requested state would have had jurisdiction under the same fact pattern (See Extradition Treaty between the U.S., the United Kingdom, and Northern Ireland (2003). However, note that this treaty allows for executive discretion if jurisdiction requirement is not met.

Double Criminality

Perhaps the most important concept to consider is double criminality. It is closely linked to the notion of extraditable offense except it may be in effect regardless to it being explicitly referenced in a treaty. This is because it is arguably a principle of customary international law (Gilbert, 1998:104). It holds a state is not required to extradite, when the offense is not a crime under its laws (Gilbert, 1998:104).[66] Although this may be counterintuitive, I argue the requirement is only that the act be criminal under the laws of the requested state. This is because it is the requesting state that tries the case and determines guilt. The requested state only determines whether the individual is extraditable. The amount of evidence required to determine extraditability varies but is not the same as in a criminal case.[67] The extradition proceeding is not a criminal proceeding. A requesting state could take advantage of this situation by requesting the return of a fugitive on grounds that might not be, according to an objective standard, against its laws. Accordingly, the requested state may be in the odd situation of having to extradite an individual, who would not be extraditable to it.

Some Concluding Thoughts

Finally, if the affects of political, economic, and cultural institutional similarity are very strong, empirically it may prove difficult to elicit much of an independent affect from similarity in legal system. It is plausible that similar legal system primarily comes into play after countries are already similar on these other dimensions; it offers them a means to further discriminate. Also and pragmatically, it may be difficult to conclude that variance in legal principles, in and of themselves, will prevent states from signing

[66] Gilbert suggests double criminality, if properly used, can serve as valuable protection to a fugitive (Gilbert, 1998:112). In some sense, this is true; but it must be remembered that the decision whether to extradite is still up to the state. Furthermore, it can be argued it is in a state's interest not to extradite, when the offense in question is not illegal under its laws. This is because by extraditing, in some sense, the requested state, would be sanctioning the law as appropriate and weakening the position of its own law.

[67] Common law countries generally require more evidence and have tougher standards then civil law systems (Gilbert, 1998:127). Furthermore, some states compel a showing of a prima facia case. Although it is not always clear what establishes a prima facia case, one court concluded the rule required the magistrate to see whether "if the evidence adduced stood alone at the trial, a reasonable jury, properly directed, could accept it and find a verdict of guilty" (quoted in Gilbert, 1998:122). Some suggest that the prima facia requirement protects individuals from being extradited too easily (Gilbert, 1998:126). Although this may be in some sense true, the standard if proof is still pretty low. For example, imagine being convicted for a crime based on the theory that a reasonable jury could conclude that you are guilty from the prosecutors uncontested evidence. This standard would seem to guarantee conviction for all cases brought by prosecutors. Additionally, a prima facia requirement is the best an individual can do. Most civil law states require much less evidence.

extradition treaties (at least in the presence of these more important institutional variables). Furthermore, it is difficult to believe that states with divergent institutions will sign, just because they share similar legal understandings. Accordingly, the affect similar legal system has might be contingent upon whether states have similar political, economic, and cultural institutions. However, due to methodological as well as other potential complexities, the testing of these possible contingent affects is left for another time.

Thus, my fourth hypothesis follows.

H4: Similar legal system increases the probability of signature

Geography

Although geography has often been deemed a source of conflict, it may also offer an opportunity for cooperation. Historically, "extradition to and from geographically remote countries is extremely slight compared with countries having common land borders with several other countries" (Shearer, 1971:2). The argument is primarily one of practical necessity. If a fugitive is to flee, the easiest place to go is somewhere nearby. Accordingly, countries will have a greater interest in seeking extradition arrangements with those nearest.

H5: Geographic proximity increases the probability of signature.

Major Power Status

I argue major powers will more likely have extradition agreements than other countries because of their need for extradition and their ability to extradite. I believe this can mostly be viewed as an opportunity variable because what we really are implying is that major powers have a greater opportunity to benefit from extradition due to their status in the international system. This is consistent with the historical evidence suggested by Bassiouni (2001).

Some Caveats and Concerns

Some may suggest that signature is a costless commitment or signal and thus my study is apt to bear no fruit. There are at least three answers to this criticism. First, as is suggested throughout this dissertation, states which do sign go out of their way to comply.[68] Therefore, signature seems to exert a powerful effect on compliance. Second, if signature were costless, we would expect that states would always sign. This is not the case. For example, the United States, which has more extradition treaties than any other country, still does not have treaties with almost half the world. Third, negotiating and drafting extradition treaties is a very long, complicated, costly endeavor. States would not exert all this effort if signature where an exercise in futility. In short, the most crucial step is probably signature; the rest is often a sort of fait accompli.[69]

Research Design

Unit of Analysis and Methods

Given the reciprocal nature of extradition and my theoretical arguments, the unit of analysis is the dyad. A dyad is a pair of independent countries. The methodological approach is as follows.

I model signing an extradition treaty as a repeatable event because countries sometimes do sign more than one extradition treaty with each other. Usually these amend or modify previous agreements. This should probably be considered a new example of cooperation because countries could simply choose not to comply instead of modifying. Occasionally, although rarely, you may see a completely new treaty; again this should be conceptualized as a further example of cooperation. Accordingly, it is probably best to estimate the model as a repeated event.

My dependent variable is dichotomous and is coded 1 for any year that there is signature. Because signature may be influenced by how many years a state has gone without signing, I will control for temporal dependence. One method of doing so is

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[68] Technically, compliance would come after entry into force and not signature. Nevertheless, it does seem the case that most treaties signed do enter into force; and thus, signature is indirectly pushing compliance. For example, every treaty signed by the United States, eventually entered into force.

[69] Part of the reason compliance is perfunctory is due to the low burden of proof. This is the case even where the principle of double criminality is at issue. Although the principle of double criminality is thought to be a primary mechanism for the protection of individual rights, in the vast majority of cases where it is at issue the defendant loses (for a list of cases see 132 ALR Fed 525).

suggested by Beck, Katz, and Tucker (1998). This method involves the creation of a variable for years of non-signature and three splines.

Temporal Domain

The starting date of the analysis is 1945. This is the date from which the UN dataset attempts to be comprehensive. The ending date for my analyses will vary depending on the variables included in the model but will end at 1992. Although1995 is the last date of The UN dataset, a look at the data suggests that it fails to be comprehensive post 1992. The World Treaty Series ends at 1989. The full model runs from 1945-1986. This is because my variable for economic institutional similarity ends at 1986.

Data and Explication of Variables

Dependent Variable

The dependent variable is coded 1 for any year a pair of counties sign. All other years are coded as 0. Data are drawn from The United Nations Dataset on extradition related treaties and from the World Treaty Series. The UN dataset contains several different types of extradition treaties and is organized by country. I pull out only the bilateral extradition treaties. Also, drawing from the Index to the World Treaty Series, I create a dataset of bilateral extradition treaties.

Primary Independent Variables

Political Institution Similarity

I utilize the Polity IV dataset to construct dyadic measures of institutional similarity. Polity scores range from -10 to +10; from most autocratic to most democratic. This measure will tap into what Danilovic and Clare (2007) refer to as electoral or procedural democracy. It includes concepts of executive recruitment and constraint, as well as electoral competition. I create two dichotomous variables.

I use the coding suggested by Marshall and Jaggers (2007). If both countries score greater than +6, you have joint democracy. If both have a score of less than -7, you have joint autocracy.

Economic Institution Similarity

Consistent with Werner and Lemke (1997), I measure economic institution similarity with the Polity II's scope variable. The scope variable indicates "the extent to which all levels of government … attempt to regulate and organize the economic and social lives of the citizens and subjects of the state." Admittedly there may be better measures, such as those drawn from the International Country Risk Guide (Souva, 2004). However, utilizing these measures would result in a loss of many of my cases because these data are only available post 1980. Since missing data may be even worse than omitting the variable completely, I choose the scope variable. It is the most comprehensive in terms of countries covered and years. Furthermore, it has been utilized as a measure of economic institutional similarity in at least one published paper.

The scope variable ranges from 1 to 9. To create my measure, I take the absolute value in the difference in country scores. I divide this value by 8 so that scores range from 0 to 1, 1 being the least similar.

Cultural Similarity

I use a measure which is based off of Huntington's conceptualization; it was created by Ellis (2007). It is coded 1 if states come from the same culture; 0 if they do not.

Opportunity Variables

Similar Legal System

My measure for similar legal system come from Mitchell and Powell (2007) and Powell (2006), I code three mutually exclusive dichotomous variables. Where both states are either both Common Law, both Civil Law or both Islamic legal systems are coded as 1, otherwise each are coded as 0. Legal system is assumed static over time.

Geography

I account for geography by considering the great circle distance between capitals. It is generated using EUGene 3.201 (Bennett and Stam, 2000).

Major Power Status

I create a dyadic measure coded one if either country is a major power. The data to create this variable is generated using EUGene 3.201 (Bennett and Stam, 2000).

Other Variables

Now having discussed my primary theoretical arguments, I will briefly highlight the other variables used in this study. Because I am unaware of any studies in political science which empirically access signature of extradition treaties, most of these variables are gleamed from descriptive and theoretical studies of extradition as well as the tangential international conflict and cooperation literature.

Past Interdependence

Treaties could simply be a result of past interdependence. Since my theoretical arguments focus on security issues, I believe the best way to control for past interdependence would be to choose a variable that measures security interdependence. I pick military alliances. I argue that countries which are already allied militarily are more likely to sign extradition treaties. Alliance is coded 1 when there is any sort of alliance (i.e. defense pact, neutrality agreement, or entente); otherwise the variable is coded as 0. The data to create this variable is generated using EUGene 3.201 (Bennett and Stam, 2000).

Although, I believe that alliance ties best control for the sort of interdependence at issue in this study, I also control for trade interdependence. Choosing a trade interdependence measure is a bit complicated. Originally, I created and tested two measures. The data come from Gleditsch (2002). The first is used most often and probably is best referred to as trade dependence. A state's dyadic trade (i.e. imports to its dyadic partner plus exports from that partner) is divided by its gross domestic product. Only the lower of the two states scores is included. This is known as the weak link approach.

The other method is to take dyadic trade as a percentage of total trade. Then each state's score is added together to create a measure of interdependence. Although, I believe this measure better captures the notion of interdependence. The former has been preferred because it is believed that it better accounts for how important trade is to a countries economy. However, I think the weak link approach really gets at trade dependence and not interdependence because it taps into how much one country in a dyad depends on the other and not whether they trade with each other more than they trade with others. In the analysis, I only report the weak-link measure, because that is the one

most used in the literature. Regardless of what measure is used and no matter how it was scaled, trade interdependence did not have any effect.

Previous Extradition Treaty

Dyads that already have extradition agreements are more likely to enter into future agreements. Over time, treaties may need to be updated and modified, for among other reasons, the addition of new crimes. This measure is analogous to the previous failures variable generated by the btscs (binary-time-series-cross-sectional) data analysis utility created by Tucker (1999). I create a dichotomous variable which is coded 1 if there is a previous treaty, otherwise coded 0.

Conceptual Model

Signature = *f* [Similar institutions (political, economic, and cultural) + similar legal systems + geographic proximity + major power status + alliance ties + trade interdependence + previous extradition treaty + years of no signature]

CHAPTER 4

RESULTS

INTRODUCTION

Now having presented the theoretical arguments, it is important to determine whether the available data support the theory, and if not, to seek to understand why; perhaps bad theory, bad data, or both. My analyses are multifaceted. I begin with some rudimentary description of the characteristic of states which sign. Then, I discuss the rudiments of statistical significance; briefly pointing out differences between models and highlighting where the theory is supported and where it lacks support. Third, I present predicted probabilities and offer a substantive interpretation of the significant variables. Finally, I offer admittedly ad hoc explanations of the findings which were unexpected.

Description

In this section, I present some general numbers on how often states which share certain characteristics sign extradition treaties. These findings are presented in Table II. Although such statistics cannot be used as a definitive test of the theory, they are useful for gaining a common sense understanding of the findings and may shed light on some of this study's fundamental findings. The full dataset contains 232 instances of signature. Joint democracy accounts for 127 signature, while joint autocracy only accounts for 5. In other words, countries which are both democracies have signed about twenty five times more treaties than countries, which are both autocracies. Countries with a similar culture sign the second most number of treaties, with 109 signatures. Where pairs of countries have at least one major power, there are 86 treaties signed. When countries are formally allied, there are 66 signatures.

Among the similar legal system variables, joint civil law systems have the most signatures, with 63. Joint common law systems have 28 signatures and joint Islamic only 2. The similar legal system numbers may at first blush seem surprising given that only joint common law is significant in the full model. Although similar civil law systems sign about twice as many treaties, they account for about ten times as many observations. By far the most common legal system in the world is the civil law legal system.

Additionally, some points can be uncovered by looking at which states sign the most. Although most states sign at least 1 treaty, certain states do seem to predominate.

Table V lists the top ten extradition countries. The three democratic members of the UN Security Council are all represented. The United States has the most treaties with 49 signatures. France is third with 22. The United Kingdom is tied for 8th with 18 signatures. Nowhere on the list is China or Russia (The Soviet Union) the two autocratic members of the Security Council. Interestingly, two top performers are Australia (2nd with 27 signatures) and Israel (tied for 6th with 19 signatures). Israel's place might be explained due to its late arrival to the system of states and its attempts to create strong ties with the international community, due to its security concerns. Australia's place might be explained by its historical strong ties to western countries, such as the UK and the United States. Given its strategic importance post 1945 and its current economic strength, it is not surprising that West Germany is 4rth with 21 signatures. The remaining states on the list are all European countries that were former influential powers. Spain is tied for 4rth with 21 signatures. Belgium is tied for 6th with 19 signatures. Austria is tied for 8th with 18 signatures. Finally, the Netherlands is tenth with 16 signatures.

Statistical Significance and a Brief Explanation of Model Differences

Theory Supported

The results presented can be found in Table II. Joint democracy, economic institution similarity, culture, joint major power, and distance are all significant at the .05 level or better and in the hypothesized direction. In other words, when both states are a democracy, have a similar culture, at least one is a major power, are nearer each other geographically, or are economically similar, we find an increase in the likelihood of signature. Furthermore, all of these variables are robust through several model specifications.

Accordingly, the evidence supports the conclusion that when states have common economic institutions, culture, or are both democratic, they are able to transcend considerations of relative gains and reap the reciprocal benefits of extradition. These states are free from concerns of security threats that states with dissimilar institutions must continue to struggle with.

Furthermore, there is support for the theory that when states are close geographically and when at least one is a major power signing becomes more appealing.

This is because these states experience an increased opportunity to benefit from extradition. In other words, when states are near each other or are powerful, extradition is more likely to accomplish its purpose (i.e. that fugitives will be exchanged).

Also, the number of years a dyad goes without signing is significant in every model at the .10 level. In other words, there is some support for the notion that the longer a dyad goes without signing, ceteris paribus, the more likely it is to sign. It would seem that dyads face increasing pressure to sign an extradition treaty, the longer they go without one. Unlike, years of peace, which has a negative effect on conflict, the number of years a dyad goes without signing seems to have a positive effect on commitment to extradite.

However, this result is very tentative for two reasons. First, theoretically, there is still good reason to believe that time should adversely affect signature; a sort of inertia similar to years of peace. Second, and more importantly, if one looks closely at the data, there is a large cluster of signatures during the heart of the cold war (around the Vietnam era). More specifically, there are 75 signatures from 1965-1974. A break down by decade can be seen in Table IV. Although there seems to be a general increasing trend, this cluster cannot be ignored.

Finally, joint common law legal system is significant in the final model and in the model from the UN dataset. Accordingly, there seems to be some support for the notion that when states both have a common law legal system, they are more confident that fugitives will be exchanged and thus sign more extradition treaties.

Unexpected Findings

Trade dependency and alliance ties are insignificant in every model. Accordingly previous interdependence has no discernable effect. Additionally, Joint civil law and Joint Islamic legal systems also have no noticeable effect. This is also the case with past signature; thus, it cannot be concluded that a previous extradition treaty has an effect on future treaties. Finally, Joint autocracy is significant but in the opposite direction from expected. I will discuss these findings further in the last section of this chapter.

Explanation of Model Differences

These results are presented in Table II. I estimated three models. The first is only with the UN dataset. The second is with the World Treaty Series data. The final model

combines both datasets. I report only the models which are corrected for temporal dependence. As Beck, Katz and Tucker suggest, this is appropriate where there is temporal dependence. However, correcting for temporal dependence when there is no such dependence is inappropriate. LR tests show that there is dependence. For example, the test whether years of no signature and three splines should be included produces a chi-squared statistic of 20.31, which is significant. Furthermore, the p-values for these variables also suggest dependence.

Interestingly, the three models are not identical. This is because the UN dataset and the World Treaty Series contain some different treaties. This is in part attributable to their different time spans. However, even for the same time period they do not always overlap. Nevertheless, substantively, the results change little. The only statistical significance affected is the joint common law variable, which is insignificant for the World Treaty Series data.

Also, a casual look at the coefficients and statistical significance may suggest that substantively, years of no signature is more important in the model with the World Treaty Series data than for the UN dataset. This may be because the World Treaty Series contains fewer examples of amendments and modifications; thus dyads are more likely to have multiple signatures in the UN dataset, which would decrease the number of years between signatures.

Although the differences in these two datasets did not significantly affect my results, it should give researches some pause when they rely exclusively on either one of these datasets. Lack of reporting could cast doubt on many of the published studies on treaties. Furthermore, to increase the likelihood that I am not missing treaties, future research will expand this dataset by looking at other sources such as web pages and the World Fact Book of Criminal Justice.

Substantive Interpretations

Table III reports the predicted probability of signing given different levels of certain important variables, when the other variables are held constant. For purposes of substantive interpretation, I only report the results of the full model (.i.e. the model with all signatures). The variable of interest is allowed to vary from its minimum to

maximum, while continuous variables are held at their means and the other variables are held at their modal values. The predicted probability of the baseline model is .0003. In essence, we are calculating the change in predicted probabilities from a baseline model when we vary one variable in the model. Given that my dataset contains more than 200,000 observations and at most 237 signatures, it is not surprising that the probability of signing is low. Nevertheless, it is interesting to see how the probability changes.

When joint democracy is allowed to vary from the baseline model (from where at least 1 country is autocratic to both are democracies), the predicted probability increases to .001. In other words, a move towards joint democracy increases the predicted probability by about 3 times. On the other hand, the predicted probability of signing, when joint autocracy varies from 0 to 1 (from where at least one country is democratic to where both are autocratic), moves from .0003 to essentially 0. Clearly, both countries being democratic substantially increase the predicted probability of signature while joint autocracy reduces it.

Furthermore, the predicted probability of signing also increases when countries share a similar culture or common law legal system. Similar culture increases the predicted probability to .0008 and similar common law legal system increases the probability to .0005. Accordingly, the theoretical expectation that shared culture allows states to reap the benefits of extradition unencumbered by fears of relative gains has a substantive support as well; since shared culture also increase the predicted probability about three-fold from the baseline model.

The theory that shared common law systems increase the likelihood of reciprocity is also substantively supported. The predicted probability almost doubles to .0005.

As distance changes from its minimum to maximum, the predicted probability goes to essentially 0, at 4 decimal places. In other word when countries are very far apart, the predicted probability of signing is very low. As economic institution similarity moves from least similar to most similar we would expect about a .0003 increase in the predicted probability of signature.

To sum up the discussion of predicted probability, joint democracy seems to exert the strongest positive effect on signature, while joint common law has the least positive effect. Similar culture also exerts a positive effect on the probability of signature. On the

other hand, joint autocracy and distance both negatively affect the predicted probability of signing.

Summary

Most of the primary hypotheses are supported. Joint democracy, similar economic institutions, similar culture, shared common law system (at least in the final model and the model from the UN dataset), and geographic proximity all have the predicted effects. However the hypothesized effects of joint autocracy, and similar civil law or Islamic legal systems are unsupported. Before moving on to the concluding chapter, I would like to offer some possible explanations.

Lack of Cooperation between Autocracies

Interestingly but perhaps not surprisingly, two countries being autocratic decrease the probability of signature. In other words, there is no evidence to support the hypothesis that autocracies will sign with other autocracies so to enhance their mutual security. This is the case, even controlling for major power status. For example, there is no evidence in the current data sets that China or Russia have signed any extradition treaties. Although autocracies may be parties to formal alliances and perhaps seldom fight wars with each other, there is no evidence that they establish international commitments to extradite. As partly explained in chapter 3, this can be for many reasons. Here I reiterate those reasons and offer some additional remarks.

First, it may be the case that autocracies have no need for extradition treaties with other autocracies. They may simply not require a treaty. Accordingly, although they might not create an international commitment, they may nevertheless be cooperating. However, this is something that really cannot be known.

Second, it is possible that there is a bias in reporting. It may be the case that they sign but keep the agreements between themselves. A future study may be able to address this concern by looking at other sources. For example, China has a website that lists its extradition treaties. These are very recent and not included in my study. The earliest listed is in 1993.

Third, autocracies may be reluctant to bind themselves internationally to matters which they view as a domestic concern. Extradition would in some sense require

piercing state sovereignty by giving the requesting state access to your legal system. Autocracies which tend not to share power internally might be reluctant to share power when it comes to extradition.

Last, perhaps autocracies do fear other autocracies. Although they may choose not to physically attack each other and perhaps even defend each other, if attacked, this does not necessarily mean that they desire to foster the internal security of other autocracies. However, not doing so may be to their own long run detriment because if they fail to cooperate in extradition and other domains, they may allow democracies who cooperate to grow strong and flourish, which could threaten their very existence.

Lack of Cooperation between Civil Law and Islamic Legal Systems

Islamic systems almost never cooperate. It is difficult to identify why this is because there is virtually no discussion of such legal systems in the extradition literature. It could because there simply aren't many of them. On the other hand, there is a great deal of discussion of civil law systems. Although civil law systems do cooperate, the results are statistically insignificant. One possible explanation is that civil law systems are very diverse and thus this may make it very difficult for countries to know whether their extradition requests are likely to be granted.

In this dissertation, I have used similar legal system as a proxy for shared legal rules and understandings. Perhaps a better test is to actually classify countries based on those particular rules and understandings, instead of assuming that these rules and understandings cluster around particular legal systems. There is quite a bit of variety in rules among civil law systems (as well as other legal systems).

Finally, this study has not controlled for alternatives to extradition treaties, such as the prevalence of deportation and domestic legislation. The lack of these controls could explain the null findings for the legal system variables and for joint autocracy. For example, it could be the case that civil law systems extradite pursuant to their own domestic legislation instead of relying on treaties. However, one caveat to this explanation is in order. Much of the literature on extradition suggests that common law systems not civil law systems have often relied on reciprocal legislation to extradite. Nevertheless, a true test can only be done by looking at each state's extradition laws. That sort of nuanced test is left for another time.

Table I
Frequency of Signature for Selected Variables

Joint Democracy	127
Joint Autocracy	5
Similar Culture	109
Major Powers	86
Allies	66
Common Law Systems	28
Civil Law Systems	63
Islamic Law Systems	2

The maximum number of signatures is 237.

Table II
Coefficients, Standard Errors, and Statistical Significance

	UN	World Treaty Series	Combined
Joint Democracy	1.209 (.276) **	1.008 (.238) **	1.155 (.204) **
Joint Autocracy	-1.975 (.729) **	-2.153 (.594) **	-2.097 (.516) **
Similar Culture	0.828 (.277) **	1.045 (.248) **	0.982 (.211) **
Economic Institutions	1.889 (.732) **	1.315 (.580) **	1.417 (.516) **
Major Powers	1.740 (.261) **	1.364 (.236) **	1.372 (.200) **
Allies	0.393 (.278)	0.048 (.259)	0.188 (.217)
Trade Dependence	0.098 (.273)	0.276 (.396)	0.030 (.248)
Distance	-.00009 (.00004) **	-0001 (.00004) **	-.0001 (.00004) **
Common Law Systems	0.821 (.304) **	0.073 (.364)	0.485 (.264) **
Civil Law Systems	-0.355 (.292)	-0.160 (.234)	-0.142 (.205)
Islamic Law Systems	Predicts failure	-1.026 (1.030)	-1.140 (1.024)
Years Without Signing	1.448 (.838) *	2.746 (1.038) *	1.749 (.630) *
Past Signature	0.296 (.427)	0.282 (.404)	0.446 (.285)

Standard errors are in parenthesis.
* p<.01, ** p<.05

Table III
Probability of Signature When Variable Of Interest Is Allowed To Vary from Its Minimum to Its Maximum

	Effect of Change	Probability
Joint Democracy	Increases Probability	.001
Joint Autocracy	Decreases Probability	.000
Culture	Increases Probability	.0008
Economic Institutions	Decreases Probability	.0006
Common Law Systems	Increases Probability	.0005
Distance	Decreases Probability	.000

The predicted probability of signature in baseline model is .0003.

Table IV
Signatures Over Time

Years	Number of Signatures
1945-54	21
1955-64	51
1965-1974	75
1975-84	47
1985-92	43

Table V
Top 10 Extradition Countries

Country	Number of Signatures
United States	49
Australia	27
France	22
West Germany	21
Spain	21
Belgium	19
Israel	19
United Kingdom	18
Austria	18
The Netherlands	16

CHAPTER 5
CONCLUSION

In this dissertation I have developed and tested a model of states' decisions to sign extradition treaties. This was done in the hopes of achieving two primary goals. First, I wanted to understand states extradition decisions in a more generalizable fashion than was previously proposed. Second, I wanted to test and expand certain institutional arguments regarding international cooperation to include extradition. After all, as Wagner suggests state's extradition decisions should offer fertile ground to test many of the propositions of the Democratic Peace research.

I believe for the most part this project was a success. I have shown that many of the variables thought to influence international cooperation do effect states' joint decisions to sign extradition treaties. Economic institutions, culture, major power status, and distance all had an effect on signature. Furthermore, as Wagner thought, democratic institution similarity does increase the probability of signature. However, a more general political institution similarity argument does not always hold. There is no evidence that autocracies cooperate in their extradition decisions. Even the largest and strongest of autocracies fail to cooperate with each other.

For example, in the time period under consideration neither China nor the Soviet Union had any bilateral extradition treaties; while on the other hand, the democratic members of the United Nations' Security Council (i.e. the United States, France, and Great Britain) all had several. I have tried to explain why this is the case; nevertheless, at this time I can make few definitive claims. If autocracies cooperate in other realms, it is not completely clear why they do not here. Regardless, I believe the finding that autocracies do not sign is interesting.

Now having elucidated some of the factors which influence signature, a potential next stage of this project is to look at compliance. In other words, do states which sign actually cooperate? The descriptive and anecdotal research suggests that this is the case. In fact, most extradition experts go as far as arguing that extradition is virtually inevitable if there is a treaty. However, there has been no comprehensive test as to whether this is in fact the case. In part, this is understandable because there are few sources for reliable

extradition statistics. Even in the case of the United States, who is arguably better than most at keeping and recording extradition information, there is still not much available.

Because of the lack of information regarding who are in fact extradited, I believe the best test at compliance, would be to attack the issue obliquely. Although, this is not the case everywhere, in the United States the courts do have a role to play in extradition; they decide whether an individual is extraditable. In making its determination, the court will determine whether the requirements of a treaty are met. On could test compliance indirectly by seeing whether the courts are complying with the treaty.

In other words, one would ask: what factors influence the courts' decisions to find an individual extraditable? In theory, it should not matter where the request is from, nor should individual characteristics of the judge or the defendant play any role. Compliance would be measured by determining whether judges are applying the law in a consistent in a uniform manner. This study would also have the additional benefit of potentially combining some of the theoretical arguments in judicial politics and international relations.

In addition, this dissertation has shown that the relationship of fear and threat with cooperation is complicated. Although I have argued that states which share institutions can cooperate more because they are free from certain security concerns that states with dissimilar institutions must battle with, increased external threats may encourage cooperation between states which share institutions. I have not addressed this issue directly but cursorily and anecdotally. The effect of threat can be seen through looking at the spike in signatures around the time of the Vietnam War and the case of Israel. A deeper analysis of this sort of systemic threat is left for another time.

Finally, this project has attempted to show that researchers should be weary in grouping all treaties into one study and should be cautious in assuming that there dataset is exhaustive. Although, the results were not affected, the two data sets for the dependent variable were not identical. Researchers who are interested in treaties should be cautious if they rely solely on UN datasets or any one source.

APPENDIX A
BILATERAL EXTRADITION TREATIES
1945-1992

Countries and Codes				Year	UN	World Treaty Series
2	United States	20	Canada	1951	0	1
2	United States	20	Canada	1971	1	1
2	United States	20	Canada	1974	1	0
2	United States	51	Jamaica	1983	1	0
2	United States	70	Mexico	1978	1	1
2	United States	94	Costa Rica	1982	1	0
2	United States	100	Colombia	1979	1	0
2	United States	135	Peru	1990	1	0
2	United States	140	Brazil	1961	1	1
2	United States	140	Brazil	1968	0	1
2	United States	150	Paraguay	1973	1	1
2	United States	160	Argentina	1972	1	1
2	United States	165	Uruguay	1973	1	0
2	United States	200	United Kingdom	1972	1	1
2	United States	200	United Kingdom	1977	1	0
2	United States	200	United Kingdom	1985	1	0
2	United States	210	Netherlands	1980	1	0
2	United States	211	Belgium	1963	1	1
2	United States	220	France	1970	1	1
2	United States	230	Spain	1970	1	1
2	United States	230	Spain	1978	1	0
2	United States	230	Spain	1988	1	0
2	United States	260	Germany West	1978	1	1
2	United States	260	Germany West	1986	1	0
2	United States	325	Italy	1946	0	1
2	United States	325	Italy	1973	0	1
2	United States	325	Italy	1983	1	0
2	United States	375	Finland	1976	1	1
2	United States	380	Sweden	1961	1	1
2	United States	380	Sweden	1983	1	0
2	United States	385	Norway	1977	1	0
2	United States	390	Denmark	1972	1	1
2	United States	461	Togo	1977	1	0
2	United States	501	Kenya	1965	1	1
2	United States	510	Tanzania	1965	1	1
2	United States	553	Malawi	1966	1	0
2	United States	560	South Africa	1947	1	1
2	United States	572	Swaziland	1970	1	1
2	United States	640	Turkey	1979	1	0

2	United States	666	Israel	1962	1	1
2	United States	740	Japan	1978	1	0
2	United States	800	Thailand	1983	1	0
2	United States	830	Singapore	1969	1	1
2	United States	900	Australia	1974	1	1
2	United States	900	Australia	1976	0	1
2	United States	900	Australia	1990	1	0
2	United States	910	Papua New Guinea	1988	1	0
2	United States	920	New Zealand	1970	1	1
2	United States	950	Fiji	1973	1	1
20	Canada	70	Mexico	1990	1	0
20	Canada	211	Belgium	1966	0	1
20	Canada	220	France	1988	1	0
20	Canada	230	Spain	1989	1	0
20	Canada	260	Germany West	1977	0	1
20	Canada	305	Austria	1967	1	1
20	Canada	380	Sweden	1976	1	1
20	Canada	390	Denmark	1977	1	1
20	Canada	666	Israel	1967	1	1
40	Cuba	510	Tanzania	1963	0	1
70	Mexico	230	Spain	1978	1	1
70	Mexico	900	Australia	1990	1	0
95	Panama	101	Venezuela	1981	1	0
95	Panama	101	Venezuela	1992	1	0
100	Colombia	230	Spain	1991	1	0
101	Venezuela	230	Spain	1989	1	0
101	Venezuela	900	Australia	1988	1	0
115	Suriname	210	Netherlands	1976	0	1
130	Ecuador	900	Australia	1988	1	0
130	Ecuador	910	Papua New Guinea	1976	0	1
135	Peru	230	Spain	1992	1	0
140	Brazil	155	Chile	1970	0	1
140	Brazil	160	Argentina	1961	1	1
140	Brazil	165	Uruguay	1948	0	1
140	Brazil	211	Belgium	1953	1	1
140	Brazil	211	Belgium	1956	0	1
140	Brazil	211	Belgium	1958	1	0
140	Brazil	220	France	1978	0	1
140	Brazil	230	Spain	1989	1	0
145	Bolivia	211	Belgium	1961	0	1
160	Argentina	230	Spain	1987	1	0
160	Argentina	230	Spain	1991	1	0
160	Argentina	666	Israel	1960	0	1
160	Argentina	900	Australia	1988	1	0
200	United Kingdom	211	Belgium	1975	1	0
200	United Kingdom	230	Spain	1991	1	0
200	United Kingdom	260	Germany West	1960	1	1
200	United Kingdom	305	Austria	1963	1	1

200	United Kingdom	305	Austria	1969	0	1
200	United Kingdom	315	Czechoslovakia	1972	0	1
200	United Kingdom	325	Italy	1948	1	0
200	United Kingdom	360	Romania	1948	1	0
200	United Kingdom	375	Finland	1975	1	1
200	United Kingdom	375	Finland	1977	0	1
200	United Kingdom	380	Sweden	1963	0	1
200	United Kingdom	380	Sweden	1965	1	0
200	United Kingdom	560	South Africa	1964	0	1
200	United Kingdom	666	Israel	1960	1	1
200	United Kingdom	750	India	1992	1	0
205	Ireland	900	Australia	1985	1	0
210	Netherlands	211	Belgium	1962	1	0
210	Netherlands	220	France	1951	0	1
210	Netherlands	230	Spain	1951	0	1
210	Netherlands	260	Germany West	1956	1	0
210	Netherlands	260	Germany West	1957	1	0
210	Netherlands	325	Italy	1949	1	0
210	Netherlands	500	Uganda	1967	1	1
210	Netherlands	501	Kenya	1967	1	1
210	Netherlands	510	Tanzania	1968	1	1
210	Netherlands	553	Malawi	1968	1	1
210	Netherlands	666	Israel	1956	0	1
210	Netherlands	666	Israel	1957	1	0
210	Netherlands	900	Australia	1976	0	1
210	Netherlands	900	Australia	1985	1	0
211	Belgium	220	France	1977	0	1
211	Belgium	235	Portugal	1961	0	1
211	Belgium	260	Germany West	1958	0	1
211	Belgium	305	Austria	1949	0	1
211	Belgium	305	Austria	1959	0	1
211	Belgium	345	Yugoslavia	1971	0	1
211	Belgium	600	Morocco	1959	0	1
211	Belgium	660	Lebanon	1953	0	1
211	Belgium	666	Israel	1954	0	1
211	Belgium	666	Israel	1956	0	1
211	Belgium	770	Pakistan	1952	0	1
212	Luxembourg	666	Israel	1956	0	1
220	France	225	Switzerland	1992	1	0
220	France	230	Spain	1992	1	0
220	France	305	Austria	1975	1	1
220	France	345	Yugoslavia	1970	1	1
220	France	360	Romania	1974	1	1
220	France	432	Mali	1962	1	0
220	France	436	Niger	1965	0	1
220	France	481	Gabon	1963	0	1
220	France	522	Djibouti	1986	1	0
220	France	522	Djibouti	1992	1	0

220	France	600	Morocco	1957	1	1
220	France	615	Algeria	1964	0	1
220	France	616	Tunisia	1972	1	1
220	France	616	Tunisia	1974	1	0
220	France	630	Iran	1964	0	1
220	France	666	Israel	1951	0	1
220	France	666	Israel	1958	1	1
220	France	900	Australia	1988	1	0
221	Monaco	260	Germany West	1962	0	1
225	Switzerland	260	Germany West	1969	1	1
225	Switzerland	305	Austria	1972	0	1
225	Switzerland	500	Uganda	1965	0	1
225	Switzerland	501	Kenya	1965	0	1
225	Switzerland	510	Tanzania	1967	0	1
225	Switzerland	517	Rwanda	1971	0	1
225	Switzerland	553	Malawi	1967	0	1
225	Switzerland	666	Israel	1958	1	1
225	Switzerland	750	India	1963	1	0
225	Switzerland	770	Pakistan	1955	0	1
225	Switzerland	900	Australia	1988	1	0
225	Switzerland	910	Papua New Guinea	1977	0	1
225	Switzerland	950	Fiji	1974	0	1
230	Spain	305	Austria	1978	0	1
230	Spain	310	Hungary	1985	1	0
230	Spain	310	Hungary	1988	1	0
230	Spain	325	Italy	1973	0	1
230	Spain	501	Kenya	1968	0	1
230	Spain	571	Botswana	1969	0	1
230	Spain	900	Australia	1987	1	0
235	Portugal	260	Germany West	1964	0	1
235	Portugal	571	Botswana	1970	0	1
235	Portugal	900	Australia	1987	1	0
260	Germany West	305	Austria	1958	0	1
260	Germany West	305	Austria	1972	0	1
260	Germany West	305	Austria	1990	1	0
260	Germany West	325	Italy	1972	0	1
260	Germany West	345	Yugoslavia	1955	0	1
260	Germany West	345	Yugoslavia	1970	1	1
260	Germany West	385	Norway	1973	0	1
260	Germany West	570	Lesotho	1971	0	1
260	Germany West	616	Tunisia	1966	0	1
260	Germany West	900	Australia	1987	1	0
260	Germany West	950	Fiji	1975	0	1
265	Germany East	290	Poland	1957	1	0
265	Germany East	950	Fiji	1975	1	0
290	Poland	305	Austria	1978	1	1
305	Austria	310	Hungary	1975	0	1
305	Austria	325	Italy	1973	1	0

305	Austria	375	Finland	1958	1	0
305	Austria	380	Sweden	1973	0	1
305	Austria	666	Israel	1961	1	1
305	Austria	900	Australia	1973	1	1
310	Hungary	325	Italy	1977	1	0
315	Czechoslovakia	325	Italy	1948	1	0
315	Czechoslovakia	345	Yugoslavia	1989	1	0
315	Czechoslovakia	355	Bulgaria	1948	1	0
325	Italy	350	Greece	1948	0	1
325	Italy	600	Morocco	1971	0	1
325	Italy	666	Israel	1956	1	1
325	Italy	900	Australia	1973	0	1
325	Italy	900	Australia	1985	1	0
331	San Marino	500	Uganda	1965	0	1
331	San Marino	501	Kenya	1965	0	1
331	San Marino	553	Malawi	1967	0	1
331	San Marino	570	Lesotho	1971	0	1
331	San Marino	572	Swaziland	1970	0	1
331	San Marino	770	Pakistan	1955	0	1
350	Greece	900	Australia	1987	1	0
375	Finland	380	Sweden	1960	1	1
375	Finland	85	Norway	1961	0	1
375	Finland	500	Uganda	1965	0	1
375	Finland	501	Kenya	1965	0	1
375	Finland	900	Australia	1984	1	0
380	Sweden	666	Israel	1963	1	1
380	Sweden	750	India	1963	1	0
380	Sweden	900	Australia	1973	0	1
380	Sweden	900	Australia	1989	1	0
500	Uganda	750	India	1969	1	0
510	Tanzania	750	India	1966	1	0
553	Malawi	560	South Africa	1972	0	1
560	South Africa	571	Botswana	1969	0	1
560	South Africa	572	Swaziland	1968	0	1
560	South Africa	572	Swaziland	1975	0	1
560	South Africa	666	Israel	1959	1	1
560	South Africa	666	Israel	1976	1	0
572	Swaziland	666	Israel	1970	1	0
630	Iran	770	Pakistan	1959	0	1
640	Turkey	645	Iraq	1946	1	1
660	Lebanon	678	Yemen North	1949	0	1
666	Israel	900	Australia	1975	1	1
732	Korea South	900	Australia	1990	1	0
750	India	780	Sri Lanka	1978	1	1
750	India	790	Nepal	1953	0	1
750	India	790	Nepal	1963	1	0
750	India	800	Thailand	1982	1	0
750	India	830	Singapore	1972	1	0

750	India	900	Australia	1971	1	0
750	India	910	Papua New Guinea	1978	1	1
750	India	950	Fiji	1979	1	0
840	Philippines	850	Indonesia	1976	1	1
840	Philippines	900	Australia	1988	1	0
840	Philippines	900	Australia	1991	1	0

APPENDIX B

VIENNA CONVENTION ON THE LAW OF TREATIES SIGNED AT VIENNA 23 MAY 1969

ENTRY INTO FORCE: 27 January 1980

The States Parties to the present Convention

Considering the fundamental role of treaties in the history of international relations,

Recognizing the ever-increasing importance of treaties as a source of international law and as a means of developing peaceful co-operation among nations, whatever their constitutional and social systems,

Noting that the principles of free consent and of good faith and the pacta sunt servanda rule are universally recognized,

Affirming that disputes concerning treaties, like other international disputes, should be settled by peaceful means and in conformity with the principles of justice and international law,

Recalling the determination of the peoples of the United Nations to establish conditions under which justice and respect for the obligations arising from treaties can be maintained,

Having in mind the principles of international law embodied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of peoples, of the sovereign equality and independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force and of universal respect for, and observance of, human rights and fundamental freedoms for all,

Believing that the codification and progressive development of the law of treaties achieved in the present Convention will promote the purposes of the United Nations set forth in the Charter, namely, the maintenance of international peace and security, the development of friendly relations and the achievement of co-operation among nations,

Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention,

Have agreed as follows:

PART I

INTRODUCTION

Article 1
Scope of the present Convention

The present Convention applies to treaties between States.

Article 2
Use of terms

1. For the purposes of the present Convention: (a) 'treaty' means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation; (b) 'ratification', 'acceptance', 'approval' and 'accession' mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty; (c) 'full powers' means a document emanating from the competent authority of a State designating a person or persons to represent the State for negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the State to be bound by a treaty, or for accomplishing any other act with respect to a treaty; (d) 'reservation' means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State; (e) 'negotiating State' means a State which took part in the drawing up and adoption of the text of the treaty; (f) 'contracting State' means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force; (g) 'party' means a State which has consented to be bound by the treaty and for which the treaty is in force; (h) 'third State' means a State not a party to the treaty; (i) 'international organization' means an intergovernmental organization.

2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

Article 3
International agreements not within the scope of the present Convention

The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law or between such other subjects of international law, or to international agreements not in written form, shall not affect:

(a) the legal force of such agreements; (b) the application to them of any of the rules set forth in the present Convention to which they would be subject under international law independently of the Convention; (c) the application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law are also parties.

Article 4
Non-retroactivity of the present Convention

Without prejudice to the application of any rules set forth in the present Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties which are concluded by States after the entry into force of the present Convention with regard to such States.

Article 5
Treaties constituting international organizations and treaties adopted within an international organization

The present Convention applies to any treaty which is the constituent instrument of an international organization and to any treaty adopted within an international organization without prejudice to any relevant rules of the organization.

PART II

CONCLUSION AND ENTRY INTO FORCE OF TREATIES

SECTION 1. CONCLUSION OF TREATIES

Article 6
Capacity of States to conclude treaties

Every State possesses capacity to conclude treaties.

Article 7
Full powers

1. A person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty if:

(a) he produces appropriate full powers; or (b) it appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing the State for such purposes and to dispense with full powers.

2. In virtue of their functions and without having to produce full powers, the following are considered as representing their State:

(a) Heads of State, Heads of Government and Ministers for Foreign Affairs, for the purpose of performing all acts relating to the conclusion of a treaty; (b) heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting State and the State to which they are accredited; (c) representatives accredited by States to an international conference or to an international organization or one of its organs, for the purpose of adopting the text of a treaty in that conference, organization or organ.

Article 8
Subsequent confirmation of an act performed without authorization

An act relating to the conclusion of a treaty performed by a person who cannot be considered under article 7 as authorized to represent a State for that purpose is without legal effect unless afterwards confirmed by that State.

Article 9
Adoption of the text

1. The adoption of the text of a treaty takes place by the consent of all the States participating in its drawing up except as provided in paragraph 2.

2. The adoption of the text of a treaty at an international conference takes place by the vote of two-thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule.

Article 10
Authentication of the text

The text of a treaty is established as authentic and definitive:

(a) by such procedure as may be provided for in the text or agreed upon by the States participating in its drawing up; or (b) failing such procedure, by the signature, signature ad referendum or initialling by the representatives of those States of the text of the treaty or of the Final Act of a conference incorporating the text.

Article 11
Means of expressing consent to be bound by a treaty

The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

Article 12
Consent to be bound by a treaty expressed by signature

1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when: (a) the treaty provides that signature shall have that effect; (b) it is otherwise established that the negotiating States were agreed that signature should have that effect; or (c) the intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.

2. For the purposes of paragraph 1: (a) the initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed; (b) the signature ad referendum of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

Article 13
Consent to be bound by a treaty expressed by an exchange of instruments constituting a treaty

The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when: (a) the instruments provide that their exchange shall have that effect; or (b) it is otherwise established that those States were agreed that the exchange of instruments should have that effect

Article 14
Consent to be bound by a treaty expressed by ratification, acceptance or approval

1. The consent of a State to be bound by a treaty is expressed by ratification when:

(a) the treaty provides for such consent to be expressed by means of ratification; (b) it is otherwise established that the negotiating States were agreed that ratification should be required; (c) the representative of the State has signed the treaty subject to ratification; or (d) the intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.

2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

Article 15
Consent to be bound by a treaty expressed by accession

The consent of a State to be bound by a treaty is expressed by accession when:

(a) the treaty provides that such consent may be expressed by that State by means of accession; (b) it is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or (c) all the parties have subsequently agreed that such consent may be expressed by that State by means of accession.

Article 16.
Exchange or deposit of instruments of ratification, acceptance, approval or accession

Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon:

(a) their exchange between the contracting States; (b) their deposit with the depositary; or (c) their notification to the contracting States or to the depositary, if 50 agreed.

Article 17
Consent to be bound by part of a treaty and choice of differing provisions

1. Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.

2. The consent of a State to be bound by a treaty which permits a choice between differing provisions is effective only if it is made clear to which of the provisions the consent relates.

Article 18
Obligation not to defeat the object and purpose of a treaty prior to its entry into force

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

(a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or (b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

SECTION 2. RESERVATIONS

Article 19
Formulation of reservations

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

(a) the reservation is prohibited by the treaty; (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or (c) in cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.

Article 20
Acceptance of and objection to reservations

1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.

2. When it appears from the limited number of the negotiating States and the object and purpose of a treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties.

3. When a treaty is a constituent instrument of an international organization and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organization.

4. In cases not falling under the preceding paragraphs and unless the treaty otherwise provides:

(a) acceptance by another contracting State of a reservation constitutes the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States; (b) an objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State; (c) an act expressing a State's consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation.

5. For the purposes of paragraphs 2 and 4 and unless the treaty otherwise provides, a reservation is considered to have been accepted by a State if it shall have raised no objection to the reservation by the end of a period of twelve months after it was notified of the reservation or by the date on which it expressed its consent to be bound by the treaty, whichever is later.

Article 21
Legal effects of reservations and of objections to reservations

1. A reservation established with regard to another party in accordance with articles 19, 20 and 23:

(a) modifies for the reserving State in its relations with that other party the provisions of the treaty to which the reservation relates to the extent of the reservation; and (b) modifies those provisions to the same extent for that other party in its relations with the reserving State.

2. The reservation does not modify the provisions of the treaty for the other parties to the treaty inter se.

3. When a State objecting to a reservation has not opposed the entry into force of the treaty between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation.

Article 22
Withdrawal of reservations and of objections to reservations

1. Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.

2. Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.

3. Unless the treaty otherwise provides, or it is otherwise agreed:

(a) the withdrawal of a reservation becomes operative in relation to another contracting State only when notice of it has been received by that State; (b) the withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State which formulated the reservation.

Article 23
Procedure regarding reservations

1. A reservation, an express acceptance of a reservation and an objection to a reservation must be formulated in writing and communicated to the contracting States and other States entitled to become parties to the treaty.

2. If formulated when signing the treaty subject to ratification, acceptance or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.

3. An express acceptance of, or an objection to, a reservation made previously to confirmation of the reservation does not itself require confirmation.

4. The withdrawal of a reservation or of an objection to a reservation must be formulated in writing.

SECTION 3. ENTRY INTO FORCE AND PROVISIONAL APPLICATION OF TREATIES

Article 24
Entry into force

1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.

2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.

3. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.

4. The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of the adoption of its text.

Article 25
Provisional application

1. A treaty or a part of a treaty is applied provisionally pending its entry into force if:

(a) the treaty itself so provides; or (b) the negotiating States have in some other manner so agreed.

2. Unless the treaty otherwise provides or the negotiating States have otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State shall be terminated if that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty.

PART III

OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES

SECTION 1. OBSERVANCE OF TREATIES

Article 26
Pacta sunt servanda

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Article 27 Internal law and observance of treaties

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

SECTION 2. APPLICATION OF TREATIES

Article 28
Non-retroactivity of treaties

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any

situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

Article 29
Territorial scope of treaties

Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.

Article 30
Application of successive treaties relating to the same subject-matter

1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.

2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.

3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the latter treaty.

4. When the parties to the later treaty do not include all the parties to the earlier one:

(a) as between States parties to both treaties the same rule applies as in paragraph 3; (b) as between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.

5. Paragraph 4 is without prejudice to article 41, or to any question of the termination or suspension of the operation of a treaty under article 60 or to any question of responsibility which may arise for a State from the conclusion or application of a treaty, the provisions of which are incompatible with its obligations towards another State under another treaty.

SECTION 3. INTERPRETATION OF TREATIES

Article 31
General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

(a) any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty; (b) any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context:

(a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions; (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation; (c) any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

Article 32
Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

(a) leaves the meaning ambiguous or obscure; or (b) leads to a result which is manifestly absurd or unreasonable.

Article 33
Interpretation of treaties authenticated in two or more languages

1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.

3. The terms of the treaty are presumed to have the same meaning in each authentic text.

4. Except where a particular text prevails in accordance with paragraph 1, when a comparison of the authentic texts discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted.

SECTION 4. TREATIES AND THIRD STATES

Article 34
General rule regarding third States

A treaty does not create either obligations or rights for a third State without its consent.

Article 35 Treaties providing for obligations for third States

An obligation arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to be the means of establishing the obligation and the third State expressly accepts that obligation in writing.

Article 36
Treaties providing for rights for third States

1. A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides.

2. A State exercising a right in accordance with paragraph 1 shall comply with the conditions for its exercise provided for in the treaty or established in conformity with the treaty.

Article 37
Revocation or modification of obligations or rights of third States

1. When an obligation has arisen for a third State in conformity with article 35, the obligation may be revoked or modified only with the consent of the parties to the treaty and of the third State, unless it is established that they had otherwise agreed.

2. When a right has arisen for a third State in conformity with article 36, the right may not be revoked or modified by the parties if it is established that the right was intended not to be revocable or subject to modification without the consent of the third State.

Article 38
Rules in a treaty becoming binding on third States through international custom

Nothing in articles 34 to 37 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law, recognized as such.

PART IV

AMENDMENT AND MODIFICATION OF TREATIES

Article 39
General rule regarding the amendment of treaties

A treaty may be amended by agreement between the parties. The rules laid down in Part II apply to such an agreement except in so far as the treaty may otherwise provide.

Article 40
Amendment of multilateral treaties

1. Unless the treaty otherwise provides, the amendment of multilateral treaties shall be governed by the following paragraphs.

2. Any proposal to amend a multilateral treaty as between all the parties must be notified to all the contracting States, each one of which shall have the right to take part in:

(a) the decision as to the action to be taken in regard to such proposal; (b) the negotiation and conclusion of any agreement for the amendment of the treaty.

3. Every State entitled to become a party to the treaty shall also be entitled to become a party to the treaty as amended.

4. The amending agreement does not bind any State already a party to the treaty which does not become a party to the amending agreement; article 30, paragraph 4(b), applies in relation to such State.

5. Any State which becomes a party to the treaty after the entry into force of the amending agreement shall, failing an expression of a different intention by that State:

(a) be considered as a party to the treaty as amended; and (b) be considered as a party to the unamended treaty in relation to any party to the treaty not bound by the amending agreement.

Article 41
Agreements to modify multilateral treaties between certain of the parties only

1. Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone if:

(a) the possibility of such a modification is provided for by the treaty; or (b) the modification in question is not prohibited by the treaty and: (i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations; (ii) does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole.

2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of the modification to the treaty for which it provides.

PART V

INVALIDITY, TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

SECTION 1. GENERAL PROVISIONS

Article 42
Validity and continuance in force of treaties

1. The validity of a treaty or of the consent of a State to be bound by a treaty may be impeached only through the application of the present Convention.

2. The termination of a treaty, its denunciation or the withdrawal of a party, may take place only as a result of the application of the provisions of the treaty or of the present Convention. The same rule applies to suspension of the operation of a treaty.

Article 43
Obligations imposed by international law independently of a treaty

The invalidity, termination or denunciation of a treaty, the withdrawal of a party from it, or the suspension of its operation, as a result of the application of the present Convention or of the provisions of the treaty, shall not in any way impair the duty of any State to fulfil any obligation embodied in the treaty to which it would be subject under international law independently of the treaty.

Article 44
Separability of treaty provisions

1. A right of a party, provided for in a treaty or arising under article 56, to denounce, withdraw from or suspend the operation of the treaty may be exercised only with respect to the whole treaty unless the treaty otherwise provides or the parties otherwise agree.

2. A ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty recognized in the present Convention may be invoked only with respect to the whole treaty except as provided in the following paragraphs or in article 60.

3. If the ground relates solely to particular clauses, it may be invoked only with respect to those clauses where:

(a) the said clauses are separable from the remainder of the treaty with regard to their application; (b) it appears from the treaty or is otherwise established that acceptance of those clauses was not an essential basis of the consent of the other party or parties to be bound by the treaty as a whole; and (c) continued performance of the remainder of the treaty would not be unjust.

4. In cases falling under articles 49 and 50 the State entitled to invoke the fraud or corruption may do so with respect either to the whole treaty or, subject to paragraph 3, to the particular clauses alone.

5. In cases falling under articles 51, 52 and 53, no separation of the provisions of the treaty is permitted.

Article 45
Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty

A State may no longer invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty under articles 46 to 50 or articles 60 and 62 if, after becoming aware of the facts:

(a) it shall have expressly agreed that the treaty is valid or remains in force or continues in operation, as the case may be; or (b) it must by reason of its conduct be considered as having acquiesced in the validity of the treaty or in its maintenance in force or in operation, as the case may be.

SECTION 2. INVALIDITY OF TREATIES

Article 46
Provisions of internal law regarding competence to conclude treaties

1. A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.

2. A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith.

Article 47
Specific restrictions on authority to express the consent of a State

If the authority of a representative to express the consent of a State to be bound by a particular treaty has been made subject to a specific restriction, his omission to observe that restriction may not be invoked as invalidating the consent expressed by him unless the restriction was notified to the other negotiating States prior to his expressing such consent.

Article 48
Error

1. A State may invoke an error in a treaty as invalidating its consent to be bound by the treaty if the error relates to a fact or situation which was assumed by that State to exist at the time when the treaty was concluded and formed an essential basis of its consent to be bound by the treaty.

2. Paragraph 1 shall not apply if the State in question contributed by its own conduct to the error or if the circumstances were such as to put that State on notice of a possible error.

3. An error relating only to the wording of the text of a treaty does not affect its validity; article 79 then applies.

Article 49
Fraud

If a State has been induced to conclude a treaty by the fraudulent conduct of another negotiating State, the State may invoke the fraud as invalidating its consent to be bound by the treaty.

Article 50
Corruption of a representative of a State

If the expression of a State's consent to be bound by a treaty has been procured through the corruption of its representative directly or indirectly by another negotiating State, the State may invoke such corruption as invalidating its consent to be bound by the treaty.

Article 51
Coercion of a representative of a State

The expression of a State's consent to be bound by a treaty which has been procured by the coercion of its representative through acts or threats directed against him shall be without any legal effect.

Article 52
Coercion of a State by the threat or use of force

A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.

Article 53
Treaties conflicting with a peremptory norm of general international law (jus cogens)

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international

community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

SECTION 3. TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

Article 54
Termination of or withdrawal from a treaty under its provisions or by consent of the parties

The termination of a treaty or the withdrawal of a party may take place:

(a) in conformity with the provisions of the treaty; or (b) at any time by consent of all the parties after consultation with the other contracting States.

Article 55
Reduction of the parties to a multilateral treaty below the number necessary for its entry into force

Unless the treaty otherwise provides, a multilateral treaty does not terminate by reason only of the fact that the number of the parties falls below the number necessary for its entry into force.

Article 56
Denunciation of or withdrawal from a treaty containing no provision regarding termination, denunciation or withdrawal

1. A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:

(a) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or (b) a right of denunciation or withdrawal may be implied by the nature of the treaty.

2. A party shall give not less than twelve months' notice of its intention to denounce or withdraw from a treaty under paragraph 1.

Article 57
Suspension of the operation of a treaty under its provisions or by consent of the parties

The operation of a treaty in regard to all the parties or to a particular party may be suspended:

(a) in conformity with the provisions of the treaty; or (b) at any time by consent of all the parties after consultation with the other contracting States.

Article 58
Suspension of the operation of a multilateral treaty by agreement between certain of the parties only

1. Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if:

(a) the possibility of such a suspension is provided for by the treaty; or (b) the suspension in question is not prohibited by the treaty and: (i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations; (ii) is not incompatible with the object and purpose of the treaty.

2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of those provisions of the treaty the operation of which they intend to suspend.

Article 59
Termination or suspension of the operation of a treaty implied by conclusion of a later treaty

1. A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject-matter and:

(a) it appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty; or (b) the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time.

2. The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.

Article 60
Termination or suspension of the operation of a treaty as a consequence of its breach

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.

2. A material breach of a multilateral treaty by one of the parties entitles:

(a) the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either: (i) in the relations between themselves and the defaulting State, or (ii) as between all the parties; (b) a party specially affected by the

breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State; (c) any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.

3. A material breach of a treaty, for the purposes of this article, consists in:

(a) a repudiation of the treaty not sanctioned by the present Convention; or (b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty.

4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.

5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

Article 61
Supervening impossibility of performance

1. A party may invoke the impossibility of performing a treaty as a ground for terminating or withdrawing from it if the impossibility results from the permanent disappearance or destruction of an object indispensable for the execution of the treaty. If the impossibility is temporary, it may be invoked only as a ground for suspending the operation of the treaty.

2. Impossibility of performance may not be invoked by a party as a ground for terminating, withdrawing from or suspending the operation of a treaty if the impossibility is the result of a breach by that party either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

Article 62
Fundamental change of circumstances

1. A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:

(a) the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and (b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.

2. A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty:

(a) if the treaty establishes a boundary; or (b) if the fundamental change is the result of a breach by the party invoking it either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

3. If, under the foregoing paragraphs, a party may invoke a fundamental change of circumstances as a ground for terminating or withdrawing from a treaty it may also invoke the change as a ground for suspending the operation of the treaty.

Article 63
Severance of diplomatic or consular relations

The severance of diplomatic or consular relations between parties to a treaty does not affect the legal relations established between them by the treaty except in so far as the existence of diplomatic or consular relations is indispensable for the application of the treaty.

Article 64 Emergence of a new peremptory norm of general international law (jus cogens)

If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

SECTION 4. PROCEDURE

Article 65
Procedure to be followed with respect to invalidity, termination, withdrawal from or suspension of the operation of a treaty

1. A party which, under the provisions of the present Convention, invokes either a defect in its consent to be bound by a treaty or a ground for impeaching the validity of a treaty, terminating it, withdrawing from it or suspending its operation, must notify the other parties of its claim. The notification shall indicate the measure proposed to be taken with respect to the treaty and the reasons therefor.

2. If, after the expiry of a period which, except in cases of special urgency, shall not be less than three months after the receipt of the notification, no party has raised any objection, the party making the notification may carry out in the manner provided in article 67 the measure which it has proposed.

3. If, however, objection has been raised by any other party, the parties shall seek a solution through the means indicated in article 33 of the Charter of the United Nations.

4. Nothing in the foregoing paragraphs shall affect the rights or obligations of the parties under any provisions in force binding the parties with regard to the settlement of disputes.

5. Without prejudice to article 45, the fact that a State has not previously made the notification prescribed in paragraph 1 shall not prevent it from making such notification in answer to another party claiming performance of the treaty or alleging its violation.

Article 66
Procedures for judicial settlement, arbitration and conciliation

If, under paragraph 3 of article 65, no solution has been reached within a period of 12 months following the date on which the objection was raised, the following procedures shall be followed:

(a) any one of the parties to a dispute concerning the application or the interpretation of articles 53 or 64 may, by a written application, submit it to the International Court of Justice for a decision unless the parties by common consent agree to submit the dispute to arbitration; (b) any one of the parties to a dispute concerning the application or the interpretation of any of the other articles in Part V of the present Convention may set in motion the procedure specified in the Annexe to the Convention by submitting a request to that effect to the Secretary-General of the United Nations.

Article 67
Instruments for declaring invalid, terminating, withdrawing from or suspending the operation of a treaty

1. The notification provided for under article 65 paragraph 1 must be made in writing.

2. Any act declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of paragraphs 2 or 3 of article 65 shall be carried out through an instrument communicated to the other parties. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

Article 68
Revocation of notifications and instruments provided for in articles 65 and 67

A notification or instrument provided for in articles 65 or 67 may be revoked at any time before it takes effect.

SECTION 5. CONSEQUENCES OF THE INVALIDITY, TERMINATION OR SUSPENSION OF THE OPERATION OF A TREATY

Article 69
Consequences of the invalidity of a treaty

1. A treaty the invalidity of which is established under the present Convention is void. The provisions of a void treaty have no legal force.

2. If acts have nevertheless been performed in reliance on such a treaty:

(a) each party may require any other party to establish as far as possible in their mutual relations the position that would have existed if the acts had not been performed; (b) acts performed in good faith before the invalidity was invoked are not rendered unlawful by reason only of the invalidity of the treaty.

3. In cases falling under articles 49, 50, 51 or 52, paragraph 2 does not apply with respect to the party to which the fraud, the act of corruption or the coercion is imputable.

4. In the case of the invalidity of a particular State's consent to be bound by a multilateral treaty, the foregoing rules apply in the relations between that State and the parties to the treaty.

Article 70
Consequences of the termination of a treaty

1. Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention:

(a) releases the parties from any obligation further to perform the treaty; (b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination.

2. If a State denounces or withdraws from a multilateral treaty, paragraph 1 applies in the relations between that State and each of the other parties to the treaty from the date when such denunciation or withdrawal takes effect.

Article 71
Consequences of the invalidity of a treaty which conflicts with a peremptory norm of general international law

1. In the case of a treaty which is void under article 53 the parties shall:

(a) eliminate as far as possible the consequences of any act performed in reliance on any provision which conflicts with the peremptory norm of general international law; and (b) bring their mutual relations into conformity with the peremptory norm of general international law.

2. In the case of a treaty which becomes void and terminates under article 64, the termination of the treaty:

(a) releases the parties from any obligation further to perform the treaty; (b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination; provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

Article 72
Consequences of the suspension of the operation of a treaty

1. Unless the treaty otherwise provides or the parties otherwise agree, the suspension of the operation of a treaty under its provisions or in accordance with the present Convention:

(a) releases the parties between which the operation of the treaty is suspended from the obligation to perform the treaty in their mutual relations during the period of the suspension; (b) does not otherwise affect the legal relations between the parties established by the treaty.

2. During the period of the suspension the parties shall refrain from acts tending to obstruct the resumption of the operation of the treaty.

PART VI

MISCELLANEOUS PROVISIONS

Article 73
Cases of State succession, State responsibility and outbreak of hostilities

The provisions of the present Convention shall not prejudge any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State or from the outbreak of hostilities between States.

Article 74
Diplomatic and consular relations and the conclusion of treaties

The severance or absence of diplomatic or consular relations between two or more States does not prevent the conclusion of treaties between those States. The conclusion of a treaty does not in itself affect the situation in regard to diplomatic or consular relations.

Article 75
Case of an aggressor State

The provisions of the present Convention are without prejudice to any obligation in relation to a treaty which may arise for an aggressor State in consequence of measures taken in conformity with the Charter of the United Nations with reference to that State's aggression.

PART VII

DEPOSITARIES, NOTIFICATIONS, CORRECTIONS AND REGISTRATION

Article 76
Depositaries of treaties

1. The designation of the depositary of a treaty may be made by the negotiating States, either in the treaty itself or in some other manner. The depositary may be one or more States, an international organization or the chief administrative officer of the organization.

2. The functions of the depositary of a treaty are international in character and the depositary is under an obligation to act impartially in their performance. In particular, the fact that a treaty has not entered into force between certain of the parties or that a difference has appeared between a State and a depositary with regard to the performance of the latter's functions shall not affect that obligation.

Article 77
Functions of depositaries

1. The functions of a depositary, unless otherwise provided in the treaty or agreed by the contracting States, comprise in particular:

(a) keeping custody of the original text of the treaty and of any full powers delivered to the depositary; (b) preparing certified copies of the original text and preparing any further text of the treaty in such additional languages as may be required by the treaty and transmitting them to the parties and to the States entitled to become parties to the treaty; (c) receiving any signatures to the treaty and receiving and keeping custody of any instruments, notifications and communications relating to it; (d) examining whether the signature or any instrument, notification or communication relating to the treaty is in due and proper form and, if need be, bringing the matter to the attention of the State in question; (e) informing the parties and the States entitled to become parties to the treaty of acts, notifications and communications relating to the treaty; (f) informing the States entitled to become parties to the treaty when the number of signatures or of instruments of ratification, acceptance, approval or accession required for the entry into force of the treaty has been received or deposited; (g) registering the treaty with the Secretariat of the United Nations; (h) performing the functions specified in other provisions of the present Convention.

2. In the event of any difference appearing between a State and the depositary as to the performance of the latter's functions, the depositary shall bring the question to the attention of the signatory States and the contracting States or, where appropriate, of the competent organ of the international organization concerned.

Article 78
Notifications and communications

Except as the treaty or the present Convention otherwise provide, any notification or communication to be made by any State under the present Convention shall:

(a) if there is no depositary, be transmitted direct to the States for which it is intended, or if there is a depositary, to the latter; (b) be considered as having been made by the State in question only upon its receipt by the State to which it was transmitted or, as the case may be, upon its receipt by the depositary; (c) if transmitted to a depositary, be considered as received by the State for which it was intended only when the latter State has been informed by the depositary in accordance with article 77, paragraph 1 (e).

Article 79
Correction of errors in texts or in certified copies of treaties

1. Where, after the authentication of the text of a treaty, the signatory States and the contracting States are agreed that it contains an error, the error shall, unless they decide upon some other means of correction, be corrected:

(a) by having the appropriate correction made in the text and causing the correction to be initialled by duly authorized representatives; (b) by executing or exchanging an instrument or instruments setting out the correction which it has been agreed to make; or (c) by executing a corrected text of the whole treaty by the same procedure as in the case of the original text.

2. Where the treaty is one for which there is a depositary, the latter shall notify the signatory States and the contracting States of the error and of the proposal to correct it and shall specify an appropriate time-limit within which objection to the proposed correction may be raised. If, on the expiry of the time-limit:

(a) no objection has been raised, the depositary shall make and initial the correction in the text and shall execute a procŠs-verbal of the rectification of the text and communicate a copy of it to the parties and to the States entitled to become parties to the treaty; (b) an objection has been raised, the depositary shall communicate the objection to the signatory States and to the contracting States.

3. The rules in paragraphs 1 and 2 apply also where the text has been authenticated in two or more languages and it appears that there is a lack of concordance which the signatory States and the contracting States agree should be corrected.

4. The corrected text replaces the defective text ab initio, unless the signatory States and the contracting States otherwise decide.

5. The correction of the text of a treaty that has been registered shall be notified to the Secretariat of the United Nations.

6. Where an error is discovered in a certified copy of a treaty, the depositary shall execute a procŠs-verbal specifying the rectification and communicate a copy of it to the signatory States and to the contracting Slates.

Article 80
Registration and publication of treaties

1. Treaties shall, after their entry into force, be transmitted to the Secretariat of the United Nations for registration or filing and recording, as the case may be, and for publication.

2. The designation of a depositary shall constitute authorization for it to perform the acts specified in the preceding paragraph.

PART VIII

FINAL PROVISIONS

Article 81
Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention, as follows: until 30 November 1969, at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until 30 April 1970, at United Nations Headquarters, New York.

Article 82
Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 83
Accession

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in article 81. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 84
Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the thirty-fifth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 85
Authentic texts

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at Vienna, this twenty-third day of May, one thousand nine hundred and sixty-nine.

ANNEX

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General of the United Nations. To this end, every State which is a Member of the United Nations or a party to the present Convention shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. When a request has been made to the Secretary-General under article 66, the Secretary-General shall bring the dispute before a conciliation commission constituted as follows:

The State or States constituting one of the parties to the dispute shall appoint: (a) one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph 1; and (b) one conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within sixty days following the date on which the Secretary-General receives the request.

The four conciliators shall, within sixty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the

Secretary-General within sixty days following the expiry of that period. The appointment of the chairman may be made by the Secretary-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any party to the treaty to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

6. The Commission shall report within twelve months of its constitution. Its report shall be deposited with the Secretary-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.

7. The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations.

APPENDIX C

UN MODEL TREATY ON EXTRADITION

The _________________________ and the _________________________

Desirous of making more effective the co-operation of the two countries in the control of crime by concluding a treaty on extradition,

Have agreed as follows:

ARTICLE 1
Obligation to extradite

Each Party agrees to extradite to the other, upon request and subject to the provisions of the present Treaty, any person who is wanted in the requesting State for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence.

ARTICLE 2
Extraditable Offences

1. For the purposes of the present Treaty, extraditable offences are offences that are punishable under the laws of both Parties by imprisonment or other deprivation of liberty for a maximum period of at least one/two year(s), or by a more severe penalty. Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty imposed for such an offence, extradition shall be granted only if a period of at least four/six months of such sentence remains to be served.

2. In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether:

(a) The laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;

(b) Under the laws of the Parties the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the requesting State shall be taken into account.

3. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, exchange control or other revenue matters, extradition may not be refused on the ground that the law of the requested State does not impose the same kind of tax or duty or does not

contain a tax, customs duty or exchange regulation of the same kind as the law of the requesting State.

4. If the request for extradition includes several separate offences each of which is punishable under the laws of both Parties, but some of which do not fulfil the other conditions set out in paragraph 1 of the present article, the requested Party may grant extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.

ARTICLE 3
Mandatory Grounds for Refusal

Extradition shall not be granted in any of the following circumstances:

(a) If the offence for which extradition is requested is regarded by the requested State as an offence of a political nature;

(b) If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons;

(c) If the offence for which extradition is requested is an offence under military law, which is not also an offence under ordinary criminal law;

(d) If there has been a final judgement rendered against the person in the requested State in respect of the offence for which the person's extradition is requested;

(e) If the person whose extradition is requested has, under the law of either Party, become immune from prosecution or punishment for any reason, including lapse of time or amnesty;

(f) If the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in the International Covenant on Civil and Political Rights, article 14;

(g) If the judgement of the requesting State has been rendered in absentia, the convicted person has not had sufficient notice of the trial or the opportunity to arrange for his or her defence and he has not had or will not have the opportunity to have the case retried in his or her presence.

ARTICLE 4
Optional Grounds for Refusal

Extradition may be refused in any of the following circumstances:

(a) If the person whose extradition is requested is a national of the requested State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person in respect of the offence for which extradition had been requested;

(b) If the competent authorities of the requested State have decided either not to institute or to terminate proceedings against the person for the offence in respect of which extradition is requested;

(c) If a prosecution in respect of the offence for which extradition is requested is pending in the requested State against the person whose extradition is requested;

(d) If the offence for which extradition is requested carries the death penalty under the law of the requesting State, unless that State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out;

(e) If the offence for which extradition is requested has been committed outside the territory of either Party and the law of the requested State does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;

(f) If the offence for which extradition is requested is regarded under the law of the requested State as having been committed in whole or in part within that State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;

(g) If the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the requesting State by an extraordinary or ad hoc court or tribunal;

(h) If the requested State, while also taking into account the nature of the offence and the interests of the requesting State, considers that, in the circumstances of the case, the extradition of that person would be incompatible with humanitarian considerations in view of age, health or other personal circumstances of that person.

ARTICLE 5
Channels of Communication and Required Documents

1. A request for extradition shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through the diplomatic channel, directly between the ministries of justice or any other authorities designated by the Parties.

2. A request for extradition shall be accompanied by the following:

(a) In all cases,

(i) As accurate a description as possible of the person sought, together with any other information that may help to establish that person's identity, nationality and location;

(ii) The text of the relevant provision of the law creating the offence or, where necessary, a statement of the law relevant to the offence and a statement of the penalty that can be imposed for the offence;

(b) If the person is accused of an offence, by a warrant issued by a court or other competent judicial authority for the arrest of the person or a certified copy of that warrant, a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the alleged offence, including an indication of the time and place of its commission;

(c) If the person has been convicted of an offence, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgement or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable, and the extent to which the sentence remains to be served;

(d) If the person has been convicted of an offence in his or her absence, in addition to the documents set out in paragraph 2 (c) of the present article, by a statement as to the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence;

(e) If the person has been convicted of an offence but no sentence has been imposed, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by a document setting out the conviction and a statement affirming that there is an intention to impose a sentence.

3. The documents submitted in support of a request for extradition shall be accompanied by a translation into the language of the requested State or in another language acceptable to that State.

ARTICLE 6
Simplified Extradition Procedure

The requested State, if not precluded by its law, may grant extradition after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority.

ARTICLE 7
Certification and Authentication

Except as provided by the present Treaty, a request for extradition and the documents in support thereof, as well as documents or other material supplied in response to such a request, shall not require certification or authentication.

ARTICLE 8
Additional Information

If the requested State considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within such reasonable time as it specifies.

ARTICLE 9
Provisional Arrest

1. In case of urgency the requesting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition. The application shall be transmitted by means of the facilities of the International Criminal Police Organization, by post or telegraph or by any other means affording a record in writing.

2. The application shall contain a description of the person sought, a statement that extradition is to be requested, a statement of the existence of one of the documents mentioned in paragraph 2 of article 5 of the present Treaty, authorizing the apprehension of the person, a statement of the punishment that can be or has been imposed for the offence, including the time left to be served and a concise statement of the facts of the case, and a statement of the location, where known, of the person.

3. The requested State shall decide on the application in accordance with its law and communicate its decision to the requesting State without delay.

4. The person arrested upon such an application shall be set at liberty upon

the expiration of 40 days from the date of arrest if a request for extradition, supported by the relevant documents specified in paragraph 2 of article 5 of the present Treaty, has not been received. The present paragraph does not preclude the possibility of conditional release of the person prior to the expiration of the 40 days.

5. The release of the person pursuant to paragraph 4 of the present article shall not prevent rearrest and institution of proceedings with a view to extraditing the person sought if the request and supporting documents are subsequently received.

ARTICLE 10
Decision on the Request

1. The requested State shall deal with the request for extradition pursuant to procedures provided by its own law, and shall promptly communicate its decision to the requesting State.

2. Reasons shall be given for any complete or partial refusal of the request.

ARTICLE 11
Surrender of the Person

1. Upon being informed that extradition has been granted, the Parties shall, without undue delay, arrange for the surrender of the person sought and the requested State shall inform the requesting State of the length of time for which the person sought was detained with a view to surrender.

2. The person shall be removed from the territory of the requested State within such reasonable period as the requested State specifies and, if the person is not removed within that period, the requested State may release the person and may refuse to extradite that person for the same offence.

3. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The two Parties shall mutually decide upon a new date of surrender, and the provisions of paragraph 2 of the present article shall apply.

ARTICLE 12
Postponed or Conditional Surrender

1. The requested State may, after making its decision on the request for extradition, postpone the surrender of a person sought, in order to proceed against that person, or, if that person has already been convicted, in order to enforce a sentence imposed for an offence other than that for which

extradition is sought. In such a case the requested State shall advise the requesting State accordingly.

2. The requested State may, instead of postponing surrender, temporarily surrender the person sought to the requesting State in accordance with conditions to be determined between the Parties.

ARTICLE 13
Surrender of Property

1. To the extent permitted under the law of the requested State and subject to the rights of third parties, which shall be duly respected, all property found in the requested State that has been acquired as a result of the offence or that may be required as evidence shall, if the requesting State so requests, be surrendered if extradition is granted.

2. The said property may, if the requesting State so requests, be surrendered to the requesting State even if the extradition agreed to cannot be carried out.

3. When the said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.

4. Where the law of the requested State or the protection of the rights of third parties so require, any property so surrendered shall be returned to the requested State free of charge after the completion of the proceedings, if that State so requests.

ARTICLE 14
Rule of Speciality

1. A person extradited under the present Treaty shall not be proceeded against, sentenced, detained, re-extradited to a third State, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than:

(a) An offence for which extradition was granted;

(b) Any other offence in respect of which the requested State consents. Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with the present Treaty.

2. A request for the consent of the requested State under the present article shall be accompanied by the documents mentioned in paragraph 2 of article 5 of the present Treaty and a legal record of any statement made by the extradited person with respect to the offence.

3. Paragraph 1 of the present article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within 30/45 days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

ARTICLE 15
Transit

1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.

2. Upon receipt of such a request, which shall contain relevant information, the requested State shall deal with this request pursuant to procedures provided by its own law. The requested State shall grant the request expeditiously unless its essential interests would be prejudiced thereby.

3. The State of transit shall ensure that legal provisions exist that would enable detaining the person in custody during transit.

4. In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for 48 hours, pending receipt of the transit request to be made in accordance with paragraph 1 of the present article.

ARTICLE 16
Concurrent Requests

If a Party receives requests for extradition for the same person from both the other Party and a third State it shall, at its discretion, determine to which of those States the person is to be extradited.

ARTICLE 17
Costs

1. The requested State shall meet the cost of any proceedings in its jurisdiction arising out of a request for extradition.

2. The requested State shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought.

3. The requesting State shall bear the costs incurred in conveying the person from the territory of the requested State, including transit costs.

ARTICLE 18
Final Provisions

1. The present Treaty is subject to ratification, acceptance or approval . The instruments of ratification, acceptance or approval shall be exchanged as soon as possible.

2. The present Treaty shall enter into force on the thirtieth day after the day on which the instruments of ratification, acceptance or approval are exchanged.

3. The present Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

4. Either Contracting Party may denounce the present Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which such notice is received by the other Party.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Treaty.

DONE at _____________________ on _________________ in the ________________

and _____________________ languages, both/all texts being equally authentic.

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BIOGRAPHICAL SKETCH

Robert Parrillo is an interdisciplinary scholar and professional with interests and expertise that link multiple disciplines; including political science, law, cyberspace, and criminal justice. In addition to teaching, he has practiced law and has served as a senior editor for an Internet-based legal information provider. He received a B.A. in Political Science from the University of Illinois at Urbana-Champaign, a J.D. from The John Marshall Law School, and most recently, a Masters in Political Science from Florida State University. His current research is in international law. Robert is especially fascinated with how governments coordinate their laws over the Internet. Robert hails from Chicago and is the oldest of six.