



IAP

International Association of Prosecutors

Conference Report



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MEETING OF THE INTERNATIONAL
ASSOCIATION OF PROSECUTORS

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Abbreviations

1. MLA	-	Mutual Legal Assistance
2. MR	-	Mutual Recognition
3. FATF	-	Financial Action Task Force
4. IAP	-	International Association of Prosecutors
5. EAW	-	European Arrest Warrant
6. JIT	-	Joint Investigation Team
7. FIU	-	Financial Investigation Unit
8. EPPO	-	European Public Prosecutors Office
9. ICT	-	Information & Communications Technology
10. DOS	-	Denial of Service
11. DDOS	-	Distributed Denial of Service
12. ISPs	-	Internet Service Providers
13. NCMEC	-	National Centre for Missing & Exploited Children
14. PEP	-	Prosecutor's Exchange Programme
15. NAAG	-	National Association of Attorneys General
16. PPSC	-	Public Prosecution Service of Canada
17. COPFS	-	Crown Office and Procurator Fiscal Service
18. UNCAC	-	United Nations Convention Against Corruption
19. UNTOC	-	United Nations Transnational Organized Crime Convention
20. EGMONT	-	Egmont Group of Financial Intelligence Units
21. INTERPOL	-	International Criminal Police Organisation
22. CARIN	-	Camden Asset Recovery Inter-Agency Network
23. UNODC	-	United Nations Office on Drugs and Crime
24. CTED	-	United Nations Counter-Terrorism Committee Executive Directorate
25. ARIN-AP	-	Asset Recovery Inter-Agency Network for Asia and Pacific
26. CEPI	-	Centre for Ethics and Public Integrity
27. GRECO	-	Group of States Against Corruption
28. FLF	-	Latin American Federation of Prosecutors
29. AIAMP	-	Ibero-American Association of Public Prosecution Services
30. OPDAT	-	Overseas Prosecutorial Development, Assistance & Training
31. IJM	-	International Justice Mission
32. NTRs	-	Non-Trial Resolutions
33. OECD	-	Organisation for Economic Co-operation and Development
34. AFFUN	-	Association of Prosecutors and Officers of the National Public Prosecution Service of Argentina

Forward

The 24th Annual Conference of the **International Association of Prosecutors** brought together prosecutors from every region of the world to exchange experience and best practice in international co-operation across different legal systems. In total, 552 participants and 39 partners from 99 different countries and territories attended the event.

May I take this opportunity to thank our hosts, the Attorney General's Office of the Autonomous City of Buenos Aires, for staging such a professional conference and the warm welcome they extended to all who attended. I would like to express my sincere thanks to all the speakers, facilitators, and chairs for their informative and rewarding contributions and all our IAP members and representatives of partner organisations who attended and made the conference the success it undoubtedly was. Last, but by no means least, I thank the Local Organising Committee and rapporteurs, without whose diligent work this report would not have been possible.



Gary Balch, IAP General Counsel

Gary Balch

General Counsel

International Association of Prosecutors

Conference Theme

The 24th Annual Conference explored how different legal systems operate international cooperation and overcome the legal and practical challenges of delivering across those different systems. The conference developed attendees understanding of the differences and similarities between systems; identified barriers to cooperation and explored solutions to overcome them. The conference had a strong operational focus with a view to improving the knowledge, effectiveness, and efficiency of international collaboration.

The theme was introduced by the keynote speaker, Max Hill QC, the Director of Public Prosecutions for England & Wales, in a session chaired by Francisco Pont Verges, Secretary of Criminal Justice Policies of the Prosecutor General's Office of the Province of Buenos Aires, Argentina.

International co-operation, encompassing Mutual Legal Assistance (MLA), extradition and asset recovery, together with a variety of less formal methods, is now an essential component of modern investigations and prosecutions. However, delivering effective co-operation through different legal systems presents several challenges.



Max Hill QC
DPP for England & Wales

In jurisdictions where prosecutors are not obliged to pursue a prosecution, they may use alternatives to prosecution, and this may mean they make less use of international tools. Alternatives to prosecution may also inadvertently create barriers to co-operation. This may happen where more than one country is investigating the same conduct, and one jurisdiction decides to dispose of the case, for example using some form of immunity, which prevents the other interested jurisdiction from any further prosecution. Prosecutors must always be mindful of how their actions can have an impact on investigations and prosecutions outside their jurisdictions.

Different legal systems may also lead to challenges in the way human rights are approached. Raising these issues on individual cases, particularly with trusted partners, can feel difficult sometimes but is necessary if we are to have a functioning system of international cooperation that respects the human rights of everyone, including those convicted or accused of crimes.

Protecting and sharing data is another issue that is growing increasingly challenging and complex. Data protection and privacy can be used by criminals to hide their activity and hamper investigations and prosecutions. Prosecutors must ensure that they handle, retain, and share personal data appropriately and at the same time should not allow bureaucracy and misapplication of rules to delay or prevent the lawful exchange of data.

Since 1999, Mutual Recognition (MR) rather than harmonisation has been the cornerstone of cooperation at an EU level, aided by minimum standards and high levels of mutual trust. While it has proved broadly effective, better legal structures may be required in some areas to ensure an effective rules-based international system. Initiatives like the Additional Protocol to the Budapest Convention to improve access to communications data are welcomed. So too are attempts to establish standards in international cooperation, such as anti-money laundering and counter terrorism financing standards under the Financial Action Task Force (FATF).

The reality is that improved legal structures and processes will only take us so far, and these structures usually lag developments in criminal investigation and prosecution. Complexity,

caused by unfamiliarity or for any other reason, can be addressed by good communication between prosecuting authorities. This means direct communication between prosecutors and seeking ways to make better use of digital working internationally. The International Association of Prosecutors (IAP) is an important forum in which that kind of communication can happen.

Plenary 1 - Different systems – similar challenges

Chairs: Gerhard Jarosch, President, IAP; Robert Wallner, Prosecutor General, Liechtenstein

Speakers: Mariano Federici, Chair, Egmont; Sacha Palladino, Counsel, International Assistance Group, Department of Justice, Canada; Carlos Rivolo, Federal Prosecutor, Argentina; Gilles Charbonnier, Deputy Prosecutor General, Appeal Court of Paris, France; Michael Kovac, Chief Deputy Attorney General, Nevada Office of the Attorney General, USA; Lisa Osofsky, Director of the Serious Fraud Office, UK; James Stewart, Deputy Prosecutor, International Criminal Court; David Harvie, Crown Agent, Scotland; Alexey Zakharov, Deputy Prosecutor General, Russia

Rapporteur: Linda Poppenwimmer, Deputy Head of Public Prosecutor's Office for Combatting Economic Crimes and Corruption, Austria

Each country has developed its own legal system based on its history, culture, traditions, and constitutional arrangements. Notwithstanding this rich diversity, many legal systems follow either the inquisitorial or the accusatorial approach to criminal justice. The first plenary examined the differences and similarities in the legal frameworks and procedures of each approach and the impact this has on international cooperation. The session considered high-level legal, structural, and organizational barriers to cooperation and how to overcome them. Further, it explored how different systems may reform or harmonize to improve international co-operation.

An inquisitorial system is a legal system in which the court, or a part of the court, is actively involved in investigating the facts of a case. This is distinct from an accusatorial system, in which the role of the court is primarily that of an impartial referee between the prosecution and the defence. In addition, there are hybrid systems which are a combination of the inquisitorial and accusatorial systems.

The speakers discussed a variety of established models, including the inquisitorial system in France, the adversarial system in Canada and evolving systems such as that in Argentina, with a view to a comparative discussion. It was recognised by all that a relationship of trust between the parties is essential to ensure successful international co-operation. Lack of trust can cause delays or even refusal to provide assistance. In urgent cases, a lack of trust can be particularly problematic.

Speakers identified several challenges that exist both within and across different prosecution systems:

- Political will is arguably the most relevant precondition for successful international co-operation. Some jurisdictions lack the commitment to initiate and push cases forward or to respond appropriately to requests for assistance. Jurisdictions with effective strategies to render assistance will provide sufficient resources to the relevant agencies and create incentives for practitioners to prioritise such cases. In such an environment,



practitioners will find legal yet creative ways to overcome any obstacles present in the systems in which they operate.

- Differences in legal traditions can lead to frustrations for practitioners unfamiliar with the procedures and capabilities of a particular jurisdiction. Differences in terminology and the tools and procedures to obtain assistance can be more pronounced between different legal traditions. The evidentiary requirements of the systems also differ, as well as the standards of proof required. For example, common law jurisdictions generally require affidavits and certification of documents for the evidence to be admissible in a court whereas many civil jurisdictions do not have such requirements.
- Lack of trust can be a barrier to MLA when the process involves jurisdictions with significantly different political, judicial, or legal systems. A requested country that takes action to exercise what it considers to be due process requirements, domestic legal frameworks, or human rights guarantees may be seen by the originating jurisdiction as unduly blocking co-operation. Extraditions have been refused or delayed because requested authorities considered that defendants could be mistreated by their counterparts in the originating jurisdiction.
- Onerous legal requirements and undue formality may delay or prevent MLA. As a pre-requisite to providing formal MLA, most countries require dual criminality and reciprocity which may be difficult to meet. Some countries have removed these requirements or adopted a conduct-based approach to dual criminality to help facilitate MLA. Some requested jurisdictions have incorporated statute of limitation requirements and will refuse to assist where the limitation period has expired in the requested jurisdiction.
- Most MLA agreements permit or require the requested state to refuse assistance in certain circumstances. These circumstances commonly include requests that could prejudice essential interests of the requested state or that touch on current proceedings or investigations in the requested state. These grounds can be an obstacle if they are not properly defined or are too expansive.

Speakers emphasised the importance of personal relationships in building trust and overcoming operational hurdles and identified a variety of approaches to achieve this:

- Building trust may be particularly difficult where no previous relationship exists. The development and maintenance of meaningful agency-to-agency contacts through regular bi-lateral meetings between mutual legal assistance partners can serve as the basis for strong professional relationships between relevant agencies and help sustain the relationship when key personnel move on to other jobs.
- Jurisdictions should use liaison prosecutors, attaches and magistrates to build legal relationships with the host country, promote co-operation between central authorities and direct contacts between competent prosecutors and provide operational support in criminal cases which require foreign assistance.
- To facilitate understanding between jurisdictions with different legal traditions, jurisdictions should provide easy access to information about MLA within their legal system, including relevant statutory provisions and information about proof requirements, capacities, types of investigative techniques that are available and types that are disallowed.
- The establishment of regional structures such as Eurojust, which supports and strengthens co-ordination and co-operation between national investigating and prosecuting authorities of EU member states, and regional processes and international tools such as the European Arrest Warrant (EAW) and Joint Investigation Teams (JITs) assist. The EAW is valid throughout all EU member states. Once issued it requires another



member state to arrest and transfer a criminal suspect or sentenced person to the issuing state so that the person can be put on trial or complete a detention period. A JIT is based on an agreement between prosecutors, law enforcement and other competent authorities which facilitates the co-ordination of investigations and prosecutions conducted in parallel across several states.

- In the early stages of an investigation and during the collection of information and intelligence, the coercive power of the requested jurisdiction may not be engaged, and a formal MLA request may not be required. Alternative informal assistance at this stage may include direct communication between police, prosecutors or investigating magistrates and the assistance of multi-lateral organisations such the Egmont Group, a global body of 164 Financial Intelligence Units (FIUs). It provides a platform for the secure exchange of expertise and financial intelligence to combat money laundering and terrorist financing.

There is a consensus that high levels of mutual trust are the foundation of successful and effective international co-operation. While mutual recognition has been the cornerstone of co-operation at an EU level, it is neither possible nor necessarily desirable to apply an EU approach to all international co-operation. There remains a need for multi-lateral conventions to drive further harmonisation and reform and the simplification of regional and international structures of which the European Public Prosecutors Office (EPPO) is an example. Above all, MLA practitioners in all jurisdictions should take advantage of the unique opportunities the International Association of Prosecutors provides to broaden the scope and depth of their international contacts.



IAP – Global Prosecutors E-crime Network (GPEN)

Chair: Edith Van Den Broeck, Senior Legal Advisor, IAP

Speakers: Mariano Manfredi, Member of the Judicial Investigations Body of the Public Prosecution Service of the Autonomous City of Buenos Aires, Argentina; Daniela Dupuy, Prosecutor in Charge of Cybercrime, Public Prosecution Office of the Autonomous City of Buenos Aires, Argentina; Lavly Perling, Prosecutor General, Estonia; Anusha Rawoah, Senior State Counsel, Office of the DPP, Mauritius; Yonghwa Hong, Senior Counsel, World Bank

Rapporteur: Maria Paula Cevasco, Judicial Clerk, Public Prosecution Service of the Autonomous City of Buenos Aires, Argentina

The workshop explored how prosecutors from different legal systems address the challenges of cybercrime, an umbrella term used to describe two closely linked but distinct ranges of criminal activity. They may be categorised as:

Cyber-dependent crimes - crimes that can be committed only through the use of Information and Communications Technology (ICT) devices, where the devices are both the tool for committing the crime, and the target of the crime. Cyber-dependent crimes fall broadly into two main categories: First, illicit intrusions into computer networks, such as hacking. Second, the disruption or downgrading of computer functionality and network space, such as malware and Denial of Service (DOS) or Distributed Denial of Service (DDOS) attacks.

Cyber-enabled crimes - traditional crimes which can be increased in scale or reach by the use of computers, computer networks or other forms of ICT including cyber-enabled fraud and data theft.

The session began with a video and presentation of a person committing different cybercrimes such as spearfishing, data and system interference, denial of service and ransomware attacks. The video demonstrated how complex operations with substantial impact can be carried out with relative ease and impunity, often aided by gaps in cybersecurity legislation and policies. The video highlighted the challenges in gathering digital evidence (subscriber information, traffic data and content) from private companies in the absence of appropriate legal tools that compel them to provide it to judicial authorities.

Speakers identified a number of challenges in responding to cybercrime:

- Cybercrime is often complex and transnational with perpetrators, victims and evidence in different jurisdictions. It can be fiendishly difficult to identify suspects and secure sufficient evidence to prosecute. Prevention is better than cure and jurisdictions need to be proactive and educate the public on how to protect themselves from attacks.
- Digital evidence is unlike physical evidence - it is volatile, mobile, and can be easily modified and stored across multiple jurisdictions. Prosecutors must have the legal and procedural tools designed specifically to rapidly preserve and gather digital evidence, including provision for the real-time collection of digital evidence and the use of digital undercover agents.
- Digital evidence is usually held by private Internet Service Providers (ISPs) and a search warrant or other court order, backed by cogent and reliable evidence, is required to access it. Public private partnerships with ISPs were recommended, particularly to aide



the timely preservation of evidence. Organisations such as the National Centre for Missing & Exploited Children (NCMEC) work with families, victims, private industry, law enforcement and the public to assist with preventing child abductions, recovering missing children, and providing services to deter and combat child sexual exploitation.

- Technology is constantly evolving and cyber criminals are quick to exploit any weaknesses and devise new modes of attack. Specialist cyber investigators and prosecutors are recommended as is constant training to update and refresh their skills.

In cyber cases speed is of the essence and it is important that investigators and prosecutors make full use of tools which facilitate fast international co-operation. In the context of child exploitation, resources include The International Child Sexual Exploitation Image Database, accessed through INTERPOL's I-24/7 secure global communications system.

IAP – Prosecutor's Exchange Programme (PEP)

Chairs: Nicola Mahaffy, IAP Vice-President, North America; Nick Cowdery, past President of the IAP

Speakers: David Harvie, Crown Agent, Scotland; Manon Lapointe, General Counsel, Regulatory and Economic Prosecutions and Management Branch, Public Prosecution Service, Canada; Eugene Otuonye, Director of Public Prosecutions, Turks and Caicos Islands; Erdenetuya Ulambayar, Prosecutor, International Cooperation and Mutual Legal Assistance Department, Office of the Prosecutor General, Mongolia; Lawrence Wasden, Attorney General for Idaho, USA

As criminal activity becomes increasingly international, prosecution offices around the world must work together more closely than in previous eras. The Prosecutor's Exchange Programme (PEP) facilitates the exchange and dissemination of information, expertise and experience among prosecution offices and contributes to the professional development of both the exchange prosecutors and the offices that they serve.

Attendees learnt of the US National Association of Attorneys General (NAAG) generous support of PEP which funded two exchanges in 2019. NAAG was founded to help attorneys general fulfil the responsibilities of their office and to assist in the delivery of high-quality legal services to the states and territorial jurisdictions. As an outward thinking organisation, NAAG recognises its duty to raise the professional level of prosecutors world-wide. NAAG funding for 2020 is increased to US\$20,220.

One of the NAAG funded exchanges was between the Prosecutor General's Office of Mongolia (PGO) and the Public Prosecution Service of Canada (PPSC) so that the PGO could learn about Canadian prosecution of corporate criminal liability and the investigation of high-profile corruption cases and organised crime. Two senior Mongolian prosecutors visited Ottawa and Toronto for meetings with Canadian experts in regulatory and organised crime prosecutions and commercial cases. This was the fourth PEP exchange between Canada and Mongolia. Earlier exchanges focused on Canadian criminal procedure and the overall functioning of the Canadian criminal justice system and resulted in new criminal legislation in Mongolia. Speakers highlighted the need for careful preparation to make the exchanges successful.

The session included an overview of an exchange between the Office of the Director of Public Prosecutions (ODPP) of the Turks and Caicos Islands and the Crown Office and Procurator Fiscal Service in Scotland (COPFS). The overview highlighted the bi-lateral benefits of such exchanges. The COPFS prosecutor who participated acquired new skills which were of benefit to her office. The tangible outputs of the exchange: mission and vision statements; 5-year strategic plan and detailed action plan were viewed as critical to the future development and success of the ODPP.

It was recognised by all that all prosecuting authorities have a duty to raise the standards of prosecutors world-wide and to assist developing prosecution offices and, for this reason, PEP should be a core business of the International Association of Prosecutors.

Plenary 2 - Collection and sharing of evidence

Chairs: Gonzalo Viña, Prosecutor in Criminal, Misdemeanours and Petty Offenses Matters of the Autonomous City of Buenos Aires, Argentina; Nick Price, Head of International Justice and Organized Crime Division, Crown Prosecution Service, England & Wales

Speakers: Thomas Burrows, Associate Director, Office of International Affairs, Department of Justice, Criminal Division, USA; Julieta Lozano, Deputy Bureau Chief, New York County District Attorney's Office, USA; Shai Nitzan, State Attorney, Israel; Lionel Yee, Deputy Attorney General, Singapore; Muteab Alotabi, Legal Counsellor, Saudi Customs, Saudi Arabia; Philomena Creffield, Head of UK Central Authority, UK; David Harvie, Crown Agent, Scotland; Shenaz Muzaffer, Deputy Chief Crown Prosecutor, Crown Prosecution Service, England & Wales

Rapporteur: Ulrika Grenersfors, Deputy Chief Prosecutor in Linköping, Sweden

Identifying, securing, and collecting evidence is a challenge that increases substantially when operating across borders. At this point both international and national legal instruments, rules and procedures will play a key role in the prosecutor's case building and criminal proceedings. The second plenary considered the international legal frameworks and processes that govern the collection and sharing of evidence across borders; it considered the practical barriers to the collection and sharing of evidence and how to overcome them and explored informal and alternative processes to MLA.

There was consensus that both law enforcement and prosecutors are grappling with an increasing number of cases where the evidence of criminal activity is located across multiple jurisdictions and that failure to meet the challenge can lead to impunity. It was considered timely for government agencies to assess whether the traditional modalities of MLA can effectively deal with the increasing volume and complexity of requests, as well as the demands for speed and efficiency in the obtaining of evidence across borders. Speakers noted that resources had not kept pace with the volume of requests and their growing complexity, particularly in relation to digital evidence.

The discussion highlighted the importance of drawing a clear line between intelligence and evidence as MLA is used to gather evidence to be used in future proceedings and not for general intelligence gathering. This was a challenge in terrorism cases, as the global nature of terrorism demands effective co-operation and information sharing between intelligence agencies and law enforcement at the national, regional, and international levels. Jurisdictions



required procedures to ensure the appropriate balance is struck between the protection of national security and the right to a fair trial of the accused. Models to achieve this included an independent commission to review the relevant intelligence or a 'fusion' centre for sharing and discussing relevant information.

The international legal architecture for MLA is complex and encompasses variable structures - bilateral, multilateral, regional and subject specific. The legal instruments are similarly diverse with multi-lateral conventions, regional treaties, and bi-lateral agreements with differing scopes (broad, enumerated, carve outs) and procedural requirements. The discussion highlighted a number of resulting challenges:

- Jurisdictions generally require one of four legal bases to provide MLA: international conventions containing provisions on MLA, such as the United Nations Convention Against Corruption (UNCAC); domestic legislation allowing for international co-operation; bilateral mutual legal assistance agreements; or a promise of reciprocity through diplomatic channels. Without one of these bases, jurisdictions are unable to provide MLA. Countries generally implement their obligations under international law through two routes. Some states must transpose the provisions of international treaties into domestic law before they have legal force. In other jurisdictions, the mere act of ratification of a self-executing international convention such as UNCAC makes the treaty provisions part of domestic law. Co-operation may be hindered by a lack of complete and accurate transposition of the convention provisions into domestic law and, in jurisdictions where transposition is not required, simply by lack of use.
- The MLA process can be time-consuming and unable to meet the narrow timeframes of modern proactive investigations. Delays in processing and responding to MLA requests has real practical consequences. Evidence will grow stale and witnesses may die or go missing. Delay may frustrate practitioners, discourage future MLA requests, and undermine the political will to proceed with cases. In many cases, delays may be related to due process rights which are important protections for those accused of crimes. However, too often delays are caused solely by the internal processes and procedures of jurisdictions and a general failure to prioritise MLA.
- A lack of institutional knowledge and expertise in MLA agencies leads to deficient and poorly drafted MLA requests. Deficiencies include inappropriate requests, requests with irrelevant information, unclear requests, and poor translation. At the same time, a lack of expertise leads to a lack of creativity and problem-solving ingenuity in responding to requests.
- Unclear channels of communication can make it a challenge to establish the status of a request and both seek and provide additional information where that is required. Requests are often not acknowledged and may be denied without explanation. To help originating jurisdictions avoid future problems with their MLA requests, the grounds for the refusal and the underlying facts supporting that refusal should be provided in writing.

Speakers identified several tools and practical approaches to overcome these challenges:

- In the absence of a bi-lateral treaty or where legal systems conflict, international conventions such as the United Nations Transnational Organized Crime Convention (UNTOC) act as a mini-MLA treaty and can be used to obtain evidence and secure extradition in the vast majority of transnational cases. The scope of the convention is serious crime, involving at least three persons, committed for profit, and carrying a punishment of four years or more.



- Increased use of IT including, the posting of country specific law and process on websites; the use of template e-forms to ensure the correct information is provided; the development of reliable machine translation and the increased use of secure email to avoid time consuming manual processing and transmission through diplomatic channels. During the conference, delegates were introduced to PROMETEA, an artificial intelligence (AI) system developed by the Public Prosecution Service of the Autonomous City of Buenos Aires, Argentina, with predictive, detection and intelligent classification tools that, through machine learning, dramatically improves both the speed and accuracy of various prosecutorial functions.
- Making full use of pre-MLA enquiries such as open source enquiries with land registries, company registries and credit reference agencies and police to police enquiries for asset tracing, location of suspects and witnesses and communication data. Police to police enquiries may extend to evidence obtained in a domestic investigation being used in another country's investigation without the need for MLA. Also, direct requests may be made to agencies that are prepared to assist voluntarily.
- Seeking the assistance of multi-lateral organisations pre-MLA such as EGMONT for the secure exchange of financial intelligence and information between FIUs and INTERPOL to locate suspects.
- Various networks provide a rich framework to facilitate international co-operation at both a multi-jurisdictional and regional level and may be subject specific or general in their remit. A prime example of course is the International Association of Prosecutors, which was pleased to launch its Spanish language website at the conference, developed and maintained in collaboration with the Public Prosecution Service of the Autonomous City of Buenos Aires, Argentina, to improve the exchange of experience and best practice between Spanish speaking prosecutors globally. Singapore highlighted the work of the Camden Asset Recovery Inter-Agency Network (CARIN) and its regional networks of prosecutorial and law enforcement contact points which promote the exchange of information and best practice in relation to the recovery of proceeds of crime.

Formal MLA should only be necessary where coercive measures are required to obtain evidence. Consent can override the need for MLA and all speakers highlighted the categories of assistance that may be provided on a voluntary basis. Examples included the taking of witness testimony and direct contact with registries. It was recognised by all that, where there are fewer formalities, trust is needed between counterparts to overcome bureaucratic hurdles and make the co-operation effective.

Speakers highlighted practical steps that could be taken to expedite the MLA process. These included early and direct engagement with counterparts in central authorities and prosecuting agencies; narrowing requests to evidence which can only be obtained through coercive measures; sharing draft requests so that the requested state can examine it and communicate what needs to be completed and clearly communicating any deadlines when the request is sent.

Looking forward, speakers highlighted the need for MLA specialisation in both central authorities and prosecuting agencies. Regular bi-lateral meetings were encouraged to build co-operation relationships, clarify requirements, and ensure best practice. Jurisdictions were encouraged to review the extent to which court approvals are required for the rendering of certain types of MLA. A prime example, in the context of digital evidence, was non-content information, compelled and authenticated by law enforcement. Speakers identified the need for training and capacity building programmes, delivered by the International Association of Prosecutors and partner organisations, to increase institutional knowledge and expertise.



Workshop 1 A – the difference between intelligence and evidence

Chair: Arianna Lepore, Programme Officer, United Nations Office on Drugs and Crime (UNODC)

Speakers: Virgil Ivan-Cucu, Senior Expert, EuroMed; Francisco Pont Verges, Secretary of Criminal Justice Policies of the Prosecutor General's Office of the Province of Buenos Aires, Argentina; Marc Porret, Legal and Criminal Justice Coordinator, United Nations Counter-Terrorism Committee Executive Directorate (CTED); Olga Zudova, Senior Regional Legal Adviser, UNODC

Rapporteur: Valeriia Melnyk, Prosecutor of Kyiv Local Prosecutor's Office No. 1, Ukraine

The workshop was built around the Practical Guide for Requesting Electronic Evidence Across Borders, a publication jointly developed by UNODC, CTED and the IAP.

The session explored the differences between intelligence, which helps law enforcement and prosecutors to advance investigations, and evidence, which is used to prove facts and responsibility for a crime within the context of a trial. The distinction is important as the obtaining, handling and use of each can be quite different.

The global nature of terrorism and organised crime and the growing use of the internet to facilitate such activity demands effective co-operation and information sharing between intelligence agencies, law enforcement and prosecutors at the national, regional, and international levels. The challenge is to develop effective and efficient tools to preserve, gather and exchange electronic evidence in situations where time is often of the essence.

Speakers identified three categories of digital information – intelligence, e-data, and e-evidence - that may be obtained either by direct requests to service providers, pre-MLA police to police enquiries or formal MLA.

Regarding intelligence, the discussion highlighted the need for procedures to ensure the appropriate balance is struck between the protection of national security and the right to a fair trial of the accused. Models to achieve this included an independent commission to review the relevant intelligence or 'fusion' centres for sharing and discussing relevant information.

Many steps could be taken at a national level to preserve, gather and share electronic evidence without immediate recourse to formalised MLA. Examples included direct requests to ISPs for initial preservation and voluntary or emergency disclosure and police to police enquiries for basic subscriber and communications data.

The Practical Guide includes a compilation of country-specific focal points, mapping of the major ISPs and relevant procedures, legal frameworks, and practical requirements with the overall aim of achieving efficiency and effectiveness in international co-operation, both formal and informal.

Workshop 1B – alternatives to mutual legal assistance

Chair: Ewa Korpi, Senior Public Prosecutor, National Unit against Organized Crime, Sweden

Speakers: Janet Henchey, Director General, International Assistance Group, Department of Justice, Canada; Ilias Konstantakopoulos Public Prosecutor/Justice Counsellor, Permanent Representation of Greece to the EU; Julieta Lozano, Deputy Bureau Chief, New York County District Attorney's Office, USA; Lene Doherty, Lawyer, UK Central Authority, International Directorate, UK; Jeehye Son, Deputy Chief Prosecutor, Republic of Korea

Rapporteur: Jacob Ondari, Deputy Director of Public Prosecutions, Kenya

While MLA is an essential tool for investigators and prosecutors, it is often viewed as overly cumbersome and too slow to meet the demands of fast paced global criminality and enquiries. That said, in the right hands, MLA can be extremely effective and more so when alternative and complimentary processes are deployed. While not a hard and fast rule, MLA need only be used where coercive measures are required to obtain evidence.

Speakers identified a number of tools that can be deployed to obtain admissible evidence outside of the formal MLA process. The enquiries were usefully categorised as pre-MLA requests. Depending on jurisdiction, they may or may not require the involvement of central authorities. What can be achieved varies across jurisdictions, however the discussion highlighted the following general categories:

- Open source and voluntary assistance – which may encompass direct access to public registries such as the land registry, company registry and credit reference bureaus. It covers any information provided voluntarily by holders of information be they legal or natural persons. The latter may extend to voluntary witness testimony.
- Law enforcement to law enforcement – often referred to as 'police to police' enquiries. This falls into two broad categories. First, intelligence and information that can be used to inform a future MLA request, including the tracing and location of suspects, asset tracing, biometrics of suspects, information held on police investigation files and other preliminary logistical support. Second, evidence comprising of communication data, criminal records, and surveillance records.
- Joint investigation teams – several speakers mentioned JITs which consist of prosecutors and law enforcement authorities. They are established by written agreement between the countries involved, for the purpose of carrying out specific criminal investigations in one or more of the participating countries. JITs enable the direct gathering and exchange of information and evidence. Information and evidence collected in accordance with the legislation of the participating country in which it was obtained can be shared on the basis of the JIT agreement without the need to use formal MLA tools. Several international legal instruments provide the basis for a JIT including, Article 20 of the Second Additional Protocol to the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters and Article 49 of UNCAC.
- International organisations – reference was made to the EGMONT Group and FIU requests for Suspicious Activity Reports and other financial intelligence. Informal networks such as the IAP and regional and subject specific networks such as the Asset Recovery Inter-Agency Network for Asia and Pacific (ARIN-AP) facilitate the quick and efficient exchange of information and intelligence between designated contact points.



- The EPPO provided a model of international co-operation designed to overcome organisational barriers between different legal systems. The EPPO is an independent EU body, with a decentralised structure and authority to investigate and prosecute EU fraud and other crimes affecting the EU's financial interests. In particular, the EPPO will have six investigation measures common to all participating states avoiding the need for double judicial authorisation for an investigation measure to be carried out in cross-border settings. The measures include the search of premises, interception of electronic communications and the freezing of instrumentalities and the proceeds of crime.

All speakers recognised that there are limits to what can be achieved through informal processes. The limits may derive from the prosecution model itself, for example, the requirement of certification of certain evidence in the accusatorial system; from constitutional arrangements or from ancillary international (Charter of Fundamental Rights of the European Union) or domestic legislation concerning data protection and human rights. However, there is a consensus that informal alternatives to MLA are valuable tools in the fight against cross-border crime.

IAP – Network of Anti-Corruption Prosecutors (NACP)

Chair: Kamran Aliyev, Deputy Prosecutor General, Azerbaijan

Speakers: Kwek Mean Luck, Solicitor General, Attorney General's Chambers, Singapore; Noordin Haji, Director of Public Prosecutions, Kenya; David Leung, Director of Public Prosecutions, Hong Kong SAR, China; Chris Toth, Executive Director of NAAG, USA; Eduardo Riggi, Appellate Prosecutor in Criminal Matters of the Attorney General's Office of the Autonomous City of Buenos Aires, Argentina

Rapporteur: Isfandiyar Hajiyev, Senior Prosecutor, Anti-Corruption Directorate, Azerbaijan

The NACP is a worldwide network of specialist prosecutors combatting bribery and corruption, sharing knowledge and experience of prosecuting money launderers, their enablers and facilitators and ensuring through asset recovery that crime does not pay. The NACP session examined international co-operation in the context of corruption cases.

Corruption cases are often multi-jurisdictional and effective international co-operation is an essential component of their success. Speakers identified the systemic challenge of national agencies designed to investigate and prosecute domestic corruption when the larger more complex cases are no longer solely domestic in nature.

The Office of the Director of Public Prosecutions in Kenya has prioritized inter-agency co-operation which has led to improved relations with investigative agencies and successful arraignment of complex corruption cases involving senior public officials. Argentina highlighted the need to involve various institutional and social actors in the process to create an open space for citizens to participate in the development of ethical programs that contribute to the formation of a culture of legality.

The importance of MLA in combatting transnational corruption was brought to life in an overview of the work of the Office of International Affairs (OIA) the US Central Authority and part of the Department of Justice. The session explored the activity of international organisations such as INTERPOL and the Centre for Ethics and Public Integrity (CEPI), part of the training and research arm of NAAG, which is a resource for prosecutors and others seeking information about corruption prevention and anticorruption enforcement.

Speakers shared information on less formal tools that can be used to combat corruption including parallel investigations between jurisdictions and the important role of the media in shining a light on corrupt activity. One speaker proposed the introduction of direct co-operation mechanisms between those responsible for investigating anti-corruption cases to facilitate the exchange of information.

Azerbaijan noted the significant contribution of international and regional monitoring institutions such as the Group of States Against Corruption (GRECO) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) and the legislative and institutional reform they helped facilitate.



IAP – Network of Military Prosecutors (NMP)

Chairs: Lars Stevnsborg, Military Prosecutor General, Denmark; Bruce MacGregor, Director of Military Prosecutions, Canadian Military Prosecution Service, Canada

Speakers: Lisa Ferris, Director of Military Prosecutions, New Zealand; Sara Root, Chief Prosecutor US Army, United States; Michel Guedes, Vice-Procurer, Tribunal De Grande Instance de Paris, Chef de Section des Affaires Penales Militaires, France; Bruce MacGregor, Director of Military Prosecutions, Canada

Rapporteur: Dominic Martin, Deputy Director of Military Prosecutions, Canada

The session explored international co-operation across different legal systems and co-operation with partners in the theatre of operations. Speakers examined the challenges of getting to incident locations to investigate, collection of evidence, competing jurisdictions, Status of Force Agreements and the use of evidence acquired from coalition partners. All presenters' opinions are their own and do not necessarily reflect the positions of the military organisations they work for.

New Zealand focused on investigations and prosecutions in the context of operations and some of the issues that arise, particularly in respect of coalition operations, through the lens of the small nation military. The New Zealand Defence Force consists of approximately 10,000 uniformed personnel and New Zealand rarely deploys on its own.

Recent investigations revealed the following challenges:

- Age of allegation - allegations can reach back years if not decades. For example, a current New Zealand government inquiry analyses a single operation in Afghanistan that occurred in 2009. Other allegations that have been reviewed and investigated reach back to 2003. The historic nature of the allegations creates significant challenges for investigative and prosecutorial authorities.
- Information management practices - Commanders no longer keep a written war diary. Decisions, directives, and pertinent information may be kept in emails, given verbally, or directed across a range of different media.
- Coalition context - the context and structure of coalition deployments also represents a fundamental issue for the conduct of investigations. Coalition policies, directives and reports may be key information for an investigation or inquiry. Locating material that may have been stored on NATO or other coalition systems has been challenging. Access to witnesses that are members of other armed forces is not always authorized by the parent nation. There is inconsistency in treatment, and authority for unclassified release, of information held by coalition partners. Treaty obligations also have an impact, particularly in relation to access and publication of classified material.
- Access to conflict areas - there are limitations on the ability to conduct scene examinations and limited ability to interview witnesses in a host nation. Continuing insurgent use of propaganda and information operations also adds to the difficulty for investigating authorities to obtain credible information from a theatre of operation.
- Different types of investigations - there are a variety of mechanisms that investigate or inquire into the conduct of the armed forces that stretch beyond investigation of individual criminal responsibility. For allegations of offending by members of the armed forces for New Zealand it is usually an internal military investigation conducted by the Military Police for serious allegations. Nevertheless, the New Zealand Police have extra-territorial authority to investigate in respect of war crimes. The International



Criminal Court, to which New Zealand is a party, also has jurisdiction. In New Zealand there is an ongoing governmental inquiry, independent from the armed forces. This type of inquiry presents its own challenges, particularly around matters such as operational security of information, capability of conducting an investigation into an area of active armed conflict and understanding of the paradigm and international law frameworks that the military operate under.

Looking ahead, before deployment coalition partners should consider the following:

- An information management system that is interoperable and accessible for the entire coalition and agreement on time limits for retaining information. Clear direction on the public release of material for judicial matters, for public release and for general sharing amongst coalition partners;
- Coalition policies, SOPs, directives, and other materials for the conduct of national investigations or inquiries;
- Agreement regarding access to witnesses across the coalition and including the host nation;
- Where there is a coalition wide investigation, mechanisms in place such as those established in ISAF with their civilian casualty investigation processes - the access and release of the reports (and evidence) should be standardised across the coalition;
- Access to material owned by one of the contributing nations, such as ISR footage, with respect to the conduct of any investigation/prosecution or other process;
- Agreement around scene examinations and witness access;
- Various treaty obligations particularly around information sharing and access to classified material ahead of deployments.

Although large nations monitor civilian casualties as a matter of standard policy, sometimes with permanent dedicated teams, small nation militaries may not have the resources to maintain a permanent unit of this degree. Accordingly, there may be a need to consider reliance on those better resourced coalition partners to support investigative efforts.

All nations should be contemplating an incidental civilian harm policy and investigative thresholds. These will need to dovetail into coalition arrangements and be part of any deployment preparation. Included in this are matters concerning detention. Where once the military thought that its actions would not be examined in minute detail, the investigations and inquiries that have been undertaken and are still underway are evidence that this assumption can no longer be relied upon. Militaries will need to grapple with this new reality of the conduct of modern warfare.

The United States Army Prosecutions presented on the challenges and responses to international co-operation in prosecuting US army members. The US army has approximately 500,000 soldiers on active duty, excluding Navy, Air Force, Marine Corps, and Coast Guard personnel. The US Army JAG Corps includes approximately 1900 uniformed Judge Advocates.

The army has troops stationed in Korea, Japan, Germany, Italy, Belgium, Netherlands, UK and Norway and deployments in Afghanistan, Iraq, Qatar, Kuwait, Poland, Bulgaria, Romania, Estonia, Djibouti, Kosovo, Philippines, Syria, UAE, Turkey and Haiti. It is important to maintain discipline for soldiers that are employed in all these countries. The Military Justice system is very focused in keeping an active role for commanders. They need to maintain the ability to dispose of indiscipline efficiently, visibly, and locally.

Status of Forces Agreements (SOFAs), Mutual Legal Assistance Treaties (MLAT), and other agreements facilitate investigations and ensure due process for trials. Some examples include:



- A MLAT with Germany provides a broad range of cooperation such as taking testimony or statements, providing documents, records, and evidence, locating witnesses, searches, and seizures.
- South Korea has primary criminal jurisdiction over local offenses committed by soldiers when acting outside their duties. This entails delay. A soldier remains in South Korea and on a Commander's books until the civilian criminal case is concluded.
- Host nation civilian lawyers and paralegals are invaluable in obtaining everything from DUI paperwork in countries with very strict privacy laws to assisting with jurisdiction on sexual assault allegations.
- In all host nations, they have victim and witness liaisons that communicate with witnesses, victims and law enforcement that will come to courts martial. They explain the process to ensure local inhabitants will be properly prepared.

Evidentiary and investigative issues were outlined:

- Different investigative systems - in some deployed areas, the host country does not have resources to conduct investigations that will withstand the US court-martial process. In some current cases, there is a struggle with obtaining contact information for the victim and the medical reports use non-specific terminology and lack documentation, testing, or preservation of the evidence.
- When the host nation decides to investigate first, it may not provide the investigation to US Army authorities until the local prosecution service has decided not to prosecute. Time degrades the quality of the investigation. Often, the cases the host country decides to not prosecute are because of evidentiary challenges. In many cases, the US will still attempt to prosecute.
- Local medical providers' notes and findings are not specific enough. Sexual assault forensic examiners may write something like, "evidence of rape," without further information on what such evidence consisted of. This can be especially challenging with injuries to child victims.
- In some countries, privacy laws prevent the investigators from providing any details of the investigation.

Subpoena power:

- US citizens cannot be ordered to appear outside of the US. This may apply to evidence as well. Not being able to subpoena US citizens to appear in courts in Korea, Germany, Italy, or Kuwait can shape an entire case, the charges preferred or in some cases, not preferred. Sometimes, it is possible to conduct depositions in the US, but, typically, this is not as effective.

Jurisdiction and differences:

- The host country's criminal justice system can sometimes be very different from the US adversarial system and its potentially lengthier trials.
- This can be confusing or frustrating for an investigator when US prosecutors ask several seemingly basic questions to authenticate a piece of evidence.
- It may be difficult for witnesses to understand the accused's right to confrontation in the form of a defence counsel conducting cross-examination.

French military justice aims to have an ordinary justice system that is compliant with the European Convention on Human Right which was signed in Rome in 1950. Shortly after, radical laws transformed the military justice system for offences committed in peace time to ordinary tribunals in France. In 2011, the Tribunal aux Armées de Paris was abolished, and its jurisdiction



was also transferred to ordinary courts. In 2013, a new law was introduced following an incident leading to deaths and many injured in Afghanistan. This law aimed to eliminate the risk of excessive judicialization. It had the unintended consequence of limiting the ability to institute proceedings in the absence of a complainant.

Since 2015, there are two dedicated magistrate prosecutors in the Paris prosecution office. There are also three military judges (juge d'instruction). Prosecutors and judges are independent from the Chain of Command and are civilians working for the Ministry of Justice. The decision to prosecute rests with the prosecution service. The Minister can provide instructions to the prosecution, but the judges are entirely independent.

There are nine other regional military prosecution services to deal with offences committed in France by soldiers while on duty. For off-duty misconduct, the jurisdiction rests with the ordinary, non-specialized civilian justice system.

The jurisdiction over offences committed abroad by soldiers' rests with the Military Prosecution Service of Paris. In operations abroad, the Provosts' Brigade conduct investigations and report directly to the prosecutors in Paris.

In Canada, the Director of Military Prosecutions is independent from the Chain of Command and is appointed by the Minister of National Defence for a four-year term that can be renewed. Canada used a case study involving hate crimes to demonstrate the approach of Canadian Military Prosecutions.

In 1992-1993, two members of the Canadian Airborne Regiment (CAR) were taking pictures in front of the Rebel Flag. Not to long after, these same two members took pictures of themselves torturing a Somalian national. This incident led to a Commission of Inquiry into the Deployment of the Canadian Forces to Somalia. The commission found the state of discipline within the CAR's 2 Commando a cause for concern at that time (1992). With insufficient respect for and attention to the need for discipline as a cornerstone of professional soldiers, military operations must be expected to fail. In respect of the issue of discipline, the mission to Somalia was undoubtedly a failure.

Today Canada is a diverse society and the Canadian Armed Forces are reflective of this. Hate cannot be tolerated. Measures taken include the issuance of specific orders. An example is a Canadian Forces General Order, which constitute the Chief of Defence Staff direction on professional Military Conduct. It prohibits participation in an activity of, or membership in, a group or organisation that a CAF member knows, or ought to know, is connected with criminal activities, promotes hatred, violence, discrimination or harassment on the basis of a prohibited ground of discrimination as defined in the Canadian Human Rights Act (CHRA). All forms of statements that promote hate are prohibited, including tattoos. Violation of orders, such as the Chief of Defence Staff direction prohibiting hate, allows for prosecution through a Court Martial.

For offences committed in Canada, the jurisdiction of the Canadian Military Prosecution Service allows for military prosecution of any offence prescribed in any Federal Act committed by Canadian Armed Forces members, except for murder, manslaughter or specific offences listed in the Criminal Code. There is no such restriction for offences committed outside Canada.



IAP – Forum for Associations of Prosecutors

Chair: Marcelo Varona Quintián, President, Argentinian Association of Prosecutors

Speakers: Diego Garcia-Sayan, UN Special Rapporteur on the Independence of Judges & Lawyers; María Fernanda Poggi, National Prosecutor in Juvenile Criminal Matters, Argentina; Susana Marta Pernas, Attorney General of the Juvenile Oral Trial Court of the Autonomous City of Buenos Aires, Argentina; Maite De Rue, Policy Officer, Open Society Justice Initiative; Kelly Theologitou, Deputy Public Prosecutor of the Court of Appeals of Kalamata, Greece; Manuel Pinheiro Freitas, IAP Vice-President for South America

The session explored the security and independence of prosecutors. The Argentinian Association of Prosecutors stressed the importance of mutual understanding: an act considered detrimental to the independence of prosecutors in one country might not be considered so in another country. Such differences may be due to the forms of government in each country; the constitutional structure of their branches of government; the position of their public prosecution services with regard to said structure; the legislative structure and whether the independence of prosecutors is provided for and guaranteed by law; the hierarchical organization of their public prosecution services; the way in which each country appoints the authorities of their public prosecution services; their systems of sanction and removal from office; their financial self-sufficiency or their system of financing; their systems of retirement and pension; their systems of accountability etc. To understand the problems of others, it is necessary to know the nature and extent of problems and this was achieved by way of an electronic survey of associations before the conference.

The UN Special Rapporteur on the Independence of Judges and Lawyers outlined the vital role of prosecutors in combatting the constant threats of corruption and organised crime and thereby preserving the independence of justice.

Speakers from Argentinian Association of Prosecutors of the National Public Prosecution Service (AFFUN) outlined the national and international legal frameworks concerning the independence and security of prosecutors from an association perspective and explained the background to the creation of the Latin American Federation of Prosecutors (FLF). The tragic murder of Argentinian prosecutor Alberto Nisman prompted several associations of prosecutors to convene in Buenos Aires and offer their support. Within days, the idea of creating a federation emerged, born of the strong conviction that an international organization had greater chance to counteract the pressures, especially political pressures, affecting any given country. Since its creation, the FLF has successfully worked for the protection and independence of prosecutors and public prosecution services.

The Open Society Justice Initiative uses the law to promote and defend justice and human rights. Despite the differences in their scopes and elements around the independence of each of them, the independence of prosecutors is a corollary to the independence of judges. Independence comprises of institutional independence from the other branches of government, organisational independence, and individual independence.

The Greek Association of Prosecutor explored how external pressures from the press and social media affected prosecutors. Fake news and misinformation or incorrect, wrongful, and distorted facts affect the image and reputation of the judiciary which, in turn, affects prosecutors by applying inappropriate pressure. The restoration of the truth is a slow and silent process that usually takes years and when the case is brought to open trial. During sensitive periods, such as elections, misinformation can sway public opinion and undermine the



independence of justice. When prosecutors must work under the threat of being slandered or libelled, they cease to be independent.

A balance needs to be struck between the independence of justice and the freedom of access to information. That balance may be achieved by creating formal channels of judicial information, forbidding any other public reference to judicial proceedings, and securing the proper running of controlled judicial information.

The IAP Vice-President for South America outlined an amendment to regulations in Brazil by which certain omissions or delays in an investigation were no longer punishable through administrative proceedings but rather considered punishable criminal offenses which may result in prison sentences of up to four years. This provision leads to the resignation of investigators and even their reluctance to entering the Public Prosecution Service. Most of the Presidents of the Associations of the FLF subscribed to a letter of support on this issue.

Plenary 3 - The role of the prosecutor in cross-border investigations

Chairs: Mike Chibita, Director of Public Prosecutions, Uganda; Claire Loftus, Director of Public Prosecutions, Ireland

Speakers: Yuval Kaplinsky, Director of International Department, Office of the State Attorney, Israel; Edson Almeida, Associate Prosecutor General, Brazil; Gilles Charbonnier, Deputy Prosecutor General, Appeal Court of Paris, France; Gina Cabrejo, Criminal Justice Instructor - Latin American Programs, NAAG; Maria Alejandra Mángano, Prosecutor, Prosecution Office Specialized in Human Trafficking Matters, National Public Prosecutions Service, Argentina; Mary Rodriguez, General Counsel, INTERPOL; Akram Alkhatteb, Attorney General, Palestine; Mousa Alfaifi, Member of Public Prosecution, Saudi Arabia; Klaus Meyer-Cabri, Vice President, EUROJUST; Veli Unal, Rapporteur Judge, High Council of Judges and Prosecutors, Turkey

Rapporteur: Shishir Lamichane, Public Prosecutor of the Attorney General, Nepal

The role and responsibilities of prosecutors in complex cross-border investigations and the way prosecutors interact with other actors in the national and international criminal justice system has a profound impact on both the shape and progress of a case. The third plenary examined the roles of prosecutors, judges, and police in requesting and responding to requests for international cooperation. It explored the relationships between investigators and prosecutors and the use of international liaison officers and prosecutors to progress investigations and casework.

Prosecutorial functions are not exercised in a silo. Prosecutors must manage several relationships to provide effective international assistance. While prosecutors' roles vary across jurisdictions, prosecutors are often fundamental actors in MLA. The presentations and discussions were given context through a number of high profile cases including, Operation Car Wash (Lava Jato) involving at least 11 different jurisdictions and bribes exceeding US\$718 million, a 2003 organised crime bombing in Israel and trafficking in persons (TIP) cases. Transnational organised crimes were recognised as a threat to the rule of law and that transnational threats require transnational co-operation. Once again, speakers emphasized the importance of building trust to foster co-operation.



- Overly complex and fragmented domestic MLA legislation can be a barrier to effective inter-agency co-operation. Some countries, including France, have simplified their MLA legislation and grouped all laws and regulations in one encompassing piece of legislation making the provisions more accessible and user friendly. Others, such as Turkey, have taken the further step of adopting international conventions, in this case the Third Additional Protocol to the European Convention on Extradition.
- Serious cases increasingly involve multiple jurisdictions creating logistical problems. A prime example is TIP cases, 40% of which take place outside a jurisdiction and 70% of which occur within a region. TIP cases were used to illustrate the value of regional networks in facilitating and expediting international co-operation. For example, the Ibero-American Association of Public Prosecutors (AIAMP) has contact points in 21 jurisdictions providing informal assistance in cross-border cases.
- Multi-lateral organisations such as INTERPOL enable its 194 member countries to share and access data on crimes and criminals. In each country an INTERPOL National Central Bureau (NCB) provides the central point of contact with other NCBs. INTERPOL manages 18 police databases with information on crimes and criminals (from names and fingerprints to stolen passports) accessible in real-time to countries. INTERPOL Notices are international requests for co-operation or alerts allowing law enforcement to share critical crime-related information. For example, Blue Notices are used to collect information about a person's criminal identity, location, or activities in relation to crime and Red Notices to seek the location and arrest of persons wanted for prosecution or to serve a sentence.
- INTERPOL's e-MLA project is exploring the legal feasibility of creating a dedicated virtual global network allowing for secure electronic transmission in MLA matters. Its e-extradition initiative aims to provide a technical platform to speed up and facilitate extradition requests through secure communication channels.
- In the absence of bi-lateral agreements and formalised MLA arrangements some jurisdictions, including the Palestinian Authority can successfully assist based on courtesy and reciprocity. Where legal systems differ, jurisdictions need to work closely to figure out what best suits the requesting and requested state.
- Some countries, including the France, Canada, the United States, and the United Kingdom use networks of Liaison Prosecutors to good effect. The core task of Liaison Prosecutors is to provide operational support in criminal cases which require foreign assistance. Some countries such as the United Kingdom, also deploy justice advisors to provide in country criminal justice capacity building. The United States OPDAT programme works with foreign partners to strengthen criminal justice systems, promote the rule of law, and improve their capacity to effectively investigate, prosecute, and adjudicate complex crimes.

The speakers demonstrated that there are a number of resources available to facilitate international co-operation, including making full use of multi-lateral, regional and liaison prosecutor networks and international databases. The discussion highlighted the need to consider informal methods of assistance and understand differences in legal systems to find the best way to co-operate. There was recognition that informal co-operation is only a partial solution and the need for formalised co-operation remained. Speakers agreed some jurisdictions would benefit from reform of MLA legislation and some greater degree of harmonisation. There was an appetite for more training on international co-operation, with the International Association of Prosecutors and partner organisations taking a leading role.



Workshop 2A - differences in the role of the prosecutor in inquisitorial and accusatorial systems

Chair: Gabriel Unrein, Appellate Prosecutor in Criminal Matters for the Attorney General's Office of the Autonomous City of Buenos Aires, Argentina

Speakers: Satyajit Boolell, IAP Vice President, Mauritius; Néstor Maragliano, Prosecutor in Criminal, Misdemeanor and Petty Offenses Matters for the Autonomous City of Buenos Aires, Argentina; Mario Carrera, Adjunct Prosecutor of Maipú, Western Metropolitan Regional Prosecution Office, Chile

Rapporteur: Elizabeth Maina, Advocate of the High Court of Kenya, Office of the Director of Public Prosecutions, Kenya

Many legal systems follow either the inquisitorial or the accusatorial approach to criminal justice. In the inquisitorial system the court, or a part of the court, is actively involved in investigating the facts of the case. This is distinct from an accusatorial system in which the role of the court is primarily that of an impartial referee between the prosecution and the defence. Inquisitorial systems are used primarily in countries with civil legal systems, such as France and Italy as opposed to common law systems found in countries such as the United States and the United Kingdom. Other countries such as Mauritius and Cameroon have hybrid systems. Further countries, including Argentina and Chile have or are in the process of transitioning between systems.

The presenters demonstrated that whatever prosecution model is adopted, each model is very much a product of a country's history, culture, traditions, and constitutional arrangements. Further, that there is no one size fits all and no one model is inherently better than the others. The discussion highlighted the essential characteristics of each system:

Inquisitorial:

- The criminal investigation is overseen by an examining magistrate who can seek evidence; direct lines of inquiry favourable to either prosecution or defence; interview complainants, witnesses and suspects and ultimately determine whether there is sufficient evidence for a trial.
- Discretion may be limited as in some jurisdictions the legality principle dictates that prosecution must take place in all cases in which sufficient evidence of the guilt of the suspect exists.
- The conduct of the trial is largely in the hands of the court. With the dossier of evidence as its starting point, the trial judge determines what witnesses to call and the order in which they are to be heard and assumes the dominant role in questioning them.
- Victims have a more recognized role. In some jurisdictions they may have the right to request particular lines of enquiry at the pre-trial investigative stage. At the trial itself, they generally have independent standing.

Accusatorial:

- Responsibility for gathering evidence rests with the parties – law enforcement/prosecution and defence – and an independent evaluation of that evidence by a neutral judge is left to trial.



- There is a recognized prosecutorial discretion not to proceed with the case, even where there is evidence to support a criminal charge.
- Parties determine the witnesses they call and the nature of the evidence they give, and the opposing party has the right to cross-examine. The court is confined to overseeing the process by which evidence is given (subject to strict rules) and then weighing up the evidence to determine whether there is a reasonable doubt.
- The victim is largely regulated to the role of a witness, having no recognized status in either the pre-trial investigation or the trial itself.

Chile outlined the challenges of transitioning from an inquisitorial to an accusatorial system, a process that started in 2005 and took 5 years to complete. There was consensus that whatever model is adopted, there were sufficient similarities in each system and a strong international legal architecture, founded in treaties and conventions, that made effective international co-operation possible. All systems converged on the central purpose of delivering efficient, effective, accountable, and fair justice for the public.



Workshop 2B – the role of international liaison prosecutors

Chair: Nicola Staub, Public Prosecutor for the Canton of Schwyz, Switzerland

Speakers: Jacques Lemire, Senior Counsel, International Assistance Group, Department of Justice, Canada; Shenaz Muzaffer, Deputy Chief Crown Prosecutor, Crown Prosecution Service, England & Wales; Gilles Charbonnier, Deputy Prosecutor General, Appeal Court of Paris, France; Mike Grant, US Department of Justice, Legal Advisor, United States

Rapporteur: Mats Jansson, Senior Public Prosecutor, National Unit Against Corruption, Sweden

Speakers discussed a variety of models for placing liaison prosecutors in foreign countries. Some countries, including France and Canada, deploy liaison prosecutors for a predominantly operational role. Other countries, such as the United Kingdom and United States deploy liaison prosecutors both for operational and capacity building purposes. Some liaison prosecutors undertake both functions. Liaison prosecutors may have a regional remit or one that is confined to a particular jurisdiction. Some are posted to deal with all criminal matters and others to address a specific crime threat.

Operational liaison prosecutors are usually experienced prosecutors in their home jurisdictions. Their core tasks are to:

- Provide operational support in criminal cases which require foreign assistance;
- Facilitate legal relations between the posting country and host country; and
- Build relationships with operational counterparts in the host country.

In addition, they may provide training to prosecutors in both the home and host country. Speakers highlighted the need for clear criteria for deciding where liaison prosecutors should be placed to maximize their operational impact. Speakers agreed that operational liaison prosecutors improve communication between the requesting and requested state and provide an agile response to fast moving cross-border criminal investigations.

The United States provided a prime example of capacity building liaison prosecutors. Their Overseas Prosecutorial Development, Assistance and Training (OPDAT) program was created in the Criminal Division of the Department of Justice in 1991 in response to growing international crime and focuses on several areas, such as counter terrorism, anti-corruption, judicial independence and gender-based violence. There are currently 50 OPDAT programs in place around the world. The core tasks are to work with foreign partners to:

- Strengthen criminal justice systems and promote the rule of law;
- Improve capacity to effectively investigate, prosecute, and adjudicate complex crimes; and
- Assist with legislative and institutional reform as well as skills training.

The importance of personal contacts cannot be overestimated in international co-operation and the speakers agreed that liaison programs had improved co-operation between the countries deploying and hosting liaison prosecutors. It was noted that building relationships between operational liaison prosecutors enhanced operational effectiveness and the International Association of Prosecutors could play a valuable role in this space.

IAP – Regional Forum for Africa & Indian Ocean

Chair: Satyajit Boolell, IAP Vice President, Mauritius

Speakers: Mary Kachale, Director Public Prosecutions, Malawi; Carla Patricia Correia, Public Prosecutions Office, Angola

Rapporteur: Adesola Adeyem, Assistant Director, Federal Inland Revenue Service, Nigeria

The forum concerned children's rights in the era of social media and examined legal and other tools which address those rights. There was recognition that the Internet can both promote and undermine the rights of children.

Malawi outlined the domestic challenges caused by high levels of internet access resulting from affordable mobile phones and cheap data packages exposing children to indecent images. The problems are compounded by a regulatory regime that cannot keep pace and a lack of knowledge of rights in the digital age. Malawi identified national and international interventions that can assist to protect the rights of children:

Internationally, the Convention on the Rights of the Child, adopted by the UN General Assembly in 1989, is the most widely adopted international human rights treaty in history. Together with the General Assembly Resolution on the right to privacy in the digital age and the UN Human Rights Council resolution on the promotion, protection and enjoyment of human rights, adopted in July 2018, they provide protection against violence, exploitation and the abuse of children.

Regarding national legal instruments, the Electronic Transactions and Cyber Security Act of 2016 criminalizes offences related to computer systems and information communication technologies and provides for investigation, collection and use of electronic evidence. It prohibits the production, possession, and distribution of indecent images of children and, for the sake of protecting children from pornography requires pornography filtering software in public establishments providing access to the Internet. In addition, the legislation allows for public education programmes on the safe use of the internet including remedies and procedures when affected by cybercrime. Otherwise, it lacks protections for children in the online space. The provisions addressing online child protection in the 2017 National Cyber Security Policy have yet to be enacted.

Recognising that children can be affected by social media and use of the Internet, the Angolan legal system is replete with tools and frameworks to enhance the rights of children and prevent infringements of those rights.

In 1990, Angola ratified the Convention on the Rights of the Child, which sets out the civil, political, economic, social, health and cultural rights of children. The Convention defines a child as any human being under the age of eighteen which is the age of majority in Angola.

The Angolan Constitution contains specific guarantees relating to children and youth. For example, Article 80 gives children the right to receive special attention from the family, society and the state which, by working closely together must ensure that they are fully protected against all forms of neglect, discrimination, oppression, exploitation and abuse of authority, within the family and in other institutions.

By 2017, Angola has established eleven basic rights for children including those covering life expectancy, food security, nutrition, birth registration, early years education, vocational



training, juvenile justice, prevention of HIV, prevention of violence against children and provision in relation to culture and sports in the national budget.

IAP – Regional Forum for Asia and the Pacific

Chair: Cheol-Kyu Hwang, Chief Prosecutor, International Centre for Criminal Justice, Public Prosecution Service of the Republic of Korea

Speakers: Muteab Alotabi, Legal Counsellor, Saudi Customs, Saudi Arabia; Young-Hwa Hong, Senior Counsel, World Bank; Ralph Vincent Catedral, Specialist, International Justice Mission (IJM) National Office, Philippines

Rapporteur: Eissa Mohammed, Office Manager for the Public Prosecutor, Yemen

The session explored effective responses to cybercrimes which are growing exponentially and are a threat to the global economy and security. In Saudi Arabia, such crimes cost US\$ 2.6 billion and cyber-attacks have affected 69% of Saudi companies. Artificial intelligence is required to discover and deal with the threat which in turn requires the following eight steps to be taken:

- Reform criminal procedure law to permit law enforcement personnel to detect and track cybercrime in real time;
- Recruit and train law enforcement personnel to deal with cybercrime professionally;
- Build a security sector with the legal powers and specialised skills in cybercrime;
- Use specialised cyber prosecutors;
- Use specialised cyber courts;
- Update international agreements to address the use of artificial intelligence;
- Raise public awareness of cybercrime through media campaigns and,
- Impose deterrent sentences for cybercrimes.

The International Justice Mission (IJM) is a global organisation that protects the poor from violence throughout the developing world. IJM partners with local authorities to rescue victims of violence, bring criminals to justice, restore survivors, and strengthen justice systems.

Online sexual exploitation of children (OSEC) refers to child sexual exploitation which is facilitated or takes place through the internet and other related media. IJM has supported the government of the Philippines to use forward thinking prosecution strategies in OSEC cases. There are 157 IJM supported OSEC cases. 70% of cases involve perpetrators who are parents, relatives, or close family friends. 41% of cases involve victims who are siblings. Since 2012, 527 victims have been rescued of which 50% are 12 years old or younger.

Success requires a co-ordinated strategy to eliminate cybersex trafficking and restore impacted survivors and a supportive environment consisting of:

- Effective law enforcement – close collaboration with international partners and use of video interviews to reduce the reliance on victim testimony.
- Effective prosecution – targeted training of expert prosecutors familiar with the rapid changes in technology; close collaboration with local and international partners and making full use of plea bargaining (81.2% of convictions).
- Effective aftercare for victims – rescuing victims ensuring the child is safe from the perpetrator; restoring survivors through trauma focused therapy and helping prepare survivors to share the truth in court and support families so children can heal in a safe and stable environment.

IJM provide training and hands on mentoring to law enforcement, judges, medical and other professionals, and advocate for reforms to the court process to protect children.

The Internet, which has enriched people's lives and made the world a 'smaller' place, also enables a range of criminal activity including breaches of corporate and governmental networks, major thefts from banks, malware, ransomware etc.

A notable example is the ILOVEYOU, sometimes referred to as Love Bug or Love Letter For You, computer worm that inflicted damage on Windows computers, overwriting random types of files and sending a copy of itself to all addresses in the Windows Address Book used by Microsoft Outlook. This made it spread much faster than any other previous email worm. Within 10 days of release in May 2000, over fifty million infections had been reported and it is estimated that 10% of internet-connected computers in the world had been affected.

The worm originated in the Philippines and two young Filipino programmers became targets of a criminal investigation. However, since there were no laws in the Philippines against writing malware at that time, both suspects were released with all charges dropped by state prosecutors. Lack of dual criminality prevented their extradition to other jurisdictions for prosecution.

The inability to prosecute and the gaps in national criminal laws which the event exposed led to the initiation by the World Bank of the combatting cybercrime programme which helps developing countries to address cybercrime by better equipping them to handle the policy, legal and criminal justice aspects of ICT.

The first phase of the project developed resources, that are available to download, aimed at building capacity among policy makers, legislators, public prosecutors and investigators and civil society including:

- A Toolkit that synthesizes good international practice in combatting cybercrime;
- An Assessment Tool that enables countries to assess their current capacity to combat cybercrime and identify capacity building priorities; and
- A Virtual Library with materials provided by project participating organisations and others.

The second phase activities include:

- Curating and updating the existing Toolkit;
- Developing training materials based on the Toolkit and using existing resources from participating organisations; and
- Examining the feasibility of establishing a 'hub' to manage the training activities.

The project will continue to do in-country assessments as well as raise awareness at international events.

Plenary 4 - The impact of alternatives to prosecution on international cooperation

Chairs: Lavly Perling, Prosecutor General, Estonia; Donna Babb-Agard, Director of Public Prosecutions, Barbados

Speakers: Lisel Avey, State Prosecutor, Office of the Director of Public Prosecutions for Western Australia, Australia; Pontus Bergsten, Senior Public Prosecutor, National Unit against Organized Crime, Sweden; David Gurfinkel, Partner, Allende & Brea; Padma Rao Lakkaraju, Advocate, Bar Council of Telangana, India; Anamara Osorio Silva, Federal Prosecutor, Office at São Paulo, Brazil; Carolina Mauri, Prosecutor, Public Prosecutions Service of the Province of Neuquén, Argentina; Silvia Moreira, Prosecutor, Public Prosecutions Service of the Province of Neuquén, Argentina; Marc Porret, UNCTED

Rapporteur: Barbara Bugemba, Principal State Attorney, Office of the Director of Public Prosecutions, Uganda

In an increasingly globalized world, both national and international legal architecture must adapt and evolve to meet and counter ever changing crime typologies and threats. The fourth plenary examined alternatives to prosecution such as plea deals, deferred prosecution agreements and non-conviction based disposals and considered whether international legal frameworks for MLA are keeping up with such developments. The session considered the challenges in international cooperation where alternatives to criminal prosecution and traditional sentencing options are used.

Some countries, including Canada and India, have established plea bargaining arrangements. Other countries, such as Sweden, have adopted administrative approaches as alternatives to prosecution in organised crime cases. More broadly, speakers examined the challenges of using non-trial resolutions (NTRs) to combat bribery and corruption and terrorism. Whatever model is adopted, there was consensus that non-conviction based disposals were not appropriate for certain serious offences and the rights of victims were an important element of any scheme.

Challenges:

- Administrative alternatives to prosecution include the use of regulations to fight crime and ensuring that existing infrastructure is not used to commit crimes. For such efforts to be effective, there must be prioritisation of the crimes targeted and co-ordination across government agencies. Sweden utilises a National Operational Council that prioritizes crimes based on prevalence, public impact and resourcing and co-ordinates the government agencies involved in any response.
- In the context of bribery and corruption cases, multiple jurisdictions with varying legal systems together with investigative inefficiencies and inefficient enforcement mechanisms were the main challenges. Local regulations, NTRs and bi-lateral and multi-lateral agreements provided solutions.
- In the context of counter-terrorism, CTED identified a number of alternatives to prosecution: protracted detention of suspects; repatriation of foreign fighters to their home countries; rehabilitation of suspects including integration into home communities, dis-engagement programmes and psycho-social support and, more broadly, addressing the conditions that allow radicalisation and terrorism to thrive. The cornerstones of such initiatives are cross-border collaboration amongst states; robust



prosecution diversion and re-integration strategies; adequate resourcing and the involvement of communities and participation of victims.

- Not all offences lend themselves to non-conviction based disposals. In some countries the length of sentence determined the availability of alternative remedies. For example, in India, plea bargains can only be entered for offences that attract sentences of less than 7 years. Other countries had provisions that prohibited plea bargains in serious offences generally and sexual offences in particular.
- The United States provide a concrete example of an alternative disposal acting as a barrier to international co-operation. Twenty states in the United States have a system of civil commitment, which involves indeterminate confinement in a secure facility. Commitment orders, which are imposed on 'persons of unsound mind' deemed to be dangerous who have been convicted in US criminal courts and served a sentence for sexual offences have been found incompatible with article 5(1) of the ECHR, which protects the right to liberty. This has acted as a bar to the extradition of suspects from the EU.

Solutions:

- Cross-border collaboration can be improved through the adoption and implementation of multi-lateral agreements and conventions. The Organisation for Economic Co-operation and Development (OECD), an intergovernmental organisation founded in 1961 and now comprising 37 member countries, works on establishing evidence-based international standards. The OECD Anti-Bribery Convention has been ratified by 44 countries that pledge to work together to fight foreign bribery. Its study on Resolving Foreign Bribery Cases with Non-Trial Agreements examines non-trial resolutions that can be used to resolve foreign bribery cases with sanctions and/or confiscation. Non-trial resolutions refer to a wide range of mechanisms used to resolve criminal matters without a full court proceeding, based on an agreement between an individual or a company and a prosecuting or another authority. Where appropriate, they can also be used in administrative or civil proceedings to enforce the foreign bribery laws in the Parties to the Convention, in particular with legal persons.
- The discussion highlighted a variety of approaches in relation to serious sexual offences, child exploitation and gender based crimes. In some countries policy prevented non-punitive measures for serious offences (Argentina) and offences that attract relatively lengthy terms of imprisonment (India). In other countries, dispute resolution is available to resolve domestic violence and child to child sex (Jamaica) and mediation to resolve gender based violence (Argentina).
- Common features of negotiated plea mechanisms included: ensuring the plea reflects the criminal conduct of the accused and is in the public interest; consultation with victims and law enforcement; consideration of restitution where the victim has suffered financial loss and compensation for other loss or trauma; judicial oversight and/or approval of the plea agreement and a victims right of review if they oppose the decision to negotiate a plea.



IAP - Trafficking in Persons Prosecutors (TIPP)

Chair: Maria Alejandra Mángano, Prosecutor, Prosecution Office Specialized in Human Trafficking Matters, National Public Prosecution Service, Argentina

Speakers: Mike Chibita, Director of Public Prosecutions, Uganda; Silke Albert, Crime Prevention Expert, United Nations Office on Drugs and Crime, Human Trafficking and Migrant Smuggling Section

Building on the IAP/NAAG joint international conference on human trafficking in Puerto Rico in January 2019, the session focussed on prosecutors' collaborative efforts to identify, prevent, and prosecute human trafficking in its many forms.

It was recognised by all that human trafficking is a global problem and prosecutors must be equipped to handle the ever evolving and complicated crime to prevent further victims. Formal and informal networks are important to foster collaboration between prosecutors, investigators, victims, communities, and non-governmental organisations. In addition to these general observations, the discussion highlighted the following:

- Prosecutors play a critical role in ensuring that victims are appropriately protected during the investigation and prosecution phases of these cases. Prosecutors should anticipate that victims often do not want to cooperate with investigations and prosecutions and such a response is not abnormal. However, prosecutors still have an obligation to hold traffickers accountable legally and must always ensure that victims receive appropriate services and are treated with dignity and respect.
- A 'victim-centred' approach is best practice because it is important that victims become invested in and have control over their decisions in these cases. It remains pivotal for victims to have a voice on how they want the case to proceed or determine their level of involvement in a case—regardless of how a prosecutor or investigator may feel—because victims should not be subjected to revictimization considering the trauma they already experienced. Prosecutors must educate themselves and seek venues such as the IAP and other conferences and training to ensure they understand how to handle these cases and victims from a cultural, legal, social, and justice standpoint.
- Collaborative efforts among prosecutors and investigators are critically important to expedite the gathering of evidence and information across borders, while also offering assistance to victims, identifying best legal strategies to handle new issues and implement successful practices into their daily efforts working on these cases.
- Prosecutors should work with domestic and international organizations focused on providing technical support, general case support, services to victims and keep abreast of new research options such as the U.S. Department of State's Trafficking in Persons Report and the UNODC thematic reports on human trafficking.
- Victims often fall prey to trafficking due to family pressure and collusion with traffickers; lack of opportunity; unstable home environments; poverty and misplaced trust in individuals due to unfamiliarity of trafficker techniques. Prosecutors should work with NGOs to minimize these issues through prevention campaigns.

The session explored specific trial and prosecution techniques for litigating these cases and shared regional experience and expertise on how they have handled their cases and/or how they have worked with partners to provide technical assistance and support on actual cases. Looking forward the session recommended:



- Targeted training to equip prosecutors to address TIP cases.
- Improve the availability of resources such as case precedents and best practice guides that prosecutors can rely upon in their work.
- Promote TIPP as a platform to disseminate contacts and helpful information consistently throughout the year.

There is consensus that more needs to be done to combat the scourge of human trafficking and TIPP provides a valuable platform for prosecutors to collaborate globally. At future conferences, practical sessions aimed at highlighting specific case challenges and successes and providing practical tips and guidance on how to investigate and prosecute human trafficking cases would be well received.

IAP – Prosecutor's Consumer Protection Network (PCPN)

Chair: Abigail Stempson, Director, NAGTRI Centre for Consumer Protection, National Association of Attorneys General NAAG, USA

Speakers: Richard Goldberg, Senior Counsel for Complex Litigation, United States Department of Justice, Consumer Protection Branch, USA; Laura Alejandra Perugini, Prosecutor in Contentious and Administrative Matters of the Autonomous City of Buenos Aires, Argentina; Sidney Rosa da Silva Junior, Coordinator, Prosecutor's Offices in Consumer Protection Matters, Public Prosecution of the State of Rio de Janeiro, Brazil; Satyajit Boolell, IAP Vice President, Mauritius

The PCPN provides a much-needed forum for practitioners to communicate, exchange ideas and experiences, stay informed and collectively innovate and problem solve to advance approaches and techniques, and undermine fraudulent enterprises that harm consumers. The leadership group currently consists of IAP members from Argentina, Brazil, Mauritius, and the United States.

Jurisdiction over consumer fraud and deceptive trade practice schemes differs in each country and is often handled by multiple factions of government. Some nations generally prosecute these types of cases civilly, others criminally, and many nations do so through a mixture of both, depending on the type and severity of the scheme being prosecuted. With jurisdiction over these schemes varying so greatly between the nations, developing a network of prosecutors is a step toward protecting consumers worldwide.

The PCPN session focused on combatting transnational mass marketing fraud, and included discussion about domestic schemes victimizing consumers abroad, as well as international fraudsters victimizing consumers at home. The session explored which schemes are the most prevalent in each jurisdiction; successes and failures in working with law enforcement from other countries; techniques for identifying and investigating fraudsters in other countries; and criminal versus civil prosecution. The meeting also included an overview of the resources available on the PCPN section of the IAP website and a roundtable where attendees spoke about consumer protection issues in their respective countries.

Conclusion

The crime threats the world faces are growing in volume, scale, and complexity. These threats include economic crime such as money laundering, fraud, bribery, and corruption, as well as cybercrime, smuggling in people, drugs and firearms, and child sexual exploitation. Most serious and organised crime has a transnational dimension and demands a transnational response. It follows that international co-operation is now an essential component of many modern investigations and prosecutions.

Differences in legal systems can lead to frustrations for practitioners unfamiliar with the procedures and capabilities of a particular jurisdiction. The speakers demonstrated that, while such differences can make international co-operation a challenge, whatever model is adopted, there are sufficient similarities to enable effective co-operation. Easy access to information about MLA within each system, including relevant statutory provisions and information about proof requirements and capacities facilitates and improves understanding.

Lack of trust can be a barrier to MLA when the process involves jurisdictions with significantly different political, judicial, legal, and cultural systems. It is recognised by all that strong mutual trust is the foundation, and robust international and national legal architecture the pillars, of effective international co-operation. Where institutional knowledge and expertise is lacking, it is incumbent upon all prosecutors to work together to raise standards. The IAP Prosecutors Exchange Programme, specialist networks and online training resources are essential to this effort.

The international legal architecture for MLA is complex and encompasses variable structures - bilateral, multilateral, regional and subject specific. The legal instruments are similarly diverse with multi-lateral conventions, regional treaties, and bi-lateral agreements with differing scopes and procedural requirements. In the absence of such instruments, and corresponding national legal provisions, jurisdictions may be unable to give effective MLA. International conventions such as UNTOC can step in and act as a mini-MLA treaty and may be used to obtain evidence and secure extradition in most transnational cases.

The MLA process can be time-consuming and unable to meet the narrow timeframes of modern proactive investigations. Delays in processing and responding to requests may frustrate practitioners, discourage future MLA requests, and undermine the political will to proceed with cases. Making full use of pre-MLA enquiries, increased use of IT and better use of the rich framework of networks that facilitate international co-operation at both an international and regional level, of which the IAP is a prime example, help overcome bureaucratic and other hurdles.

While prosecutors' roles vary across jurisdictions, prosecutors are often fundamental actors in MLA, and they must manage several relationships to provide effective international assistance. The speakers demonstrated that there are several resources available to facilitate international co-operation, including making full use of multi-lateral, regional and liaison prosecutor networks and international databases.

In an increasingly globalized world, it is a challenge for both national and international legal systems to adapt and evolve to meet and counter ever changing crime typologies and threats. Non-traditional resolutions which resolve criminal matters without a full court proceeding add to the complexity. Cross-border collaboration in this area has been improved through the adoption and implementation of multi-lateral agreements and conventions such as the OECD Anti-Bribery Convention.



Throughout the conference speakers emphasised the importance of personal relationships in building trust and overcoming operational hurdles. Prosecutorial functions are not exercised in a silo and in their work, prosecutors must manage complex overlapping relationships with domestic and international colleagues. The IAP, through its members database and regional and annual conferences, provides unique opportunities for prosecutors to broaden the scope and depth of their international contacts.

As daunting as the challenges undoubtedly are, speakers demonstrated throughout the conference a determination and desire to work collaboratively together to overcome barriers and improve the efficiency and effectiveness of co-operation across borders.