

## **Abstract**

Judicial Assistance in Criminal Matters, also being referred as Mutual Legal Assistance in Criminal Matters (MLA), is mostly a cooperative process on legal issues between states. Studies on MLA highlight the legal challenges in China, guiding prospective legislation on MLA between China and foreign states and even legislation on MLA between the Mainland and the two special administrative regions (SAR) under the Principle of One Country Two Systems.

The thesis examines the major issues and challenges relating to MLA in China and sets forth MLA from three levels: MLA at international level (MLA between China and foreign states), MLA at regional level (MLA between China and the Member States of ASEAN) and MLA at national level (MLA between the Mainland and two SARs). Every type of MLA mentioned above is discussed in an independent chapter.

Before the three-level analysis, the introduction to relevant concepts on MLA is involved. The definition on MLA and its category are expressed in different ways, but author summarizes the definition, after assimilating the essence of many definitions created by others. However, the fundamental principles of MLA and its component are set forth, being correspondingly embodied in the following analysis on the challenges of China-ASEAN MLA and challenges on MLA under One Country Two Systems.

As to the Challenges on MLA between China and foreign states, some problems have been found, for instance, some conflicts between different rules of laws on MLA. In addition, the specific functions of different organs for MLA in China are still unclear, and the review system on MLA is still in blank. Another vital challenge for China to cooperate MLA with other states is death penalty. China still retains and executes death penalty, but contrarily, most developed states have got rid of death penalty for a long time. Therefore, there is an inevitable obstacle when China requests such states to render legal assistance.

With respect to MLA at regional level, China contiguously borders on most member states of ASEAN, thus China and such states are more inextricably linked in the economic and trade areas against the background of global economic integration. In the meantime, the relevant legal issues on crimes, including cross-border criminal activities have become increasingly prominent. At present China has signed many treaties on extradition and MLA with more than five Member States of ASEAN, besides releasing the Declaration and Memorandum of Understanding (MoU) between ASEAN and China.

In terms of MLA at national level, Hong Kong and Macao, as two SARs of People's Republic of China, have independent judicial systems, and are quite different with the system of Mainland China. Some principles of international MLA could be partially or fully applicable to the MLA under One Country Two Systems, but some principles would harm the essential interests of China if applied. The surrender of fugitive offenders is the main challenge on MLA between the Mainland and the SAR.

## **Keywords**

Mutual Legal Assistance in Criminal Matters (MLA), Principles, Extradition, Death Penalty, ASEAN, One Country Two Systems, Arrest Warrant