

CRIMINAL PROCEDURE LAW

STUDY UNIT 3

S v Kruger

- Animals were stolen in one country but transferred to another
- The question was whether South Africa had jurisdiction despite the theft originally not taking place in South Africa
- Theft is a continuous crime provide that the accused is still in possession of the items and has the intention to steal – Theft is a crime in both countries
- Thus it was possible to prosecute them

S V Ebrahim

- Officials of state A were sent to capture accused in state B
- Was this a breach of sovereignty
- The capture was authorised by state officials but they had entered foreign territory to do so
- RDL disallows the prosecution that has been unlawfully brought into the jurisdiction of the court
- Conviction and sentence were set aside

Mohammed v President of RSA

- The extradition of a Tanzanian citizen to the US where they may face the death penalty
- Court held that the SA government must first obtain the assurance that the death penalty will not be applied – despite the extradition treaty
- There is no death penalty in South Africa – violation of constitutional right to life, confirmed in S v Makwanyane and all people within South Africa are afforded the protections provided by the constitution

Minister of Home Affairs v Tsebe

- Court ruled that the precedent set by Mohamed was not an absolute rule
- Each case should be considered on its own merits
- The appellants failed to show how the current case is different from that of Mohamed and thus the appeal fails
- Not only is the state required to seek assurance that the death penalty will not be applied but must obtain that assurance
- By adopting the constitution South Africa affirmed its commitment to upholding the human rights of all people within its borders

National Commissioner of South African Police v Southern African Litigation Centre

- There were 3 questions that the court was tasked with answering
 - o Where an international crime is committed outside of South Africa does the suspect need to be present within South Africa for the police to investigate?
 - o Whether the constitution imposed a duty on the police to investigate crimes against humanity or torture?

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