GENERAL

1: DOES UK EXTRADITION LAW PROVIDE JUST OUTCOMES?

Not always, a prime recent example is the case of Talha Ahsan who was imprisoned without charge in UK prisons, extradited to the US and recently freed by a US Judge who said he was not a terrorist and citing the “unreliable” evidence supplied by UK and US prosecutors. Many years of a man’s life lost. The eventual outcome in the US is always via their Plea Bargain system which requires people plead guilty (even if innocent) to a usually reduced offence in order to get home to their families and avoid lengthy incarceration in America’s dreadful prisons even while awaiting a trial. This system is described by many in authority in the UK as being abhorrent. Others will provide detailed comment on this.

2: COMPLEXITY (Impact on victims)

Extradition law between the UK and US is highly complex and specialised. The impact of this upon victims (those for whom extradition is sought) is that there is the necessity to:

- Seek the expertise of specialist extradition lawyers and barristers which are mainly only practicing in London.
- Travel to London at all times for numerous court hearings and legal meetings, this is both expensive and time consuming. In my son’s case, since he was a student at the time so all costs fell to me I would estimate that the total cost involved was in the region of £50-55,000 over the 2 year period. This does not include legal costs which were covered by legal aid.

In addition the whole process is extremely disruptive to everyday life, traumatic and frightening due to a lack of explanation and information from the Police in the early stages and due to the aggressive attitude displayed by US prosecutors. I was required to find out everything for myself from the internet. We would have appreciated some sort of information leaflet given to us at the same time as the Extradition warrant was being briefly wafted in front of our eyes with no explanation given.

There is no support available for extradition victims in the UK, our support and advice came from other victims who were extremely knowledgeable as a result of their own horrendous experiences. As a result we “victims” now support others and a website serves to be a great source of support and information. However victims remain forced to trawl the internet to find information.

People whose extradition is requested by the US are always treated as a guilty criminal even before any trial, taken into custody in the UK, placed on bail and then when finally extradited thrown into solitary confinement in a Federal prison before being transported all around the US to various jails for high category prisoners regardless of the alleged crime. This is not how people accused of a crime are normally treated in the UK.
3: JURISDICTION

The use of extradition to prosecute an alleged crime where the accused has never ever set foot in that country in my opinion is not appropriate, we have a legal system in the UK which should be perfectly able to deal with these cases. As regards Jurisdiction and in relation to the US we should be asking ourselves, Is there no limit to US jurisdiction? There appears not to be, the US enjoys a perversely extraterritorial jurisdiction the like of which is not exercised by any other nation. This is wrong and unjust, the United Kingdom is a Sovereign state with its own judicial system.

Up to date figures on UK /US extradition requests obtained from the Home Office under the Freedom of Information Act have highlighted that there are many more requests for extradition by the US to the UK than from the UK to the US and that furthermore the UK does not request many extraditions from the US. If the UK did make as many requests to the US, no doubt plenty would be refused since the UK has never requested and the UK has never ever requested the extradition of a US citizen to the UK for a crime committed whilst in the US. It is well known that the US would not agree to extradite a US Citizen for an alleged offence committed whilst in the US. Meanwhile the Home Office and US Embassy frequently assert that the US always agrees to extradite those requested whilst the UK refuses cases, the reasons for that are apparent in the FOI above.

Other ways of dealing with these matters should be more widely publicised, explored and utilised. People should have the opportunity to sort their situation out without being extradited to the US (In cases where they have never even set foot in the US)

4: UK/US EXTRADITION (personal experience)

When my son Richard was threatened with extradition to the US I vowed that this would happen “over my dead body”. We set about on the horrendous journey through the extradition legalise pathway, myself working every day all day on the internet fact finding, speaking to experts in the UK and US while Richard carried on “head in sand” intent on completing his University degree. (Which he did in spite of everything gaining a 2:1 degree) Meanwhile many lawyers in the UK and in the US were contacting me offering their assistance pro bono. Expert Copyright and Internet lawyers assured me that Richard had not committed the crimes he was accused of by the US. Many “tech” journals wrote about Richard’s case highlighting the injustice and the wrongful interpretation of the law. A quarter of a million people signed Jimmy Wales’ petition against Richard’s extradition, many of them MP’s, Copyright lawyers and renowned internet giants and entrepreneurs in the UK and US. Throughout the two year period I was driven by the injustice of this rotten extradition treaty with the US, my own simmering anger and a mother’s need and determination to defend her child against an aggressor. I kept on top of the lawyer’s progress constantly, scrutinising and questioning every legal submission and sending them mountains of copyright information which could be useful in the case.

It was becoming apparent to me and Richard that the US prosecutors firstly did not have the technical knowledge and understanding of the relevant matters and had not fully investigated other similar cases which had been thrown out of court. I pointed this out to them in no uncertain terms and via Richards lawyer suggested that they might like to “do the right thing” and drop the case. This did not happen but I was aware later that the US Prosecutor had actually advised those higher up that there was no case to answer and that they would not win and to drop the case. But the US being the US insisted the case was pursued to the bitter end. i.e. to extradition. The US is known to have an adversarial legal system, we have experienced this at first hand along with the vindictive approach, the absolute refusal to back down even when in the wrong and the need to save face at all costs. The US and organisation behind the legal case were perturbed by the amount of public support there was against Richard’s extradition and also by the
growing petition to the degree that they tried to launch a PR Campaign to gain support for their own actions. This was exposed and brought to my attention by a vigilant “Tech” Journal author and was a complete failure.

While the lengthy legal process was being followed for nearly two years I was exploring other options behind the scenes almost from day one. The source of advice for this was not a lawyer, the home office or the police but another victim of this horrendous piece of legislation David Bermingham who was himself extradited to the US, forced to take a plea bargain before he could get back to the UK. Extradition lawyers brilliant though they are fight cases through the law and interpretation of the law. Richard’s case was due to go to appeal at the High Court but I had little faith in system at the time but later heard from the legal team that the Judge “was minded to allow the appeal”. We chose to continue with our behind the scenes efforts. David Bermingham advised me at day one to request the lawyers try to negotiate with the Prosecutors in the US to try to resolve the matter with the least damage possible and to avoid extradition. This process was in progress for many months and resulted in a surprisingly better outcome than what Richard had been faced with. This was aided by copyright lawyers in the UK and US working together and pro bono with Extradition lawyers and the US prosecutors to agree the way forward. In the end the US prosecutor after discussion with the US Copyright lawyer was forced to reluctantly accept his assertion that Richard had not committed the crime they were trying to charge him with in the US. In the end Richard was not charged with any crime in the US or the UK.

5: Human Rights Bar –

People subject to extradition requests from the US have not been shown to be able to argue that their Human Rights are being affected. (Gary McKinnon the exception and where a great deal of politics came into play) Indeed the Home Office and United States government have previously taken extraordinary measures to influence the decision making of the ECHR in respect of UK to US extradition. “ECHR judges were likely influenced by a visit to Washington on March 1, when five current and former members attended a closed-door conference—“Judicial Process and the Protection of Rights”—with Supreme Court Justices Stephen Breyer, Samuel Alito, Anthony Kennedy and Sonia Sotomayor, as well as State Department legal adviser Harold Koh and Derek Walton, Britain’s lead lawyer in Ahmad. A month later, the ECHR ruled that the extradition could proceed”

This meeting with a closed session occurred just before the ECHR were due to deliver their decisions in respect of Babar Ahmad and Talha Ahsan and which had already been expected to block their extradition on Human Rights grounds.

https://www.youtube.com/watch?v=qgUWrY9sHRc

In my view after following numerous cases, in respect of the extradition of British citizens to the US, victims simply appear to have no human rights whatsoever.


After the 2003 Act was brought into force there remained on the statute a perfectly drafted section relating to the Forum Bar against extradition, this was never brought into force. Lately some amendments have been made to the extradition act and a different Forum Bar enacted. In my view this has made a terrible situation worse than ever. Others will have provided details on this I am sure. These changes to the Extradition Act 2003 in respect of forum bar are as yet untested and it remains to be seen as to whether the forum is in reality an option for accused persons, somehow I don’t think so. There remains an inclination for extradition to be the first option rather than the last.

Other extradition reforms have been introduced with regard to extradition to “Category 1” countries within Europe. Such as the “proportionality test” changes could go further and should now be extended to extraditions to countries beyond Europe – such as the US. The Extradition Act 2003 was brought into force after terrorist attacks and was meant to be used to deal with heinous crimes such as terrorism and murder.
which most reasonable people would agree is necessary. Extradition is being used to deal with non-serious matters that could and should be dealt with in our own justice system indeed I have a letter from Keir Starmer the then head of the CPS stating that Richard’s case was not a serious matter when asked if the Crown Prosecutors guidelines Concurrent Jurisdictional Cases were followed. This case further illustrates that the Extradition Treaty between the UK and US is being misused time and time again and will continue to be so until a proper Forum Bar is applied in cases where the accused had never ventured to the US.

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