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Authored By:- *N.Fashiha*

RECIPROCAL ASSISTANCE AND INTERNATIONAL COOPERATION IN CRIMINAL MATTERS : A STUDY OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023, MUTUAL LEGAL ASSISTANCE AND CROSS-BORDER CRIMINAL JUSTICE

Abstract

Crime increasingly crosses national borders. Fraudulent transactions may be organised in one country, routed through financial accounts in another, and completed through digital infrastructure located elsewhere. Witnesses, electronic records, proceeds of crime and accused persons may therefore be beyond the territorial reach of the investigating State. Domestic investigative powers alone cannot always secure the evidence required for a fair and effective prosecution. Reciprocal assistance and international cooperation provide a legal method through which States assist one another while respecting sovereignty and their respective legal systems.

This paper examines reciprocal assistance in criminal matters under Chapter VIII of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), particularly Sections 111 to 124. It considers letters of request, evidence collection across borders, assistance in securing the attendance or transfer of persons, attachment and forfeiture of property, identification of unlawfully acquired assets, and the procedural role of the Central Government. It also analyses India's mutual legal assistance framework, the Ministry of Home Affairs' role as

Central Authority, and the relationship between bilateral treaties, multilateral conventions and reciprocity. The paper argues that international cooperation is effective only when requests are precise, legally grounded, proportionate and compatible with due-process guarantees. Speed must not displace legality, and cooperation must not become a means of circumventing safeguards that would apply in domestic proceedings. Better coordination, digital security, transparent timelines and effective remedies for affected persons are necessary to make the system both efficient and rights-compliant.

Keywords: Reciprocal Assistance; Mutual Legal Assistance; BNSS; Letters Rogatory; International Cooperation; Proceeds of Crime.

Introduction

Criminal investigation was traditionally organised around territorial jurisdiction. Police officers investigated offences committed within their territory, courts compelled witnesses and production of documents within their lawful reach, and criminal proceedings generally depended on evidence available inside the State. Globalisation and digital communication have complicated that model. A single offence may involve a victim in India, an organiser abroad, a bank account in a third country, a server hosted in another jurisdiction and proceeds transferred through multiple intermediaries.

Cyber-enabled fraud, trafficking, terrorism financing, corruption, money laundering, transnational organised crime and offences involving digital assets illustrate the practical limits of a purely domestic investigation. An Indian court cannot ordinarily exercise coercive authority directly over a person or institution in a foreign State. Nor can an Indian investigating officer simply conduct a search in another country. Such action would raise questions of sovereignty and legal authority. Assistance must therefore be requested through recognised channels and executed under the law of the requested State.

Reciprocal assistance is the procedural response to this problem. It allows one State to request another to collect evidence, examine witnesses, serve judicial documents, identify or trace property, execute certain orders or facilitate the attendance of persons. It is not a transfer of the entire criminal proceeding to the requested State. The requesting State remains responsible for its investigation and prosecution, while the requested State acts within the authority conferred by its own law and the applicable treaty or arrangement.

In India, the Bharatiya Nagarik Suraksha Sanhita, 2023, which came into force on 1 July 2024 subject to its savings and transitional provisions, places reciprocal arrangements for assistance in certain matters in Chapter VIII. Sections 111 to 124 create the relevant statutory framework. These provisions must be read with applicable bilateral and multilateral instruments, the Ministry of Home Affairs' guidelines, special statutes dealing with matters such as money laundering, and constitutional protections governing criminal procedure. The Ministry of Home Affairs identifies its Internal Security-II Division as the division dealing with letters of request for mutual legal assistance in criminal matters. [1][2]

The central problem is not simply how to obtain foreign evidence quickly. It is how to obtain evidence lawfully, preserve its authenticity, ensure that it can be used in the requesting court, and protect persons affected by the process. A request that is too broad, inadequately particularised or inconsistent with the requested State's law may be refused or delayed. Evidence obtained without reliable authentication may have limited evidentiary value. An asset-freezing request may be ineffective if the property is transferred before the request is executed. The legal framework must therefore combine procedural clarity, international coordination and judicial oversight.

This paper argues that reciprocal assistance should be understood as a system of lawful cooperation rather than an exception to ordinary safeguards. Its legitimacy depends on respect for sovereignty, legality, proportionality, privacy, fair-trial rights and effective remedies. The discussion first explains the concepts and sources of cooperation, then examines Sections 111–124 BNSS, the institutional process, practical difficulties and possible reforms.

Research Methodology And Objectives

This paper focus on a doctrinal method of legal research. It analyses the BNSS, official Government of India materials on mutual legal assistance, the Ministry of Home Affairs' Revised Guidelines on Mutual Legal Assistance in Criminal Matters, and relevant international instruments. The paper also considers judicial principles concerning extradition, international cooperation and procedural fairness where those principles assist in understanding the limits of cross-border criminal process. Official sources are distinguished from analytical observations and recommendations.

The objectives are to explain the statutory framework governing reciprocal assistance; distinguish mutual legal assistance from extradition and informal police cooperation; identify the institutional roles of Indian authorities; examine the treatment of evidence, persons and property; and evaluate safeguards against delay, overbroad requests and misuse. The study is doctrinal and qualitative. It does not claim to measure the success rate of requests because no independently verified statistical dataset has been used for that purpose.

Concept And Principles Of Reciprocal Assistance

Reciprocal assistance in criminal matters refers to formal cooperation between States to support the investigation, prosecution or prevention of criminal offences. The assistance may include obtaining testimony, collecting documents or physical evidence, serving summons or notices, locating persons, identifying assets, executing certain attachment or forfeiture measures and facilitating the attendance of persons for proceedings. The exact forms of assistance depend on the applicable treaty, convention, domestic law and the terms of the request.

The expression “mutual legal assistance” (MLA) commonly describes a formal process in which the requesting State asks the requested State to undertake a specified legal or investigative act. The requested State does not simply lend its police powers to the requesting State. Instead, its competent authority considers the request under the applicable legal framework and arranges execution in a manner permitted by domestic law. The result is then transmitted through the authorised channel.

Reciprocity is important where no binding treaty governs the request. A State may agree to assist on the basis that comparable assistance would be considered if it later makes a similar request. Reciprocity is not identical to an enforceable treaty obligation. The requested State’s decision remains subject to its laws, policies and any applicable international obligations. India’s official guidance recognises that assistance may be pursued through a bilateral or multilateral treaty, an international convention or an assurance of reciprocity. [2][3]

Several principles guide the system. First, sovereignty requires the requesting State to respect the territorial authority of the requested State. Second, legality requires the request and the proposed measures to have a proper legal basis. Third, specificity requires the requesting authority to identify the offence, facts, evidence sought and connection between the material and the investigation. Fourth, proportionality requires the requested measures to be no

broader or more intrusive than reasonably necessary. Fifth, confidentiality may be necessary to prevent destruction of evidence, but it must operate within applicable law and cannot automatically defeat a person's legal rights. Finally, fair-trial requirements demand reliable evidence, meaningful disclosure and a genuine opportunity to challenge material used against an accused.

International cooperation must also distinguish the State's interest in prosecution from the rights of affected persons. A person whose bank account is frozen, whose records are disclosed or whose property is restrained may not be an accused. Third parties can be affected by a request even where they have no alleged criminal involvement. A sound system therefore needs clear procedures for notice where appropriate, review of restraint measures, protection of confidential information and return of property where the legal basis for restraint no longer exists.

Mutual Legal Assistance, Extradition And Informal Cooperation

Mutual legal assistance and extradition are related but distinct. MLA ordinarily seeks evidence, documents, service of process, asset tracing or other assistance for a criminal investigation or prosecution. Extradition concerns the surrender of a person by one State to another for prosecution or punishment, subject to the applicable treaty and domestic law. The two processes may arise from the same investigation but are not interchangeable. The Ministry of External Affairs' published guidance explains that a request to serve a non-bailable arrest warrant abroad is not treated as ordinary service of process; it may amount in substance to a request for extradition and must follow the appropriate extradition procedure. [4]

Letters rogatory or letters of request are formal judicial requests sent by a court or competent authority to a foreign court or authority seeking assistance, such as examination of a witness or production of documents. In Indian practice, a letter of request is generally processed through the statutory and governmental channels prescribed for the type of assistance sought. It should not be confused with an informal request between investigators, which may help locate information but does not necessarily satisfy the requirements for admissible evidence or coercive action.

Informal police-to-police cooperation can be useful for intelligence exchange, locating persons, preserving volatile information and identifying the correct authority. However,

intelligence received informally may not itself be admissible proof. Where evidence is to be tendered in court, formal collection, certification, chain of custody and transmission may be required. Investigators should therefore decide at an early stage whether the purpose is intelligence development, immediate preservation, formal evidentiary collection or enforcement of an order. A failure to distinguish these objectives may result in evidence that is difficult to use at trial.

International police notices and mechanisms, including cooperation through Interpol, serve different functions from judicial mutual legal assistance. A notice may assist in locating a person or alerting authorities, but it does not automatically replace extradition proceedings, domestic arrest requirements or an MLA request for evidence. The legal effect of each mechanism must be assessed separately.

Chapter VIII Of The Bnss: Statutory Overview

Chapter VIII of the BNSS is titled “Reciprocal Arrangements for Assistance in Certain Matters and Procedure for Attachment and Forfeiture of Property”. It contains Sections 111 to 124. The chapter addresses definitions, letters of request in both directions, assistance in securing transfer of persons, assistance relating to attachment or forfeiture orders, tracing and identifying unlawfully acquired property, seizure or attachment, management and forfeiture, and procedural matters. The National Crime Records Bureau’s section table confirms that this chapter corresponds substantially to Chapter VIIA of the former Code of Criminal Procedure, 1973, while the current BNSS numbering must now be used. [5]

Section 111 supplies definitions relevant to the chapter. A “contracting State” is a country or place outside India in respect of which arrangements have been made by the Central Government through a treaty or otherwise. The section defines concepts including identifying, proceeds of crime, property and tracing. These definitions are important because the chapter extends beyond physical assets. Property may be corporeal or incorporeal, movable or immovable, tangible or intangible, and may include instruments evidencing title or interests in assets. This broad approach is relevant to modern financial crime, where value may be held through bank accounts, securities, contractual rights or digital records.

Section 112 enables an Indian criminal court, during an investigation, to issue a letter of request to a competent court or authority in a foreign country where evidence may be available there. The request may seek examination of a person believed to know the facts,

recording of that person's statement, production of documents or things, and transmission of the evidence or authenticated copies to the issuing court. The provision creates a formal channel for collecting evidence beyond India without authorising Indian investigators to exercise unilateral coercive powers abroad. [6]

Section 113 addresses a request received from a foreign court or competent authority for investigation in India. Subject to the statutory conditions and the Central Government's decision, the request may be forwarded to the appropriate criminal court for examination of a person or production of material, or to a police officer for investigation as if the offence had been committed within India. Evidence collected under the provision is transmitted through the prescribed governmental channel to the requesting authority. The provision reflects the reciprocal character of the chapter: India may request assistance abroad and may also provide assistance to another State. [6]

Sections 114 onwards deal with assistance in securing the transfer or attendance of persons, assistance relating to orders of attachment or forfeiture, identification of unlawfully acquired property, seizure or attachment, management of property, notice of forfeiture and related consequences. These provisions should be read together rather than treated as isolated powers. Tracing identifies the asset; restraint or attachment may preserve it; notice and adjudicative steps protect affected interests; and forfeiture or restoration follows only where the statutory requirements are met.

Section 123 addresses procedure in respect of a letter of request, while Section 124 addresses application of the chapter. The detailed procedure must be read with the applicable treaty, rules, notifications and current government guidelines. A practitioner should not assume that every request can be sent directly to a foreign court or that every foreign request is automatically executable in India. The competent authority, the requested action and the governing legal instrument determine the proper route.

Letters Of Request And Collection Of Evidence Abroad

A letter of request should be framed as a focused legal instrument. It should identify the requesting authority and the proceeding; provide the relevant facts and applicable offence provisions; explain why the requested evidence is material; identify the person, account, record, device or property with sufficient precision; and specify the action sought. If witness examination is requested, the questions or subject areas should be clear. If documents are

sought, the request should define the relevant period, record categories and connection to the alleged offence.

Overbroad requests create both legal and practical problems. A request for “all records relating to a person” may be disproportionate and difficult for a foreign authority to execute. A request for specified transactions, defined dates, named accounts and identified record types is more likely to be processed efficiently. The requesting authority should explain the evidentiary purpose of each category rather than using a broad request as a substitute for investigative analysis.

Evidence collection must account for differences between legal systems. Some jurisdictions require judicial authorisation for searches, compelled production or witness examination; others may require a prescribed form of oath, certification or translation. The requested State may be unable to follow the precise procedure sought by India if it conflicts with its domestic law. Requests should therefore identify which procedural features are essential for use in the Indian proceeding and which can be adapted to the requested State’s law.

Authentication and chain of custody are central. Digital files can be altered, copied or stripped of metadata. Financial records may be generated by institutions under different certification practices. Witness statements may have been recorded under procedures unlike those used in Indian courts. The requesting authority should ask for records of collection, certification of copies, information about the custodian, details of the extraction method where relevant, and an explanation of any limitation on the evidence supplied. These steps do not automatically establish admissibility, but they assist the trial court in assessing reliability and compliance with applicable evidence law.

Translation and confidentiality also require planning. Requests and supporting documents may need translation into the requested State’s language. The requesting authority should avoid unnecessary disclosure of sensitive information and should specify lawful confidentiality requirements. At the same time, confidentiality cannot be used to conceal material from the accused where disclosure is required for a fair trial. The prosecuting authority must consider disclosure obligations when seeking evidence abroad, not only after the evidence arrives.

The Ministry of Home Affairs’ Revised Guidelines on Mutual Legal Assistance in Criminal Matters provide practical guidance for preparing and processing letters rogatory, MLA requests and service of judicial documents. The guidelines were issued to improve precision,

compliance with international requirements and timely processing. Investigating officers should consult the current official version and the applicable treaty before preparing a request. [2][3]

7. Institutional Framework And Process In India

The Ministry of Home Affairs is the nodal Ministry and Central Authority for seeking and providing mutual legal assistance in criminal matters in India. Its Internal Security-II Division handles the relevant requests. The Ministry of External Affairs may be involved where the request is transmitted through diplomatic channels. The official Government of India guidance explains that MHA receives and examines requests and takes appropriate action through the prescribed process. [1][4]

The International Cooperation Division of the Ministry of Home Affairs deals with negotiations and finalisation of bilateral mutual legal assistance treaties and related security-cooperation arrangements. Its work includes cooperation against organised crime, narcotics trafficking, money laundering, counterfeiting and terrorism. This treaty-making role should be distinguished from the operational role of the division processing individual assistance requests. [7]

At the investigative level, the investigating officer should first determine the exact assistance required and identify the country where the evidence or property is located. The officer should consult the applicable treaty or convention, prepare the factual and legal justification, and submit the request through the competent Indian authority. The competent authority reviews the request for completeness, legal basis and compliance with applicable requirements before transmission. The foreign Central Authority or competent body then decides how the request may be executed under its legal system.

Requests received by India are similarly considered through the designated channels. If the Central Government decides to proceed, the request may be sent to the appropriate court or police authority for action under Indian law. The evidence or result is then returned through the prescribed route. The process is not merely a matter of forwarding correspondence: each State must ensure that the requested action is lawful, within jurisdiction and capable of being carried out.

Official guidance also distinguishes countries with operational MLAT arrangements from countries where assistance may be sought on reciprocity or another applicable legal basis.

The existence of a treaty can create a structured framework and obligations to consider requests, but it does not mean that every request must be granted regardless of legal conditions. Conversely, the absence of a bilateral treaty does not necessarily make all cooperation impossible; another convention, arrangement or assurance of reciprocity may be available. The precise legal basis must be checked for each request. [4]

8. International Instruments And Transnational Crime

International cooperation is supported by bilateral treaties and multilateral conventions. Bilateral MLATs establish agreed procedures between two States, including the authorities through which requests are made, the forms of assistance available, grounds for refusal, confidentiality, costs and use limitations. Multilateral instruments may require or encourage cooperation in defined categories of crime and can provide a legal basis for assistance between States that are parties to them.

The United Nations Convention against Transnational Organized Crime (UNTOC) encourages cooperation in combating organised criminal groups and provides a framework for mutual legal assistance, extradition and law-enforcement cooperation. The United Nations Convention against Corruption (UNCAC) contains provisions on international cooperation and asset recovery. Other conventions address specific areas, including narcotic drugs and terrorism financing. The relevance of any convention depends on whether the States concerned are parties, the nature of the offence and the specific provision invoked.

These instruments are significant because criminal proceeds can be moved rapidly across borders. A domestic conviction may have limited practical effect if the proceeds remain beyond the reach of enforcement. Cooperation in tracing, freezing, confiscating and returning assets can prevent offenders from benefiting from crime. Yet asset recovery is legally sensitive because restraint and forfeiture may affect third parties, secured creditors, businesses and persons whose property is mixed with alleged proceeds. A request must identify the suspected proceeds and legal basis with sufficient particularity, and domestic procedures must allow appropriate challenges.

International cooperation also has limits. Dual criminality may be required by a treaty or the requested State's law for certain forms of assistance. Some States may refuse assistance where a request concerns conduct they regard as political, where execution would prejudice sovereignty or essential interests, or where the request fails to meet applicable safeguards.

The grounds for refusal vary; no single rule should be assumed to apply identically to every treaty or category of request. The requesting authority should anticipate possible objections and explain why the requested action is legally justified.

International instruments do not eliminate the need for domestic constitutional compliance. A request involving personal data, compelled testimony, search, seizure or restraint of property must still be processed according to the relevant legal framework. Cooperation should strengthen the rule of law, not permit one State to avoid safeguards by asking another State to perform an act that would be unlawful or fundamentally unfair.

9. Asset Tracing, Attachment And Forfeiture

Asset tracing and recovery have become central to international criminal cooperation. Offenders may place proceeds in the names of relatives, companies, trusts or intermediaries; convert money into securities or real estate; or move value through several jurisdictions. Section 111's broad definitions of property and proceeds of crime, read with Sections 115 to 122, provide a statutory framework for assistance concerning assets located in a contracting State or assets in India connected with an offence abroad. [5][6]

Tracing and forfeiture are distinct stages. Tracing seeks to establish the nature, source, movement, ownership or location of property. Attachment or seizure seeks to preserve property and prevent dissipation while legal proceedings continue. Forfeiture is a further legal consequence that requires the statutory basis and conditions to be satisfied. A request for tracing should not be treated as automatically authorising final confiscation, and a temporary restraint should not be presented as proof that the property is criminally derived.

Procedural fairness is especially important where property is held jointly or by a third party. A spouse, business partner, employee or secured creditor may have a legitimate interest in the asset. The authority should identify the alleged link between the property and the offence, disclose the basis required by law, and provide access to the applicable challenge or review procedure. Where the property is not ultimately liable to forfeiture, the legal framework should permit appropriate release or restoration.

International asset recovery requires coordination between investigators, financial intelligence bodies, prosecutors, courts and foreign authorities. Requests should specify whether the objective is information gathering, urgent preservation, execution of an existing order or final forfeiture. The legal threshold and supporting material may differ for each

objective. Failure to state the purpose clearly can lead to delay or a request being treated as legally incomplete.

Human Rights, Privacy And Fair-Trial Safeguards

International cooperation is not justified solely because it assists law enforcement. It must remain consistent with human rights and the rule of law. Article 21 of the Constitution of India requires fair, just and reasonable procedure where life or personal liberty is affected. Depending on the nature of the request, constitutional concerns may arise in relation to privacy, compelled production, search and seizure, detention, disclosure of personal information and the use of evidence in a criminal trial.

Privacy concerns are acute in digital investigations. A request for a device or account may expose information unrelated to the offence, including medical records, communications with lawyers, personal photographs and third-party data. Requests should therefore be narrowly framed, and the authorities executing them should use lawful filtering, review and minimisation measures where available. Data obtained for one purpose should not automatically be repurposed for unrelated investigations if treaty conditions or domestic law restrict such use.

Fair-trial safeguards continue after evidence is received. The prosecution must comply with disclosure obligations under the applicable procedural law. The accused should have a meaningful opportunity to challenge the authenticity, reliability and interpretation of foreign evidence, subject to lawful restrictions. A foreign statement recorded without an opportunity for cross-examination may raise issues of weight and admissibility depending on the applicable rules. The court must not treat the fact that evidence was transmitted through official channels as conclusive proof of its truth.

Confidentiality and secrecy may be justified during an investigation, particularly where disclosure could lead to destruction of evidence or tipping off a suspect. However, confidentiality should be assessed in light of the legal basis and duration of the restriction. It should not be used to withhold material that must be disclosed to ensure a fair trial, nor should it prevent an affected person from invoking a remedy where the law provides one.

Proportionality is a useful organising principle. The requested measure should be suitable for the stated investigative purpose, necessary in light of available alternatives and proportionate to the intrusion involved. A narrowly targeted request for specified bank records is generally

easier to justify than a request for all communications and records of a person over an unlimited period. Proportionality improves not only rights protection but also the likelihood that a foreign authority can execute the request.

Practical Challenges In Implementation

Delay is one of the most persistent challenges. Requests may pass through investigators, prosecutors, courts, central authorities, diplomatic channels and foreign agencies. Each stage may require clarification, translation or additional documents. Delay is particularly harmful where digital records are automatically deleted, bank accounts are rapidly emptied or witnesses are likely to become unavailable. The requesting authority should therefore identify urgency, explain the risk of delay and seek preservation measures where the legal framework permits.

Requests are sometimes delayed because they lack essential particulars. Missing translations, unclear offence descriptions, uncertain legal provisions, insufficient explanations of relevance, broad categories of documents or failure to provide the prescribed assurances can require repeated correspondence. Standardised checklists and early consultation with the Central Authority can reduce these problems.

Differences between legal systems can affect execution. A requested State may require a court order where the requesting State's investigator believes an administrative request is sufficient. Rules concerning privilege, data protection, hearsay, witness examination and the form of certification may differ. The requesting authority should distinguish the evidentiary outcome it needs from the precise procedure it initially proposes, allowing lawful alternatives where possible.

Digital evidence presents additional difficulties. Cloud data may be distributed across several jurisdictions, and the location of a service provider does not always establish the location of all relevant data. Encryption, platform policies, retention periods and cross-border data rules can complicate collection. Investigators should preserve volatile information promptly and determine whether the appropriate route is a formal MLA request, an emergency preservation request under an applicable instrument, or another lawful mechanism. Informal access must not be used to bypass legal safeguards.

Coordination gaps may arise when the investigating agency, prosecutor and Central Authority have different understandings of the purpose or urgency of a request. Asset recovery can be

especially fragmented because tracing, restraint, confiscation and return may be handled by different agencies. A designated case coordinator, clear responsibility for follow-up and periodic status review can reduce duplication.

Finally, international cooperation must protect against misuse. A request should not be used to harass a political opponent, obtain unrelated personal data, circumvent domestic evidentiary restrictions or pursue an individual without a legitimate criminal basis. The requested State's scrutiny of legality and treaty conditions is an important safeguard. The requesting State should maintain a transparent record of the necessity, scope and use of material obtained.

Recommendations For Reform

First, India should continue to maintain clear, accessible and regularly updated operational guidance for investigating officers, prosecutors and courts. The current Ministry of Home Affairs guidelines are a valuable starting point, but users need simple checklists for each request type: witness examination, bank records, digital evidence, service of process, asset tracing, urgent preservation and execution of restraint orders. Every checklist should identify the required approvals, supporting documents, translation requirements and transmission route.

Second, a secure digital case-management platform could improve tracking of requests from preparation to execution. It should record the date of submission, requests for clarification, transmission, foreign acknowledgment, execution and receipt of material. Access must be role-based, with encryption, audit logs and retention controls. Digitalisation should not weaken confidentiality or create a central repository of sensitive foreign evidence without safeguards.

Third, requests should be subject to a quality-control review before transmission. The review should confirm the legal basis, treaty status, dual-criminality analysis where relevant, specificity, proportionality, urgency, evidentiary purpose and proposed use of the material. A well-prepared request reduces the burden on foreign authorities and is more likely to produce evidence that can be used in court.

Fourth, urgent evidence-preservation channels should be clearly distinguished from formal evidentiary requests. Where data may disappear quickly, investigators should identify lawful preservation mechanisms immediately while preparing the full request. Preservation does not

necessarily authorise disclosure or final use of the data; the formal process must still be completed where required.

Fifth, courts and prosecutors should receive specialised training on the evidentiary consequences of foreign material. Training should cover authentication, chain of custody, translations, witness statements, disclosure, privilege, data protection and the difference between intelligence and admissible evidence. Judicial officers should be able to evaluate whether the statutory and treaty conditions have been met without assuming that foreign certification conclusively resolves every evidentiary issue.

Sixth, safeguards for third parties should be strengthened in asset-related matters. Notices, hearings, review and restoration mechanisms should be effective and timely, consistent with the governing statute and treaty. A person whose property is restrained should have a meaningful opportunity to challenge the legal basis where the law provides such a right. Asset recovery should target criminal proceeds without imposing disproportionate hardship on innocent persons.

Seventh, India should continue negotiating and reviewing MLATs with attention to practical execution. Treaties should provide clear central-authority channels, workable timeframes, confidentiality rules, use limitations, grounds for refusal, cost allocation and procedures for urgent requests. Regular bilateral meetings can identify recurring causes of delay and improve mutual understanding of legal requirements.

Eighth, all authorities should adopt a principle of purpose limitation. Material obtained through MLA should be used for the purpose for which it was requested unless the treaty, consent of the requested State or applicable law permits another use. This protects privacy and trust between States and reduces the risk of evidence being repurposed beyond the agreed legal basis.

Conclusion

Reciprocal assistance and international cooperation are indispensable to criminal justice in a world where evidence, assets and persons frequently cross national borders. They enable States to investigate and prosecute transnational crime without claiming unilateral authority over another State's territory. Their value lies in lawful cooperation: one State requests assistance, the other executes it under its legal system, and the resulting material is transmitted through recognised channels.

Chapter VIII of the BNSS, Sections 111 to 124, provides India's principal procedural framework for reciprocal assistance in the matters covered by that chapter. Sections 112 and 113 address requests for investigation and evidence in both directions, while the remaining provisions address attendance or transfer of persons and the tracing, attachment, management and forfeiture of property. The statutory provisions operate alongside treaties, conventions, government guidelines and applicable special laws. The Ministry of Home Affairs, particularly its Internal Security-II Division, plays the central role in processing criminal MLA requests. [1][2][5][6]

The framework's effectiveness depends on the quality of requests, the speed of coordination, the reliability of evidence and the ability to execute orders across different legal systems. A vague or excessive request can delay an investigation; poorly authenticated evidence can weaken a prosecution; and indiscriminate asset restraint can injure persons who are not involved in crime. For these reasons, the pursuit of efficiency must remain subject to legality, proportionality, privacy and fair-trial guarantees.

The appropriate way forward is not simply to increase the number of requests, but to improve their precision and accountability. Clear guidance, digital tracking, specialist training, urgent preservation mechanisms, reasoned decisions and effective remedies for affected persons can make international cooperation more reliable. Ultimately, reciprocal assistance is legitimate when it strengthens the rule of law in both the requesting and requested States. Cooperation should make cross-border crime harder to conceal without making procedural safeguards easier to evade.

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International instruments

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[9] United Nations Convention against Corruption, 2003, especially Chapter IV on international cooperation and Chapter V on asset recovery.

[10] United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.