

Reuven Eidelman**From Robert Soblen to Lin Daxiang – The History of Disguised Extradition in Israeli Law**

In June 1962 Dr. Robert Soblen fled the United States, after being convicted of spying for the Soviet Union and sentenced to life imprisonment. He arrived in Israel. Three days later Soblen was deported, by a directive from Prime Minister Ben-Gurion, on board an El-Al flight destined for New York, with a stopover in London. During the flight Soblen inflicted a self-injury which forced the authorities to take him off the plane. While hospitalized, Soblen filed a petition to the British court, which eventually approved his deportation to the United States, even though the felony for which he was convicted was not extraditable and Soblen had an entry visa to a third country. Upon his deportation, Soblen took his own life. The Soblen case shocked Israel and spread ripples around the world, leading to a change in Israel's immigration regulations. Consequently, The United Kingdom's Court of Appeal ruling became a major precedent for common-law states.

In February 2010 Lix Daxiang, a Chinese citizen working in Israel, took a butcher's knife and stabbed his roommate, another Chinese citizen, over a hundred times. He was indicted for murder. However, according to the psychiatric evaluation, Lin could neither tell right from wrong, nor control his own impulse. The criminal procedure was therefore terminated. At this point, it emerged that Lin's deportation to China might result in his indictment for murder in a Chinese court, with a likely death penalty if convicted. Israel and China engaged in a long negotiation with regard to Lin's deportation, which took place in Beijing and Jerusalem for several years, until its fruitful outcome.

The line drawn between the two cases is a practice known as disguised extradition: the use of immigration laws to deport an alien to another state, knowing that he is likely to face criminal indictment in that state, without going through a formal extradition process. The practice enables a state to exploit the gap between the two processes, extradition and deportation, which differ both in purpose and in their legal basis, principles and norms.

The article unveils the history of disguised extradition cases in Israeli law. In several cases, all of extremely unusual circumstances, the Supreme Court determined the criteria for examining the legality of such a practice, adopting the deportation purpose as a major test. The article also suggests a mechanism for implementing this test in various situations.