



Transnational Judicial Cooperation

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Chief Judge, U.S. District Court for the District of Minnesota



Outline

1. UN Convention Against Transnational Organized Crime
2. Types of Transnational Judicial Cooperation
 - Treaties
 - Mutual Legal Assistance
 - Extradition
 - Letters Rogatory
 - Informal
3. Challenges
 - Differences in legal traditions
 - Dual criminality
 - Delays



THE TRANSNATIONAL NATURE OF

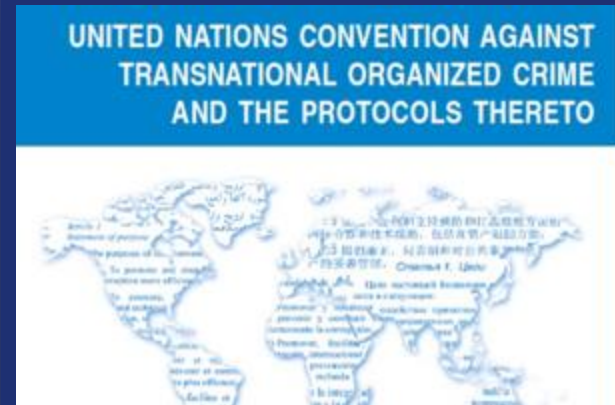
Human Trafficking

- **Activities and/individuals in multiple jurisdictions**
 - Difficult to investigate and prosecute
 - Trial proceeding delays
- **Evidence**
 - More easily concealed
 - Differences in national laws, i.e., privacy
- **Tracing money flow**
 - Funds move across borders



U.N. Convention Against Transnational Organized Crime

- Global
- Developed to encourage national authorities to work together to combat and prosecute transnational organized crime
- Signatories obligated to cooperate internationally
- Over 160 States parties
 - India joined in 2011
- One primary focus: international legal assistance



TYPES OF TRANSNATIONAL JUDICIAL COOPERATION

Mutual Legal Assistance

Process by which States seek and assist with gathering evidence for use in criminal cases

- Challenges
 - Lengthy process
 - Differences in legal traditions



Protocol of Exchange of the Instrument of Ratification on Mutual Legal Assistance Treaty (MLAT) in New Delhi on October 03, 2005.

Image Courtesy: *Gazette of India*



CHAT #1

TYPE YOUR ANSWER IN THE CHAT BOX

Your court was asked to issue a Letters Rogatory, under Section 166A of the Criminal Procedure Code, in a human trafficking case

The prosecutor requested access the email accounts of a U.S. citizen implicated in the investigation.

What questions should you pose to the prosecution?



TYPES OF TRANSNATIONAL JUDICIAL COOPERATION

Extradition

Treaty-based

Non-treaty-based requests



CHAT #2
TYPE YOUR ANSWER IN THE CHAT BOX

What information must a judge consider before granting an extradition request from a foreign county?



TYPES OF TRANSNATIONAL JUDICIAL COOPERATION

Letters Rogatory

Letters rogatory are formal requests from a court in which an action is pending, to a foreign court to perform some judicial act.

Examples:

- Requests for the taking of evidence
- Serving of a summons, subpoenas, or other legal notice
- Execution of a civil judgement



TYPES OF TRANSNATIONAL JUDICIAL COOPERATION

Informal

Direct contact with law enforcement or other counterparts



Practical Challenges

- Ambiguity in the law
- Delays
 - MLAT can take ~1yr
 - Letters rogatory >1yr
- Incomplete responses to information requests
- Conditions attached to the shared information



DIFFERENCES IN

Legal Systems

- **Terminology:** affidavit, writ, commission rogatory, process-veral
- **Authorities:** roles and functions of investigating judge, police, lawyers
- **Extradition requests**
 - Role of Executive vs. Judiciary
 - *Prima facie* case
- **Differences in law regarding**
 - Admissibility of witness statements
 - Evidentiary standards
 - Judgements in absentia
 - Non-extradition of nationals
 - Dual criminality



Best Practices

INSTRUCTIONS:

- In a few moments, we will put up a **Mentimeter screen** prompting you to submit **one** suggestion of a good case management practice.
- If you haven't already, please **log into Mentimeter** using the QR code or by going to **menti.com** and entering the code for this presentation.
- All you have to do is **type your response**, hit submit, and we will read responses as they come in.





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