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GINO YAT REGULATION OF THE SCOPE OF APPLICATION OF LAWS IN THE SPACE WITH INTERNATIONAL LAW NORMS .

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Abstract: *This article provides scientifically based proposals and recommendations on the theoretical and practical aspects of regulating the scope of criminal laws in the territory by international law.*

Keywords: *Uzbekistan, Criminal law, Territory, Process, Foreign, Crime, Assassination, Punishment.*

One of the important issues regulated by international law is the application of international law in space. The scope of the international legal order is the influence of the international legal order. When an international instrument establishes criminal liability for certain criminal acts, the question arises as to which state criminal law may be applied to each such crime in a particular case. In addition, the question of bringing a person to criminal liability by an international court may arise, and then it is necessary to distinguish between international jurisdiction and the jurisdiction of national states. Currently, in international law, the territorial application of criminal law norms scope territorial, civil (active personal), immunities from criminal jurisdiction, Real (protection), universality, and extradition.

The oldest principle of the scope of application of criminal law is the territorial principle. Previously, it was known as the “territorial principle”. The effect of criminal law norms is, as a rule, limited to the territory of the state. States establish borders in accordance with international law. National criminal laws apply to civil aircraft and ships flying the state flag, regardless of their location, as well as to warships, regardless of their location . The territorial effect of criminal law is provided

for in many international instruments. In particular: Article 6 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide states that “Persons accused of genocide shall be tried by the competent court of the State in whose territory the act was committed or by such an international tribunal.” The 1979 Convention Against Surrender also provides that each party provides that a State shall take such measures as may be necessary to establish its jurisdiction over any offence covered by this Convention committed in its territory or on board a ship or aircraft.[i]

of the territorial scope of criminal law rules, the sovereignty and independence of the state authorities of the participating states in international treaties are always emphasized. In particular, as stated in the above-mentioned convention, any other criminal jurisdiction exercised in accordance with domestic law in connection with hostage-taking is not excluded.

Under international law, criminal liability may arise for particularly serious crimes against the peace and security of mankind (international crimes) in accordance with international standards. In such cases, the criminal law provisions of international instruments, rather than the norms of national legislation, are applied, and jurisdiction is exercised by an international court, and in some cases by a national court. According to the 1998 Rome Statute, the International Criminal Court may exercise jurisdiction over an international crime committed within the territory of a State. (Article 12) [ii].

Also, in international law, the effect of norms in space is implemented in accordance with the international principle . According to this principle , the state exercises its jurisdiction over its citizen who has committed a crime on the territory of a foreign country.

The civil principle of the legal norm is enshrined in many international conventions. For example, according to the 1979 " Convention against Hostages ", a state has the right to prosecute its own nationals, as well as stateless persons normally residing on its territory, for committing any of the crimes provided for in the Convention under its own criminal law.

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In 2000 Article 15 of the Convention " Against Transnational Organized Crime " states: "If the crime is committed by this participant committed by a national of a State or a stateless person permanently residing in its territory, each party "The state exercises its jurisdiction [iii]. "

A stateless person permanently residing in the territory of a state also establishes a strong connection with this state. Therefore, international law stipulates that a state may extend criminal jurisdiction over this category of persons when they commit a crime outside the territory of the state. In international law , a national state usually applies to the exercise of the right under consideration if a citizen or stateless person permanently residing in its territory is not subject to criminal liability and returns to his homeland or is extradited . Currently, this principle is implemented mainly in two ways. Some states establish dual criminal liability for socially dangerous acts (including Uzbekistan) in order to bring them to criminal liability in accordance with national legislation. Other states provide for the possibility of implementing the principle of citizenship for acts committed in a foreign state , regardless of whether they are recognized as criminal under local law or not . In general, the countries of Germany, Korea, and Japan .

The rule of double jeopardy is a principle of international law , and states decide whether or not to implement it in their national legislation. According to Article 2 of the 1957 European Convention on Extradition, extradition shall be granted for crimes punishable by deprivation of liberty or a maximum term of imprisonment of at least one year or a more serious penalty, under the laws of the requesting and requested Parties. The Model Convention on Extradition, approved by the United Nations General Assembly in 1990, states that extraditable offences are those which, under the laws of both Parties, are punishable by deprivation of liberty for a term of not less than one year or by a more severe penalty, or by another type of deprivation of liberty. In international law, the institution of immunities from criminal jurisdiction plays an important role in resolving issues of the territorial scope of criminal law. The term "immunity" comes from Latin and means " freedom from something. " That is, in its most general form, immunity means not being subject to

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the jurisdiction of a local court for a crime committed. The scope of immunities varies depending on its type. International law distinguishes the following immunities from criminal jurisdiction:

- ✓ diplomatic;
- ✓ consulate;
- ✓ international organizations;
- ✓ official government del e gations;
- ✓ special missions.

The immunities under consideration are provided for by international instruments (the 1961 Vienna Convention on Diplomatic Relations, etc.) .

Immunities are necessary to create conditions for the normal performance of the functions assigned to representatives of foreign missions, official delegations of foreign states and international organizations. At the same time, they determine that persons of this category are not subject to the criminal jurisdiction of the state in which they are located for crimes committed within its borders. According to international practice, such persons are declared "persona non grata" and are obliged to leave the state within a certain period of time.

Immunity of a person is terminated in the following cases:

- ➔ recall of a person by the accrediting state;
- ➔ declaring a person persona non grata by the state of residence;
- ➔ severance of diplomatic relations;
- ➔ wars between the sending country and the receiving country;
- ➔ termination of the existence of one of the states as a subject of international law .

The general rule in international law is that immunity is complete or limited, depending on the type of immunity, not only for officials, but also for the buildings, transport, correspondence, archives of state offices, as well as for international organizations. According to international legal instruments, immunity in the United Nations is granted to the UN Secretary-General, his deputies, judges of the International Court of Justice, and others.

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real and universal principles from the important principles of the scope of international legal norms in space . Article 7 of the 1999 UN Convention on the Suppression of the Financing of Terrorism states the Real principle as follows. Each State may establish its jurisdiction over the financing of any crime of a terrorist nature specified in the Convention and committed in the following cases :

1) against one of the citizens of this state;

2) if such a crime was committed against a government facility, diplomatic or consular mission of the said state abroad;

3) an attempt to compel that State to do or refrain from doing any act , which resulted in the commission of such a crime .

15 of the 2000 UN Convention against Transnational Organized Crime also states that "a State shall exercise its jurisdiction over a crime committed against a national of that State. " Article 42 of the 2003 UN Convention against Corruption also states that “ a State may establish its jurisdiction over any offence under this Convention if the offence is committed against that State or against a national of that State . ” The above provisions reinforce the Real principle of protection. According to this principle , the criminal law of a national state applies to crimes committed abroad against the interests of that state as well as against its citizens , regardless of the territory where they were committed and the nationality of the offender . The scope of this principle includes the protection not only of the interests of the state, but also of the interests of citizens. A state has the right to exercise criminal jurisdiction to protect its citizens if they suffer harm abroad as a result of a crime. This Real principle is also called the passive citizenship principle and stems from the state's duty to protect its citizens abroad. The operation of the Real principle under analysis is usually applied to foreign citizens and stateless persons who are not permanent residents of a given state and who have committed a crime outside the borders of that state. Therefore, the principle of the territorial effect of criminal law is mainly applied to foreigners and stateless persons who do not permanently reside in a given state. The principle of real protection is also called the security principle, which extends its effect to political crimes affecting state security. However, it can be noted that there

are significant differences in the understanding of the principle of real protection in the international practice of states . Along with crimes that encroach on state security, economic, currency and migration -related crimes can also be punished [iv]in accordance with this principle . In international criminal law, the Real principle (protection or security) is that the criminal jurisdiction of a state applies to all persons for certain acts committed outside that state, regardless of the nationality of the perpetrators. We consider it appropriate to introduce this Real principle (protection or security) into the criminal legislation of Uzbekistan.

Universal application of international law The principle is actually a principle of international criminal law, which arose precisely in connection with the development of international criminal law. The universal principle is aimed at achieving the goal of ensuring criminal liability and punishment and preventing crimes, regardless of the nationality of the perpetrators of the crime, as well as the place where the crime was committed. The distinctive feature of the universal principle is that, according to it, the criminality and punishment of the most dangerous international crimes and crimes of an international nature are determined in accordance with the national legislation of the place where the person is held liable, regardless of his citizenship and the territory where the crime was committed, unless otherwise provided for in international legal instruments. There are different opinions on the definition of international crimes and crimes of an international nature.

According to L.V. Inogamova- Khegai , “ international crimes or crimes against peace and security of humanity are understood as crimes that encroach on the foundations of peace between peoples and states and the security of all humanity. In his opinion, the concept of crimes of an international nature is used in relation to socially dangerous acts that encroach on the fundamental rights and freedoms of the individual, international cooperation relations between states in matters of ensuring the normal functioning of organizations and institutions, coordination of joint activities and actions in the socio-cultural, economic, environmental, entrepreneurship, and combating crime . ”[v]

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According to A.I.Boyko, "international crimes (war crimes that attack the peace and security of humanity) accept the highest values and interests of humanity as their object, and therefore international law and global jurisdiction bodies prevail here. Crimes of an international nature undermine the interests of individual states and, through them, harm the international legal order. " [vi].

According to A.G. Knyazov , " crimes against international peace and security of humanity should be understood as actions that violate the foundations of international peace and the existence of humanity , and crimes of an international (traditional) nature should be understood as actions that threaten the universally recognized rights and freedoms [vii]of man in various spheres of the socio-economic life of states ."

Many international conventions to which the Republic of Uzbekistan is a party also provide for the fight against crime, including: the 2000 Convention against Transnational Organized Crime ; the 2003 UN Convention against Corruption , and others.

2000 UN Convention against Transnational Organized Crime reinforces the universal principle as follows. With respect to the crimes provided for in this Convention, each Party the state exercises its jurisdiction:

was committed outside its territory with the intention of committing a serious crime in its territory ;

if the person suspected of having committed a crime is in its territory and it does not extradite such person solely because he is one of its nationals;

if the person suspected of having committed a crime is in its territory and it does not extradite him (Article 15).

territorial applicability of a legal norm is the extension of the criminal jurisdiction of a state for acts recognized as criminal by international criminal law to any persons, regardless of the place where they were committed. If in the competition between the universal principle of territorial applicability of a criminal norm and other principles of territorial applicability, the former is given priority, then in the

competition between the institution of extradition of a criminal and the universal principle, the latter is of primary importance.

Currently, in international practice, there are mainly two systems of criminal extradition:

1. Europe continental system i - operates in continental Europe, Latin America and other countries;

2. Anglo-American system of common law countries - In common law countries (Great Britain, USA, Canada, Australia, India, New Zealand, etc.), extradition of a criminal is based on an international treaty.

The US Supreme Court has ruled on several occasions that extradition of a criminal can be carried out on the basis of a treaty between states. A characteristic feature of common law countries is that, in addition to extradition of a criminal, they do not recognize the customary rule of international law, which, as a rule, has an international treaty, not to extradite their own citizens.

The 1957 European Convention on Extradition forms the basis of the European-continental extradition system. The Convention [viii]establishes the procedure and conditions for the extradition of persons who are being prosecuted for a crime or are wanted by the competent authorities of the requested Party for the purpose of executing a sentence or arrest warrant .

Extradition of a criminal is carried out on the basis of the following principles:

- if the committed socially dangerous act is among the crimes for which extradition may be requested , the perpetrators must be extradited. If, in connection with the receipt of the request, the law of the requesting and requested parties provides for a penalty of imprisonment for a term of at least one year for this crime , extradition shall be carried out (Article 2);

- the committed socially harmful act must be a "double crime", that is, the offense must be considered a crime under the laws of both parties. The principle of double criminality is an international legal norm;

- Criminal prosecution of an extradited person shall be carried out only for a crime committed by the extradited person (Article 14).

In addition to the established principles of extradition, the Convention provides for other restrictions on extradition on the following grounds:

persecution is based on discrimination (racial, religious, national, civil);

the political nature of the crime;

related to customs payments and fees;

the passage of time;

In compliance with the principle of " ***idem bis " ;***

the possibility of applying the death penalty to the extradited person;

crime scene, etc.

Extradition shall not be granted if the person sought is accused of a political crime (Article 3). At the same time, the Convention states that an assassination attempt on a head of state or a member of his family is not a political crime , and the "bis" principle applies not only to previous convictions but also to acquittals and acquittals . For example: pardon or amnesty (Article 9). The Convention does not contain an absolute prohibition on extradition for a crime punishable by death. Extradition may be refused if the requested State provides for the death penalty for the criminal whose extradition is sought , but this penalty has not been provided for or has not been carried out in the requested State . If the person is surrendered to the requesting State and the death penalty can be applied to him, the latter shall ensure that this type of punishment will not be applied in this case. A State may refuse to extradite its own nationals (Article 6). However, if the requested Party refuses to extradite its national , criminal proceedings must be initiated against that national at the request of the requested Party. Extradition may be refused if the crime for which extradition is requested was committed in whole or in part in the territory of the requested Party, and if judicial proceedings are being conducted by the competent authorities of the requested Party in connection with the crime for which extradition is requested. Extradition shall not be granted if there is insufficient or unreliable evidence that the person sought is involved in the commission of the crime for which extradition is requested.

Model Treaty [ix]on Extradition , adopted by the United Nations General Assembly resolution of 1990 It contains the same principles as the 1957 European Convention on Extradition . However, there are differences. According to the Model Treaty, an extraditable crime must meet more stringent requirements . He must be punished by deprivation of liberty for a term of at least one (two) years or a more severe penalty, in accordance with the laws of both Parties. If the request for extradition concerns a person who is wanted for the purpose of executing a deprivation of liberty or another measure imposed for the same offence, extradition shall be effected only at least four (four) to six months before the expiry of that term. Including (Article 2 of the model contract) . The model treaty provides for flexible rules for determining whether an act is criminal under the laws of the requested and requesting parties . The following are not relevant in determining whether an act is criminal under the laws of either party:

Crimes , whether they fall under the same category under trademark law and have the same symbol;

In accordance with the legislation of the Parties, whether the constituent elements of this crime are distinguished when taking into account the entire set of acts or omissions indicated by the requested State (Article 2).

If the extradition of a person is requested for an offence relating to taxes, customs duties, exchange controls or other revenue matters , extradition shall not be refused on the ground that the law of the requested State does not provide for such an offence . There shall be no requirement for the payment of taxes , customs duties or exchange controls similar to those provided for in the law of the requesting State (Article 2). This provision of the Model Treaty on Extradition differs from the European Convention, which provides that a person shall not be extradited for financial offences.

Currently, the institution of extradition continues to develop. A person can be considered extradited if the extradited person is guaranteed the right to a fair trial with respect for his rights and freedoms. There are changes in the concept of non-extradition for "political crimes". Recently, terrorist acts have become widespread

and crimes are being committed in various parts of the world during non-international armed conflicts. To leave such acts outside criminal liability, based on the political nature of the acts committed, is to do evil by leaving the perpetrators of the most dangerous crimes unpunished. Many international conventions specifically stipulate that even crimes of a political nature can be extradited. Persons who have committed crimes against the peace and security of mankind must be extradited. Thus, the jurisdiction of the International Criminal Court includes: genocide, crimes against humanity, war crimes and crimes of aggression. All of them are included in the list of extraditable crimes .

In conclusion, the scope of application of the criminal law of the Republic of Uzbekistan in the territory The legislative regulation and application of the principles of international law must comply with the generally recognized principles and norms of international law, international treaties of Uzbekistan, and in the event of inconsistency with such norms, the norms of international law must be applied .

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