

Extradition of Shi'i Offenders to Non-Shi'i Islamic Countries from the Perspective of Imami Fiqh and Iranian Law

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ABSTRACT

Extradition is one of the most important forms of legal and judicial cooperation among states: it consists of measures by which states return offenders who have fled to another country to the state of prosecution or enforcement. States use extradition to preserve security and punish offenders. The question becomes more complex where the requested person is a Shi'i Muslim and the requesting country is an Islamic but non-Shi'i state. Imami fiqh, with its emphasis on justice, human dignity, and protection of the believer's life and religion, does not permit extradition where there is fear of death, torture, religious coercion, or unfair trial. Iranian law, under the Constitution and the Extradition of Offenders Act of 1960, contains conditions such as treaty basis, dual criminality, and respect for minimum guarantees, but lacks a systematic mechanism for assessing sectarian risk. This study argues that extradition should be refused absent credible assurances of fair trial and protection of religious rights.

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Introduction

Extradition is a major instrument of international judicial cooperation. States return persons who have fled across borders in order to protect security and enforce criminal justice. However, when the person sought is a Shi'i Muslim and the requesting state is an Islamic but non-Shi'i country, fiqhi and human rights concerns arise. Imami fiqh emphasizes justice, human dignity, and the sanctity of the believer's life and religion. The relevant bases include the rule of negating domination, the prohibition of cooperation in sin and aggression, and the requirement of justice in judgment. Iranian constitutional principles and the Extradition of Offenders Act of 1960 also impose legal conditions on extradition. The study examines whether and when such extradition is permissible.

Methodology

The research is library-based and uses fiqhi sources, including works of Imami jurists, Qur'anic verses, and reports, as well as legal sources such as the Constitution, the Extradition of Offenders Act, bilateral and multilateral treaties, and judicial practice. It employs comparative analysis between Imami fiqh and Iranian law.

Findings

First, contemporary extradition procedures have become faster through removal of unnecessary formalities and new channels of information exchange, shortening time limits for detention and transfer. Second, in Imami fiqh extradition is conditional on confidence that justice will be observed. If the requesting state has a judicial system that is unjust, discriminatory, or hostile toward Shi'ism, extradition is impermissible. Third, Iranian law implicitly reflects fiqhi concerns but does not expressly prohibit extradition where adequate assurances are absent. Fourth, Iranian judicial practice appears cautious in extradition to non-Shi'i Islamic states, yet the absence of a regular mechanism for assessing sectarian risk and violations of defendants' rights remains a significant weakness.

Discussion

The most sensitive issue is the interaction between international cooperation and the duty to protect life, dignity, religion, and due process. The fiqhi objection is not merely political; it rests on the illegitimacy of delivering a believer to a forum where judicial authority may not meet Imami standards or where the person faces sectarian harm. Iranian law can accommodate these concerns through treaty interpretation, constitutional principles, human rights guarantees, and the requirement of credible assurances.

Conclusion

From the perspective of Imami fiqh, extraditing Shi'i offenders to Muslim countries not governed according to the doctrine of wilayat al-faqih is, according to the reasoning attributed to many jurists and the Guardian Council, impermissible where judges lack the required qualifications or the person faces danger to life, religion, dignity, or fair trial. More generally, extradition of a Shi'i Muslim to a non-Shi'i Islamic country is impermissible when reports prohibiting recourse to unjust judges or the protection of believers' religious security apply by rationale. Iranian authorities should therefore evaluate fiqhi and human rights concerns together and refuse extradition in the absence of reliable assurances.

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