

International Law

The Extradition Activity for Chapter Five
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Please read the following scenario. Take notes (in your notebook) on the case (focus on the important questions of international law and its concepts). Later, you will be placed in a small groups, where you will compare your notes and answers with others in the group; completing your notes on extradition. The key to success in this activity is to examine the issue(s) from several sides, not just one.

Stephen Abootman, M.D., a Canadian citizen from British Columbia, and his wife took a trip to El Paso, Texas, for a week-long vacation to try to temporarily forget their very real horror: their son has a medulloblastoma.¹ While there, they stayed at the Camino Real, a beautiful historic hotel in the heart of downtown El Paso. Arriving on 7 March 2007, the couple immediately called their son's doctor at the BC Cancer Agency—a part of the Provincial Health Services Authority in British Columbia, Canada. The oncologist reiterated that their son would remain unconscious for at least three weeks, while the experimental cancer treatment took effect.



While trying to enjoy their time away from the stress of a child with terminal brain cancer, Dr. Abootman and his wife enjoyed the atmosphere at a local bar, the “La Cucaracha.” Unfortunately, four El Pasans began to ridicule Dr. Abootman's ridiculous accent, his choice of *cerveza* (Labatt's Blue beer), and his sick child. During the barroom brawl, Dr. Abootman purposefully (according to the court's findings) broke a beer bottle and stabbed a fellow drunken brawler with it, inflicting a fatal injury. Dr. Abootman was subsequently arrested by Texan authorities, and tried and convicted of first-degree murder—a capital offense. The jury quickly sentenced him to death.

During the state-mandated appeal, the court allowed Dr. Abootman to temporarily visit his terminally-ill child in British Columbia. When the judge (Justice Theodore Harmon) found against his appeal, the United States government requested his return to their jurisdiction from Canada under the *Treaty between the Government of Canada and*

¹ A medulloblastoma is a highly malignant brain tumor originating in the cerebellum. It is especially deadly in children under the age of three.

the Government of the United States of America on Mutual Legal Assistance in Criminal Matters (TIAS 8237),² but Rob Nicholson, the Canadian Minister of Justice, rejected the order on the grounds that Dr. Abootman faced the death penalty upon his return to the United States.

Now that you have carefully read the scenario, have taken notes on the most important concepts and aspects of the scenario, and have thought about preliminary answers to these questions, answer the following question in your notebook.

I strongly suggest you consult the recent cases of the US Supreme Court and of the International Court of Justice as two important cases are directly relevant to this case.³



You will later be split into groups, where you will compare answers and select the best ones to share with the remainder of the class.

1. Does the Canadian Minister of Justice have the right in International Law to refuse extradition?
2. Does the death penalty constitute a violation of an IMS?
3. It just came to light that the Canadian Consulate-General in Dallas was never notified that one of its citizens was being held by Texas. How much can this affect the case against Dr. Abootman? Can this overturn the conviction?
4. You are the appellate judge in Texas, Justice Theodore Harmon, who found the trial court was not in error. Your goal is to bring Dr. Abootman back to Texas to face his crime and to be executed according to the laws of the land. What is your strategy to achieve this goal?

² The text of which can be found at http://www.lexum.umontreal.ca/ca_us/en/cts.1990.19.en.html.

³ One of these two cases is *Avena and Other Mexican Nationals (Mexico v United States of America)*. The other two are *Medellín v Texas*, 552 US ____ (2008) and *Medellín v Texas*, 554 US ____ (2008).