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The Principle of Non-Extradition of Political Offenders: Contemporary Dilemmas and Institutional Improvement

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Abstract

This paper takes the contemporary application dilemmas of the principle of non-extradition of political offenders as its research object, aiming to deconstruct the underlying logic of its institutional failure, remedy the shortcomings of existing research—characterized by fragmentation and insufficient systematic analysis—and provide theoretical support for its normative application and institutional improvement. Employing normative analysis, comparative analysis, and case analysis, this paper reviews relevant international rules and national legislations and dissects the application dilemmas through classic judicial precedents. The study finds that the principle confronts four systemic dilemmas: the inherent shackles of the absence of a definition of political crime, the failure of the binary classification system, and the fragmentation of recognition standards; the practical adaptation crisis triggered by the rise of transnational terrorism; the institutional instrumentalization and alienation caused by political interest interference and the expansion of administrative discretion; and the failure of human rights protection resulting from the disconnection between extradition and asylum procedures and the absence of cross-procedural res judicata. On this basis, this paper proposes institutional improvement pathways across four dimensions, asserting that the humanitarian core of the principle retains irreplaceable value and can offer practical references for the international extradition regime to balance sovereignty maintenance, transnational crime governance, and human rights protection.

Keywords

principle of non-extradition of political offenders, political crime, extradition system, human rights protection, international criminal justice cooperation, political asylum

1. Introduction

The principle of non-extradition of political offenders constitutes the core exception rule within the international extradition system. Since its establishment in the 19th century, it has provided cross-border human rights protection for dissidents facing political persecution while delineating the boundaries of states' extraterritorial exercise of sovereignty through its non-extradition design. It has now been incorporated into the vast majority of global extradition treaties and domestic legislations, becoming a foundational rule of the modern international legal order. In the era of globalization, the rise of transnational terrorism and the intensification of geopolitical rivalries have fundamentally altered the principle's application environment. It

is not only entangled in endogenous dilemmas—such as the absence of a definition for "political crime," the failure of the binary classification system, and the fragmentation of recognition standards—but also faces systemic challenges including adaptation crises for new types of crimes, instrumentalization and alienation driven by political interests, and procedural failures in safeguarding individual rights. The tension between the original institutional intent and judicial practice has become increasingly evident. Against this backdrop, this paper systematically analyzes the contemporary application dilemmas of the principle, clarifies the underlying logic of institutional failure, and provides theoretical support for its normative application and improvement.

Domestic and international scholarship on the principle has coalesced around three core research dimensions: first, foundational studies on the conceptual definition and recognition standards of political offenders, which have established the binary classification system of pure and relative political offenders and clarified the evolutionary trajectories of recognition standards across the three major legal families; second, studies on the impact of terrorist crimes on the principle's application, exploring the boundaries of rule application in the context of emerging crimes; and third, studies on state intervention and human rights protection in the principle's application, revealing the erosion of judicial neutrality by the expansion of executive power. Nevertheless, existing research exhibits clear gaps: most analyses remain fragmented and single-dimensional, lacking systematic integration of contemporary challenges; insufficient exploration of the superimposed effects of endogenous defects and external shocks; and inadequate deconstruction of the structural deficiencies in the linkage between extradition and asylum procedures, with no systematic pathway for institutional improvement.

At the theoretical level, this paper constructs a comprehensive analytical framework of "endogenous dilemmas—external shocks—institutional alienation—rights failure," remedying the fragmented shortcomings of existing research, deepening theoretical understanding of extradition exception regimes, and bridging the research barriers between extradition systems and international refugee law. At the practical level, this paper reviews the risks of alienation and judicial dilemmas in the principle's application, offering practical references and theoretical guidance for the international community to refine extradition treaty provisions and promote relatively unified recognition benchmarks.

This paper comprehensively adopts normative analysis, comparative analysis, case analysis, and interdisciplinary methods to systematically review relevant international rules and national legislations, compare core recognition standards across different legal systems, and concretely analyze institutional application dilemmas through classic cases. The full text follows a progressive logical structure: it first dissects the endogenous dilemmas in the conceptual definition of political offenders, then analyzes the adaptation crisis posed by new terrorist crimes, subsequently explores the issue of institutional instrumentalization caused by political interest interference, and finally deconstructs the procedural objectification dilemmas in individual rights protection. At the end, based on the research conclusions, it offers prospects for the direction of institutional improvement, forming a complete research loop.

2. Dilemmas in Defining Core Concepts: The Absence and Ambiguity of the Definition of Political Offenders

2.1 Failure of Essential Definition

As the core exception rule in the extradition system, the primary dilemma of the political offender exception principle lies in the fact that the concept of "political crime" itself lacks a precise, internationally recognized definition. As Garcia-Mora observed: "Although the political crime exception is a standard clause in almost all extradition treaties and has been adopted in the domestic laws of many countries, the term 'political crime' has almost never been defined in treaties or laws. The German Extradition Law of December 23, 1929, fully demonstrates that defining political crime in extradition treaties or domestic law is inadvisable; this law is also the only one that has ever attempted such a definition. Since this definition was generally considered highly unsatisfactory, subsequent treaties stipulating non-extradition for 'political crimes or related acts' have not listed specific acts belonging to this category." As Lauterpacht once pointed out: "To this day, all attempts to establish a complete and self-consistent conceptual content for this term

have failed; and in essence, we may never be able to find a convincing conceptual content and statutory definition for it."

2.2 Failure of the Classification System

To overcome definitional difficulties, academia and judicial practice have developed a binary classification system of "pure political offenders" and "relative political offenders." "Pure political offenders" refer to acts directed against the state's political order without elements of ordinary crime; legal theory typically includes treason, sedition, armed rebellion, and espionage within this category (Garcia-Mora, 1953). The characterization of such acts has largely achieved consensus in the judicial practice of various countries, with few disputes over classification.

"Relative political offenders" encompass compound political crimes—acts committed for political purposes or motives, or whose circumstances or means possess a political nature while formally satisfying the constitutive elements of ordinary crimes—and connected political crimes that constitute pure ordinary crimes in both subjective and objective respects but are linked to a certain political act (Zhao & Chen, 2001). The core failure of the binary classification system lies in the international community's inability to establish any unified rules for recognizing "relative political offenders." Its central controversy—the degree of conflation between political acts and ordinary criminal elements, as well as the applicable benchmarks—has never reached consensus. National standards for judging "connection" and political character differ dramatically, resulting in the possibility that the same act may receive completely opposite characterizations in different judicial systems.

2.3 Fragmentation of Interpretation Standards

In response to the definitional challenges of relative political offenders, countries have developed divergent interpretation standards. Currently, the principal global standards fall into three categories.

The first is the "political connection test" established by the Anglo-American legal system. Its core logic is to examine whether the act in question is ancillary to a political uprising, riot, or political struggle. As long as the act is carried out to advance a specific political objective, it may be recognized as a political crime. This standard originated in the 1891 British case *In re Castioni*, whose classic judicial rule required that "the act must constitute a component or incidental event of political unrest." However, the 1955 case *Ex parte Kolczynski* broke through this limitation, extending the category of political offenders to include individual acts of resistance undertaken to escape political persecution (Larschan, 1986). U.S. application of the standard has been even more lenient; in cases such as *In re Ezeta*, *Rudewitz*, and *Pouren*, the courts required only an objective connection between the act and political unrest, and even a relatively weak connection sufficed for recognition as a political crime (Garcia-Mora, 1962). In *Karadzic v. Artukovic*, the court went so far as to include war crimes involving the deaths of tens of thousands within the scope of the political offender exception, further amplifying the standard's elasticity (Madruga, 1983).

The core defect of this test is that it does not treat the harmfulness of the act or the proportionality of means to political objectives as central criteria for recognizing political crime. Instead, it relies solely on "connection between the act and political unrest or political objectives," lacking rigid restrictive thresholds for the degree of violence or the consequences of legal-interest infringement. Although exceptions such as the assassination clause and the exclusion of anarchist violence exist, the broad connection criterion makes it extremely easy for serious violent crimes and large-scale civilian harm to evade extradition by claiming political linkage. The norm itself therefore carries substantial risks of elasticity and abuse.

The second is the "political objective test" adopted by continental-law countries such as France and Belgium, which takes the nature of the legal interests infringed by the act as the sole determinant, excluding consideration of the perpetrator's subjective political motive.

This standard received classic articulation in the French case *In re Giovanni Gatti*: only acts directly targeting the state's political organization, sovereign order, or constitutional system are defined as political crimes; acts that merely infringe private rights, even if motivated by clear political intent, are excluded from the category of political offenders (Garcia-Mora, 1953).

The standard defines political offenders extremely narrowly, essentially centering on "pure political offenders" and strictly limiting the application space of relative political offenders. A large number of acts carried out to resist despotism and pursue political freedom—acts possessing clear political attributes—are entirely excluded from asylum because they do not directly target the core of the state's political order. In effect, the standard eliminates the influence of the perpetrator's subjective political motive on the nature of the act, greatly narrowing the application boundaries of the principle of non-extradition of political offenders. In routine judicial practice, this approach deviates from the principle's original humanitarian intent to protect political dissidents and resist political oppression. Its rigid definition of "infringement of state political rights" fails to accommodate the diverse forms of political resistance in modern society, leaving many acts with genuine political resistance attributes without protection.

The third is the "dominant motive/proportionality test" established by Switzerland, which takes the perpetrator's subjective political motive as the core criterion while imposing three restrictive requirements: a direct causal link between the act and the political objective, the political element must occupy a dominant position in the overall act, and the criminal means must be proportionate to the political objective.

Compared with the first two standards, this test seeks a balance between human rights protection and crime suppression and represents the rule among the three that most closely integrates flexibility and constraint. Nevertheless, it still harbors insurmountable endogenous defects. On the one hand, the recognition of "political motive" relies heavily on the adjudicator's presumption of the perpetrator's subjective intent, inherently possessing strong subjectivity and rendering uniform adjudication scales difficult. On the other hand, the requirements of "dominance of the political element" and "proportionality of means to objectives" lack objective, quantifiable evaluation criteria; determinations of what is "proportionate" or "dominant" remain subject to case-by-case judicial discretion. The test therefore fails to escape the shackles of judicial subjectivization and does not resolve the core challenge of achieving global unification of political offender recognition standards.

The coexistence and conflict among these three testing standards have directly produced the complete nationalization of political offender recognition: the same act may yield entirely opposite conclusions under the judicial rules of different legal systems and countries. As a result, the global application of the principle of non-extradition of political offenders has lost all predictability.

3. Adaptation Crisis Posed by Novel Terrorist Crimes: Principle Abuse and Breakthrough of Application Boundaries

3.1 The Transnational Nature of Terrorist Acts Breaks Through Traditional Geographical and Sovereignty Boundaries

Traditional application scenarios of the political-offender non-extradition system are strictly confined to the sovereign territory of the requesting state. Whether under the "ancillary-to-uprising test" established in the *In re Castioni* case within the framework of the British Extradition Act 1870 or the judicial rules formed in U.S. practice through *In re Ezeta* and *Ornelas v. Ruiz*, all implicitly presuppose that "political uprisings, riots, or armed conflicts occur within the territory of the requesting state" and that "the criminal act maintains a direct geographical and factual connection with domestic political struggles."

Under the traditional framework, the legitimacy of a political crime derives from the perpetrator's direct linkage to conflict with the requesting state's domestic regime: even "relative political offenders" that include ordinary criminal elements must constitute resistance against the requesting state's internal political order, with the place of commission, location of the conflict, and the requesting state's sovereign territory overlapping to a high degree. Courts' core benchmark for determining whether an act qualifies as an "incidental act of uprising" rests on the presumption that "both the political conflict and the violent acts are confined within a single country's borders." Contemporary terrorism's transnational character, however, shatters these geographical and sovereignty constraints. Transnational terrorist acts completely detach from the spatial limitation of "political conflict within one country," displaying the feature that the "location of conflict occurrence, place of act commission, target state, and perpetrator's state of nationality" are mutually separated. This directly renders core judgment elements in traditional rules—such as "location of uprising occurrence" and "geographical connection between the act and the uprising"—entirely ineffective, leaving

courts without stable, predictable adjudication benchmarks. This judicial predicament has been fully manifested in typical cases. The violent actions of the Irish Republican Army (IRA) are the most representative: its political demands target British rule over Northern Ireland, yet the violent attacks extend systematically not only within Northern Ireland but also to mainland Britain and even to other European countries. In *In re Mackin*, the magistrate devoted seven days of hearings and produced thousands of pages of transcripts, the core argument centering on whether the Northern Ireland conflict constitutes a "continuous political uprising" (Hannay, 1983).

Because the core anchor of traditional adjudication fails in the face of terrorism's transnational nature, the political-offender non-extradition system readily falls into bidirectional abuse. On the one hand, "political connection" determinations unconstrained by geographical boundaries lose any predictable unified standard and can easily bring terrorist acts targeting third-country civilians or indiscriminate cross-border attacks within the scope of exception exemptions. At the same time, to avert the risk of such abuse, judicial practice can readily swing to the opposite extreme, completely denying exception application to legitimate political conflicts such as transnational national-liberation movements and thereby breaking through the system's core protective boundaries. Such extreme adjudicative disorder can neither accommodate the new criminal morphology of transnational terrorism nor fulfill the system's original legislative intent to protect political dissidents and refuse to become a tool of political persecution by other states.

3.2 Decentralization of Terrorist Organizations Subverts Traditional Uprising-Recognition Premises

Application of the traditional "ancillary-to-uprising test" takes as its logical starting point "the existence of a political uprising, riot, or armed conflict meeting statutory requirements." This uprising requirement implicitly carries strict presuppositions of organized subjects and sustained confrontation. The adjudication rule established in the 19th-century *Castioni* case addressed revolutionary uprisings possessing clear organizational structures and command systems. Subsequent U.S. judicial practice—whether the Salvadoran domestic revolutionary armed conflict in *Ezeta* or the IRA armed confrontation in Northern Ireland-related cases—consistently presupposed that "the perpetrator belongs to a political group or uprising force engaged in continuous, large-scale armed conflict with a national government." In short, the traditional system protects incidental acts within large-scale, organized political armed conflicts, not isolated or decentralized violent actions.

Contemporary terrorism's decentralized and asymmetric characteristics thoroughly subvert this core presupposition. Many perpetrators of terrorist acts merely claim political or ideological motives yet do not belong to any political group possessing organized armed-confrontation capability. Even where nominal transnational terrorist organizations exist, their operational mode consists of decentralized individuals or small groups independently planning and executing attacks, without any unified command system, and thus fails to satisfy traditional "armed conflict" recognition standards.

This decentralized, asymmetric behavioral pattern plunges judicial practice into a fundamental dilemma: strict adherence to the statutory requirement of "existence of an uprising" would entirely exclude such acts from exception application, yet it risks the criticism of "ignoring the perpetrator's political motive and deviating from the system's original intent to protect political dissidents." Conversely, breaking through the "uprising" requirement and recognizing exception application solely on the basis of the perpetrator's claimed political or ideological motive would lead to unlimited expansion of the political-offender non-extradition system, bringing any violent crime accompanied by an ideological declaration within the scope of protection and completely dissolving the system's statutory boundaries.

Traditional judicial review paths likewise lose applicability in the face of decentralized terrorism. In IRA-related cases such as *Mackin* and *McMullen*, courts could still conduct factual review to determine whether Northern Ireland satisfied the requirements for a "political uprising" and then analyze the connection between the specific act and that uprising. For decentralized terrorist acts, however, no large-scale armed conflict exists for courts to review, rendering the traditional two-step review logic inapplicable. Courts are left only with either-or extreme adjudication: either mechanically refuse exception application on the ground that "no uprising exists," or completely break through the rule framework to engage in subjective free discretion. The result is unpredictable adjudication outcomes that undermine the stability and foreseeability of the extradition system. As early as 1969, Bassiouni observed in his research that unorganized political

violence driven solely by ideology had already challenged the traditional recognition rules for relative political offenders (Bassiouni, 1969). The decentralized development of contemporary terrorism has amplified this institutional defect to the extreme; traditional tests are entirely unable to produce reasonable adjudication scales for such acts.

4. Dominant Intervention by State Political Interests: Erosion of Judicial Independence and Instrumentalization of the Principle

The principle of non-extradition of political offenders seeks to balance the three core objectives of cross-border fugitive pursuit through judicial neutrality. In contemporary practice, however, the dominance of national political interests causes it to lose judicial independence, transforming it into a diplomatic and geopolitical tool and completely deviating from its original institutional intent.

4.1 Alienation of the Principle's Application Standards under the Dominance of Political Interests

The dominant intervention of national political interests in the principle is first manifested in the core criteria for political-offender recognition and extradition decisions shifting from the political attributes of the act itself to interstate political relations and ideological stances. Through empirical research, M. Cherif Bassiouni further clarified that the logic by which political offenders select asylum countries is anchored in "the degree of political antagonism between states" rather than the legal nature and political attributes of their own acts (Bassiouni, 1969). Correspondingly, an asylum country's decisions on whether to initiate asylum procedures or grant extradition permission are likewise fundamentally based on its own political interests and bilateral diplomatic relations. Countries with convergent ideologies and political stances are more inclined to mutually deny the "political offender" status of each other's wanted persons and cooperate with extradition requests; countries with ideological opposition and geopolitical rivalries are more inclined to refuse extradition on the grounds of "non-extradition of political offenders" or even proactively grant political asylum (Rebane, 1996).

This logic has produced typical examples of divergent judgments in similar cases in contemporary international extradition practice, fully exposing the double standards in the principle's application. The United States refused Britain's extradition request for Irish Republican Army members' violent acts on the grounds of "political crime," yet for violent acts by Palestine Liberation Organization members whose nature and degree of harm were highly similar, it excluded application of the principle on the grounds of "terrorist crime" and granted extradition.

The core divergence in these adjudication outcomes does not stem from essential differences in the legal nature or harm degree of the acts themselves, but is determined by the United States' alliance-based diplomatic relations with Britain and Israel, as well as differences in its ideological and geopolitical stances toward Irish and Palestinian-related political forces.

4.2 Institutional Expansion of Administrative Discretion and Failure of Judicial Checks-and-Balances Mechanisms

The deep penetration of political interests into the principle's application is further reflected in the hollowing out of judicial neutral recognition by the institutional expansion of administrative discretion in national extradition systems, completely breaking the checks-and-balances role of judicial power over extradition decisions. In the extradition legislation and practice of most countries worldwide, a dual-layer structure of "judicial review+administrative final decision" has been formed: judicial organs are responsible only for preliminary judicial determination of the legality of extradition requests and whether the act meets the constitutive elements of a political offender, while the ultimate decision on whether to grant extradition always rests with administrative organs (Young & Erny, 1987). This institutional design reserves ample space for political factors to intervene in judicial outcomes through executive power, transforming the application of the political-offender non-extradition principle from a judicial adjudication issue into an administrative diplomatic decision issue.

Taking the U.S. extradition system as an example, even if a federal court, after complete judicial proceedings, issues an effective ruling that the requested person meets extradition conditions and does not constitute a political offender, the Department of State still retains completely independent final decision-making authority. It may autonomously approve or reject the extradition request on the basis of non-judicial factors such as bilateral diplomatic relations and national interests. More critically, this discretionary act by the Department of State is neither constrained by clear statutory standards, nor required to provide public reasoning, nor subject to any effective judicial accountability or supervision mechanism. During the Reagan administration, the U.S. Congress even received a proposal to strip the "final recognition power of the political-offender exception" entirely from federal courts and vest it directly in the Secretary of State; had the proposal been adopted, it would have completely deprived judicial power of its checks-and-balances capacity over extradition administrative acts and rendered the political-offender non-extradition principle wholly subordinate to foreign policy (Madruga, 1983). Extradition practice in Latin American countries similarly exhibits the characteristic of executive power suppressing judicial power. Although most Latin American countries' extradition legislation explicitly requires administrative organs to submit extradition requests to the supreme court for judicial review, in practice administrative organs always retain ultimate discretionary power to overturn supreme-court rulings. The political-offender attribute determinations made by judicial organs possess only "referential effect" for administrative organs and cannot form binding legal constraints; judicial checks and balances are reduced entirely to a formality (Rebane, 1996).

International refugee-law scholar Manuel R. Garcia-Mora incisively observed that comprehensive intervention by executive power in judicial power causes the application of the political-offender non-extradition principle to always prioritize service to national diplomatic and political interests rather than the basic human-rights protection of the accused. The dual legislative objectives that extradition law should possess—"protection of the rights of the pursued person" and "international cooperation in combating transnational crime"—suffer severe imbalance in practice, with individual rights continuously marginalized or even completely ignored in the weighing against national interests.

In summary, the all-encompassing, full-process intervention by national political interests has shaken the judicial-neutrality foundation of the principle of non-extradition of political offenders, dissolved the humanitarian value core of the principle, and undermined the institutional consensus of international extradition cooperation, becoming one of the core dilemmas that the principle faces in the contemporary international legal system and finds difficult to overcome.

5. Procedural Objectification of Individual Rights Protection

One of the core institutional values of the principle of non-extradition of political offenders lies in providing cross-border human rights protection for individuals facing political persecution. Yet in the contemporary legislative and judicial practice of various countries, the application of this principle exhibits a fundamental structural deficiency in individual rights protection, which is centrally manifested in the systemic rupture of procedural linkage.

5.1 Systemic Rupture in Procedural Linkage: Full-Process Loopholes in Individual Rights Protection

The principle of non-extradition of political offenders and the international asylum system are originally complementary human rights protection mechanisms: the former provides extradition immunity for individuals through criminal justice procedures, while the latter offers final residence and non-refoulement protection through refugee status determination. Together they should form a complete chain of individual rights protection.

In practice across countries, however, the systemic disconnection between extradition and asylum procedures, together with the bidirectional absence of cross-procedural res judicata, creates full-process loopholes in individual rights protection. Even if an individual successfully invokes the principle of non-extradition of political offenders to obtain exemption in the extradition procedure, final rights protection remains difficult to secure.

5.2 Institutional Separation and Application Disconnection Between Extradition and Asylum Procedures

Extradition procedures and asylum procedures belong to independent procedural systems. Extradition procedures are criminal justice procedures; a final judicial determination by a judicial organ that an individual's act constitutes a political crime is a criminal judicial ruling on whether the pursued act qualifies as a political crime and whether the principle of non-extradition of political offenders applies. Asylum procedures, by contrast, are administrative procedures; a political refugee status determination by an administrative organ is an administrative discretion decision on whether the individual faces a risk of persecution upon return to the country of nationality and whether refugee status can be granted. The two sets of procedures possess independent logics of adjudication, standards of proof, and rules for allocating the burden of proof. At present, however, national legislation and international rules have generally failed to establish specialized coordination norms or linkage mechanisms for the parallel application of the two procedures, resulting in systemic separation from the very source of procedural design. Consequently, the two procedures may, in the absence of any coordination mechanism, reach mutually contradictory determinations regarding the political attributes of the same pursued act of the same individual.

The above procedural opposition and misalignment represent only the surface manifestation of the rupture in individual rights protection. Its core cause is the bidirectional absence of cross-procedural res judicata for determinations related to political offenders. This constitutes the central procedural defect in the failure of individual rights protection and the root of the linkage rupture between extradition and asylum procedures.

First, there is a unidirectional absence of res judicata from judicial rulings over administrative procedures. In Anglo-American judicial practice, the U.S. case *Matter of McMullan* explicitly established a core rule: a final judicial ruling in extradition proceedings on whether an individual's act constitutes a political crime produces no res judicata effect on subsequent asylum or removal proceedings. Even if the ruling is issued by the same court and the same judge, administrative organs retain the right to re-examine the political attributes of the same act and reach completely opposite conclusions (Shea, 1992). The res judicata of judicial rulings can constrain only subsequent judicial proceedings and cannot constrain administrative organs in the exercise of sovereign administrative discretion; asylum and removal procedures are characterized as core domains of state sovereignty, into which judicial power may not lightly intervene. In the practice of American states, the universally established principle of "exclusive recognition authority of the asylum state" directly vests exclusive authority to determine political refugee status in administrative rather than judicial organs, with the result that political-offender determinations made by judicial organs in extradition proceedings exert no legal binding force on administrative asylum procedures (Madruga, 1983).

Matter of McMullan is a classic illustration of this defect: a U.S. court had already rejected Britain's extradition request on the grounds of non-extradition of political offenders, explicitly ruling that the individual's act of bombing a British army barracks constituted a political crime. Yet in the subsequent asylum procedure, the U.S. Immigration and Naturalization Service invoked Article 1F of the 1951 Refugee Convention ("serious non-political crimes are excluded from the protection of the Convention"), completely disregarded the court's final criminal ruling, denied the individual's refugee status, and ultimately removed him to Britain, where he was killed upon return (Bassiouni, 1969). The case fully demonstrates that the absence of res judicata from judicial rulings over administrative procedures can directly cause the judicial protection conferred by the principle of non-extradition of political offenders to be completely hollowed out by subsequent administrative procedures, rendering the rights protection ultimately obtained by the individual a mere scrap of paper.

Administrative procedures likewise lack res judicata over judicial procedures. A final refugee status determination by an administrative immigration organ exerts no legal binding force on subsequent judicial extradition proceedings. Even if an immigration administrative organ has issued a final decision recognizing that the individual's act possesses political attributes and meets the statutory conditions for political refugee status, judicial organs may, in a subsequently initiated extradition procedure, disregard that administrative decision, deny the political attributes of the pursued act, and issue a final ruling granting extradition.

The bidirectional absence of res judicata directly causes the application of the principle of non-extradition of political offenders to lose all certainty and stability: whether an individual can obtain rights protection on the basis of this principle depends not on the nature of the act itself but on the choice of competent organ and

the sequence in which procedures are initiated. The application of the principle thus ultimately becomes "the outcome of organ selection" rather than the result of uniform legal application. Individuals cannot obtain final rights protection through any final ruling and remain in a state of uncertainty in which their rights may be repeatedly denied. This constitutes a major defect in the procedural design of the political-offender non-extradition system.

6. Conclusions

This paper takes the contemporary application dilemmas of the principle of non-extradition of political offenders as its core research object. It systematically deconstructs the underlying logic of this 19th-century core rule of international extradition in balancing state sovereignty boundaries, transnational criminal justice cooperation, and individual human rights protection, and reveals the four core root causes of its institutional failure: at the conceptual level, the absence of an internationally unified definition of political crime, the failure of the binary classification system, and the global fragmentation of recognition standards constitute inherent shackles that generate uncertainty in rule application; at the practical level, the rise of transnational terrorism has broken the premises of traditional rule application, causing the "ancillary-to-uprising" adjudication benchmark to fall into a judicial dilemma of bidirectional abuse; at the institutional operation level, the full-process intervention of state political interests and the institutional expansion of administrative discretion have hollowed out judicial neutral recognition, transforming the principle into a tool of geopolitical rivalry; and at the rights protection level, the systemic separation between extradition and asylum procedures and the absence of cross-procedural res judicata have produced procedural idling and final failure of human rights protection.

In response to the above dilemmas and challenges, this paper proposes that the international community, while respecting the legal cultures and institutional differences of various countries, must promote institutional normative improvement from four core dimensions: first, promote the formation of a global minimum benchmark for political crime recognition, solidify the consensus boundaries for pure political offenders, and establish universal requirements for the recognition of relative political offenders so as to compress the space for judicial subjectivization and rule abuse; second, clarify the statutory boundaries between political crime and terrorist crime, reconstruct adjudication benchmarks adapted to new criminal morphologies, explicitly exclude the application of rules to terrorist acts while preserving legitimate space for justified political resistance; third, constrain the undue expansion of administrative discretion through judicialization reforms, reconstruct a procedural architecture of "judicial recognition as the core and administrative discretion as supplementary," and return to the institutional original intent of judicial neutrality; and fourth, establish coordination and linkage mechanisms between extradition and asylum procedures, codify cross-procedural res judicata rules, break down the barriers between extradition systems and international refugee law, and achieve final protection of individual rights.

In the contemporary era of intensified geopolitical rivalry and continuous iteration of transnational crime morphologies, the humanitarian core of the principle of non-extradition of political offenders—preventing the instrumentalization of national criminal justice and providing cross-border asylum for those at risk of political persecution—has not faded but has instead become even more prominent in its irreplaceable institutional value. The principle remains the core line of defense that delineates the boundaries of states' extraterritorial exercise of sovereignty and resists the cross-border transmission of political persecution; its vitality is forever rooted in the institutional original intent of protecting individuals from political persecution. By deconstructing the logic of its institutional failure and providing a systematic pathway for improvement, this study offers a reference solution for bridging the tension between rule theory and judicial practice, and supplies theoretical support for balancing sovereignty maintenance, transnational crime governance, and human rights protection within the international extradition system in the context of globalization.

At the same time, this study still has limitations: the research is conducted primarily at the macro level on the basis of international rules, national legislation, and typical precedents, and lacks microscopic systematic empirical analysis of the differentiated practices by which countries in different legal systems and geopolitical regions apply the principle. The design of improvement pathways has also not undergone scenario-based applicability testing in combination with specific cases. Future research can further conduct comparative empirical studies by region and by legal system, combine full-process tracking of typical

individual cases to refine the operational design of improvement pathways, and extend research into new forms of cross-border political crime in the digital age and the evolution of rules in regional extradition mechanisms, thereby providing more targeted theoretical support for the contemporary development of the principle.

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