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The Current Situation, Challenges, and Countermeasures of International Cooperation against Corruption

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Abstract. International cooperation in anti-corruption and fugitive pursuit is a crucial part of cross-border corruption governance, and it should be based on the integration of domestic law and international law.China has formed a cooperation framework supported by the Criminal Law, the Criminal Procedure Law and special norms and supported by multilateral and bilateral treaties, and formed multiple paths such as extradition, repatriation, prosecution in other places and persuasion to return, which has made positive achievements in the "skynet operation". However, in practice, it is still restricted by the rules of non-extradition of the death penalty, the difference in the determination of dual crimes, and the non-extradition of its nationals. It also faces problems such as the long-term jurisdiction of some countries, the absence of asset sharing mechanisms and the insufficient awareness of international rules by local case-handling organs. To this end, we should optimize the domestic legal system, standardize the sentencing commitment procedures, strengthen the construction of anti-money laundering mechanisms, improve diversified cooperation routes and standardized judicial assistance mechanisms, and ensure the long-term effectiveness of the recovery of fugitives and stolen goods by improving the system.

Keywords: Anti-corruption, Overseas pursuit and escape, International fugitive pursuit and asset recovery

1. Introduction

At present, anti-corruption international recovery of fugitives and stolen goods has become an important topic of law enforcement cooperation among countries. The report of the 20th National Congress of the Communist Party of China clearly states: "Deepen international cooperation in anti-corruption efforts, and jointly promote the integrated efforts of preventing, deterring, and recovering assets stolen or embezz.In September 2024, China held a plenary meeting of the United Nations Global Anti-Corruption Law Enforcement Cooperation Network in Beijing and adopted the Beijing Consensus on Strengthening Law Enforcement Cooperation and Refusing Corruption Shelters, which provides new opportunities for deepening international cooperation. However, the implementation of consensus still faces practical obstacles at the legal and operational levels. Based on this, this article intends to systematically review the legal basis and current practice of international fugitive pursuit in our country, analyze the cooperation difficulties, and propose

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countermeasures from three aspects: institutional improvement, path optimization, and capacity building.

2. Legal basis for international cooperation in countering corruption and recovery

The transnational nature of anti-corruption pursuit requires that it must be established on the basis of a docking domestic law authorization system and an international law cooperation framework.

2.1. Legal basis and legal framework at the domestic level

To carry out judicial cooperation with foreign countries, sovereign countries first need the clear authorization of their domestic laws. At present, China has formed a three-tier legal framework with the Constitution as the guide, the departmental law as the support and the special law as the operation.

Although the constitution does not elaborate on the rules of international cooperation, the fundamental principles it establishes, such as governing the country by law, safeguarding human rights, punishing crimes, and protecting public property, provide a fundamental legal basis for anti-corruption international cooperation.

At the core departmental law level, the "Criminal Law" and the "Criminal Procedure Law" constitute direct substantive and procedural support. The "Criminal Law" not only defines the constitutive elements and penalty scales of corruption crimes, but also its provisions on the recovery of illegal gains are the core legal basis for conducting cross-border asset recovery. The "Criminal Procedure Law" specifically sets up a chapter on "Criminal Judicial Assistance", incorporating requests for cooperation and execution with foreign countries into the domestic litigation process, ensuring that every step of cross-border pursuit and recovery of assets is legally regulated.

Specialized laws provide more precise regulations. The "Extradition Law" systematically stipulates core systems such as the principle of dual criminality, non-extradition of political prisoners, and non-extradition of those with the death penalty, and establishes a joint review procedure by administrative and judicial authorities, thereby constructing the overall framework of China's extradition system. The "International Criminal Judicial Assistance Law" has integrated the previously scattered regulations, clearly defined the supervisory roles of institutions such as the National Supervisory Commission, and detailed all the steps from making the request to implementing the assistance, thereby enhancing the standardization of China's external judicial cooperation.

2.2. Legal basis and legal framework at the international level

Eligibility is conferred by domestic law, and the success or failure of cooperation depends on a common international legal platform and the principle of mutual recognition.

Multilateral conventions impose a universal duty of cooperation on States. The United Nations Convention against Corruption as its core, the extensive cooperation obligations established in Chapter IV "International Cooperation" and Chapter V "Asset Recovery", as well as the direct and indirect mechanisms for asset recovery, constitute the most important international legal basis for China's cooperation.

With regard to customary international law, some principles of customary international law also play an implicit normative role in practice. For example, the "extradite or prosecute" principle requires that if a State is unwilling to extradite the person sought for some reason, it must transfer

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him to its judicial organ for prosecution in order to prevent him from escaping legal sanctions. Some studies have suggested that although the principle of universal jurisdiction is generally not directly applicable to ordinary corruption cases, its concept is of reference significance for promoting countries to form synergy in combating serious transnational economic crimes.

Bilateral treaties, on the other hand, translate the multilateral principles into actionable rules. Bilateral extradition treaties specify the scope, procedures and grounds for refusal of extraditable crimes, making cooperation more certain; without a treaty, one can only rely on the less certain principle of reciprocity. Bilateral criminal judicial assistance treaties have established institutional channels for regular cooperation such as exchanging evidence and implementing seizures and detentions.

On the whole, the legal basis for China's international cooperation in anti-corruption pursuit is a dynamic multi-level system with national sovereignty as the core, international treaties as the link and bilateral agreements as the supplement. However, there are also problems that need to be coordinated within the system. Therefore, understanding the internal connection and interaction between these sources is the key to solving practical problems and an important idea to improve the design of relevant systems.

3. Status quo of China's international cooperation in countering corruption and recovery

After clarifying the legal basis and normative framework, it is necessary to turn the perspective to its practical level to systematically examine the specific operational forms, institutional effectiveness and practical characteristics of China's international cooperation in anti-corruption pursuit and evasion.

3.1. Existing forms of cooperation and their characteristics

Extradition refers to an international judicial cooperation act where a country, upon the request of a foreign country, transfers a person who is located within its territory and is being prosecuted or sentenced by the requesting country to the requesting country for trial or punishment [1].The core domestic law basis for this is the "Extradition Law of the People's Republic of China". As the most formal international fugitive pursuit legal channel, its procedures are rigorous and strictly follow principles such as dual criminality and non-extradition of political crimes. It is one of the core methods for China to carry out international judicial cooperation in anti-corruption.

Deportation, in the context of cross-border pursuit and escape, is an administrative measure under which the domestic law of the requesting country is used to forcibly send foreign nationals who have illegally entered, illegally stayed, or committed serious illegal acts back to their home countries.Its procedures are more flexible than extradition and are often used in practice to overcome extradition barriers, but highly rely on discovering and proving the existence of immigration violations by fugitives. Cross region prosecution refers to the form of international judicial cooperation that requests the country where the suspect is located to prosecute and try his criminal acts in accordance with its own laws when he escapes abroad and cannot be extradited. The cases of Xu Chaofan and Xu Guojun belong to this category. This method can bypass extradition restrictions, but it highly relies on the evidence provided by the Chinese side to meet foreign procedural and evidentiary standards. Exhortation to return is a method of seeking and persuading fugitives to voluntarily return to their home country and surrender in international cooperation against corruption. It is mainly based on the lenient provisions for voluntary surrender and confession in the Criminal Law and Criminal Procedure Law, as well as the criminal policy of

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balancing leniency and severity. The Yang Xiuzhu case demonstrates that persuasion has the advantages of flexibility and convenience, and has become an important way for China to pursue fugitives overseas. However, its legal basis and procedural norms still need to be improved.

3.2. Achievements of China's current mechanism

On June 27, 2014, the International Anti-Corruption Coordination Office of the Central Commission for Discipline Inspection (referred to as the "Central Anti-Corruption Office") was officially established. This marked a shift in China's anti-corruption international fugitive recovery efforts from the previous fragmented management approach to a centralized, unified, efficient and authoritative "integrated" collaborative model [2].This mechanism centers on coordination and has achieved remarkable results in practice.

In terms of organizational structure, the Central Anti-Foreign Corruption Office is led by the Central Commission for Discipline Inspection and the National Supervisory Commission. It integrates the functions and resources of important departments such as the Ministry of Foreign Affairs, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of Justice, and the People's Bank of China. It breaks down departmental boundaries and achieves information sharing and work integration. In terms of overall coordination, this mechanism serves as the unified external window at the national level, playing the role of organizational coordination. It uniformly deploys strategies, commands and coordinates the negotiations of foreign anti-corruption cases, and concentrates efforts on discussing and analyzing key case clues.

These achievements are fully reflected in the actual effectiveness of pursuing fugitives and recovering stolen goods. Since the establishment and operation of this mechanism, a total of 14108 fugitives have been recovered, among which 61 of the "100 Red Cross personnel" have been arrested, and a large amount of involved property has been recovered. The success of cases such as Yang Xiuzhu's persuasion to return and Xu Chaofan's case cannot be separated from the coordination and external communication of the central fugitive pursuit office in key links.

4. Realistic difficulties and legal barriers faced by international cooperation against corruption

Although China has established a relatively systematic international cooperation mechanism for anti-corruption and fugitive pursuit and achieved significant results, it still faces practical challenges from multiple levels such as legal rules, operational execution, and professional capabilities in in-depth practice.

4.1. Legal difficulties

Differences in rules and legal conflicts are the most fundamental and thorny obstacles in international cooperation.

Firstly, the principle of non-transfer of death penalty. This principle is a major legal obstacle that our country faces when conducting extradition cooperation with most Western countries. To overcome this obstacle, in practice, our country often adopts the method of making a sentencing commitment, promising not to impose or execute the death penalty upon the person extradited back to the country. However, the sentencing commitment lacks clear legal basis in the current law. The

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entity making the commitment, the approval procedure, and the scope of its validity are all unclear, and it may also impose constraints on the court's sentencing discretion.

Secondly, the principle of dual criminality. This principle requires that the relevant behavior constitutes a crime in both the requesting and requested countries, but the constituent elements, protection of legal interests, and system of charges for corruption crimes are not consistent among countries, often raising the threshold for cooperation. Taking China's bribery crime and the US Foreign Corrupt Practices Act as examples, the former focuses on the integrity of state officials, while the latter focuses on commercial bribery and cross-border transaction order. The behavior patterns and regulatory purposes are different, which can easily lead to difficulty in matching the charges.

Thirdly, the principle of non extradition of nationals. Many countries, based on the priority of personal jurisdiction and the protection of their own citizens, stipulate in their domestic laws or treaties that they may or should refuse to extradite their own nationals. For our country, this means that once fugitives obtain citizenship or long-term residency in another country, they may use this opportunity to evade extradition; However, requesting the requested country to prosecute on its behalf is often limited by evidence standards, procedural rules, and political will, resulting in a significant increase in cooperation costs.

4.2. Difficulties at the operational and executive levels

In practical operation, a series of operational issues continue to consume cooperation efficiency and mutual trust.

On the one hand, the "long arm jurisdiction" of certain countries constitutes interference with China's independent judicial jurisdiction. Taking the United States as an example, its domestic laws such as the Foreign Corrupt Practices Act have strong extraterritorial effects. According to its regulations, as long as foreign companies are listed in the United States, settle in US dollars, or communicate solely through servers located in the United States, the US Department of Justice and the Securities and Exchange Commission can assert jurisdiction to investigate and punish bribery practices by the company and its employees overseas. This will result in the situation where, when a case involves our country's public officials, the law enforcement agencies of both China and the United States may simultaneously launch investigations.This kind of parallel jurisdiction is highly likely to lead to investigation conflicts, friction in evidence rules, and even diplomatic disputes. Once the two parties have different judgments on the facts or application of the law in the case, simple case cooperation may become complicated, and even escalate to the level of diplomatic negotiations, ultimately leading to a longer processing cycle for the case.

On the other hand, the lack of domestic laws on asset sharing mechanisms has weakened the enthusiasm of partners. According to international practice, countries receiving assets will incur significant law enforcement and judicial costs in assisting with the freezing, confiscation, and return of corrupt assets. The internationally recognized "asset sharing" system allows the requested country to deduct reasonable expenses from successfully recovered funds and share the remaining assets with the requesting country in proportion to their contributions, which is seen as a key economic incentive for countries to actively cooperate. Although China recognizes this principle under the framework of the United Nations Convention against Corruption, in domestic laws such as the "International Criminal Judicial Assistance Law", there are no clear stipulations regarding the specific implementation paths, sharing ratios, and decision-making procedures for asset sharing. This legal ambiguity has placed our country in a passive position when negotiating with major

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countries where stolen funds flow, making it unable to provide stable and transparent legal expectations and thus affecting the willingness of the other parties to provide substantive assistance.

In addition, local law enforcement agencies in China generally face internationalization challenges in terms of professional competence. Many investigators have insufficient understanding of international criminal judicial assistance rules, foreign evidence law, and procedural law, resulting in drafted requests for judicial assistance that do not meet the format and substantive requirements of the other party. At the same time, the lack of professional translation skills for foreign language legal documents and unfamiliarity with overseas evidence collection methods among investigators have also reduced the approval rate and efficiency of cooperation requests.

5. Improve the legal countermeasures for international cooperation in anti-corruption and fugitive pursuit in China

The previous section systematically reviewed the multidimensional challenges faced by China's international cooperation in anti-corruption and fugitive pursuit at the legal, operational, and political levels. To solve these problems, it is necessary to systematically promote from three levels: improving the legal system, innovating cooperation paths, and building professional capabilities.

5.1. Optimize the international legal and regulatory system for fugitive pursuit

Improving domestic legislation is the foundation for enhancing the effectiveness of international cooperation. Many flexible practices in the current practice of fugitive pursuit in China have not yet been fully transformed into a stable legal system, which not only affects the legal confidence in foreign negotiations, but also may raise questions about the legitimacy of procedures.

Firstly, revise and improve the extradition law. The current extradition law is no longer fully adapted to complex practices. The focus of amending the law should be on two aspects: first, clarifying the conditions for the application of sentencing commitments, limiting them to cases where extradition is necessary and immediate execution of the death penalty may be applicable, and introducing a necessity review; Second, standardize the procedure for making sentencing commitments. The commitment should be proposed by the procuratorial organs, reviewed by the Supreme People's Court, and uniformly announced by the Ministry of Foreign Affairs to enhance the authority and enforceability of the commitment.

Secondly, strengthen the construction of China's anti money laundering mechanism. After the revision of the Anti Money Laundering Law in 2024, corruption and bribery crimes have been clearly listed as upstream crimes, but further refinement is still needed in cross-border fund monitoring and suspicious transaction reporting. In this regard, further efforts should be made to align domestic standards with the rules of the Financial Action Task Force, with a focus on improving systems such as customer due diligence, identification of beneficial owners, monitoring of cross-border abnormal funds, and departmental collaboration to enhance the efficiency of asset recovery.

5.2. Innovative international cooperation path

Faced with the reality that extradition barriers are difficult to eliminate in the short term, it is necessary to explore diversified cooperation paths and use flexible strategies to bypass legal barriers.

Firstly, promote the mutual recognition mechanism of bilateral precedents. The determination of dual criminality is a common challenge in international judicial cooperation. Due to the differences

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in criminal law systems among countries, it is often difficult to fully correspond the charges for the same act in different countries. To address this issue, it is recommended to introduce the "substantive equivalence" standard in the judicial assistance treaties with the main cooperating countries. As long as a certain act constitutes a crime in the requesting country and its nature is substantially the same as a certain type of crime in the criminal law of the receiving country, it can be deemed to meet the requirement of dual criminality, without the need to require the wording of the charges to be completely consistent. In common law countries, precedents play an important reference role. By selecting typical cases, the opposing court can confirm in the judgment that a certain type of corrupt behavior in China is essentially equivalent to a certain type of crime in the country. Subsequent similar cases can use this precedent as a basis to gradually form stable judicial mutual trust.

Secondly, promote the standardized application of the flexible strategy of "persuasion and sentencing commitment". The main problem currently faced in the practice of persuading return is the lack of unified standards for leniency and the lack of standardized procedures for making commitments. It is suggested to develop a unified guidance for persuasion and return work, which should be standardized from two aspects. On the one hand, to clarify the subject of sentencing commitment, Article 50 of our country's "Extradition Law" stipulates that both the commitment for prosecution and the determination of the sentence must be decided by the highest judicial authority.The subject of sentencing commitments in extradition proceedings is the Supreme People's Court, and China's judicial authorities should abide by sentencing commitments in overseas fugitive pursuit [3].Therefore, as an effective measure in overseas fugitive pursuit, persuasion and extradition are functionally consistent and should also be subject to such provisions. Therefore, investigators are not allowed to make sentencing commitments arbitrarily during the persuasion process. On the other hand, the core content of sentencing commitments in persuasion should be the circumstances of sentencing, and it is not appropriate to make commitments on specific punishments. The commitment content should be included in judicial documents to ensure the seriousness and watchability of the commitment.

Third, based on the experience of the "the Belt and Road" clean construction, propose a Chinese plan. The current international anti-corruption rule system is mainly dominated by Western countries. China can leverage the "Belt and Road" cooperation platform to transform the domestic governance experience into regional cooperation rules, and promote the establishment of a cooperation mechanism that better suits the actual conditions of developing countries. On one hand, within the framework of the "Clean Silk Road Beijing Initiative", a mechanism for the rapid return of corrupt assets can be explored. For assets involved in cases with clear facts and definite ownership, after mutual agreement by both parties, they can be directly returned without going through the complete criminal judgment recognition and execution procedures. On the other hand, joint investigations can be promoted on a regular basis. For major corruption cases involving multiple countries, a joint investigation team composed of relevant countries can be formed to achieve simultaneous evidence collection, sharing of clues, and coordinated arrests. Transforming domestic governance experience into regional cooperation rules is not only necessary for serving national strategies but also an opportunity to enhance China's international legal discourse power.

Fourthly, digital reform empowers international cooperation in technology for fugitive pursuit. Many procedural obstacles in international fugitive and asset recovery stem from disputes over the authenticity and integrity of evidence in cross-border circulation. To solve this problem, we can explore the use of blockchain technology to store and consolidate overseas evidence, with real-time information on the time, location, personnel, and equipment of evidence collection being uploaded to the chain. Any tampering behavior can be traced, thereby improving the trust of foreign judicial

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authorities in Chinese evidence. At the same time, we actively promote the extension and expansion of China's digital prosecution strategy to the field of cross-border corruption, promote the construction of an international anti-corruption information sharing and analysis mechanism, fully utilize big data and data analysis technology, widely collect and process massive amounts of cross-border corruption related information, in order to achieve systematic governance of cross-border corruption crimes [4].

5.3. Comprehensively enhance the professional capabilities of the fugitive pursuit team

The system requires people to implement it, and talent shortage is the deep-seated bottleneck that currently restricts the effectiveness of pursuit and evasion.

Firstly, cultivate foreign-related legal talents. Pursuing fugitives and recovering stolen goods involves interdisciplinary knowledge such as international law, comparative criminal law, evidence law, and the language and culture of the target country, and there is an extreme shortage of versatile talents. Suggest promoting the cross integration of law with other majors and building a disciplinary system for cultivating foreign-related legal talents. The cultivation of foreign-related legal talents should be committed to building a "law+" disciplinary system, focusing not only on the cross integration with traditional social science majors, but also on the joint training with natural science majors [5]. At the same time, establish a mechanism for on-the-job personnel to intern and exchange with international organizations and foreign judicial authorities, select business backbones to work and learn at institutions such as Interpol, and cultivate practical abilities.

Secondly, establish standardized templates for judicial assistance requests. The uneven quality of judicial assistance requests submitted by local case handling agencies is a common reason for cooperation requests to be returned or delayed. It is suggested that the National Supervisory Commission take the lead in formulating standardized request forms and evidence list guidelines for major cooperating countries such as the United States, Canada, Australia, and New Zealand. At the same time, an expert review mechanism should be established. For judicial assistance requests in major cases, before they are officially issued, they should be reviewed and controlled by experts organized by the provincial-level or higher authorities.

In summary, to improve China's international cooperation in anti-corruption and fugitive pursuit, it is necessary to solidify the institutional foundation at the domestic legal level, innovate cooperation methods at the international level, and rely on a professional talent team to ensure the implementation of the system. This is not only a practical need to recover individual cases, but also a long-term strategy to promote China's deep participation in global anti-corruption governance and enhance its international legal discourse power.

6. Conclusion

The key to international cooperation in anti-corruption is not to continue expanding policy statements, but to bridge the gap between institutional design and practical operation. Currently, non extradition of the death penalty, dual criminality determination, and non extradition of nationals remain the main legal obstacles, and the lack of long arm jurisdiction interference and asset sharing mechanisms further increases cooperation costs. To solve the dilemma, it is necessary to not only consolidate the institutional foundation through measures such as revising the extradition law and improving anti money laundering mechanisms, but also to enhance the operability of cooperation through the recognition of "substantive equivalence", standardized persuasion and judicial assistance, and to implement a guarantee system for cultivating foreign-related legal talents.

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