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COMITY AND FUGITIVE OF JUSTICE

AUTHOR - SINDHU VARSHINI. E, ADVOCATE AND GRADUATED FROM CHENNAI DR. AMBEDKAR GOVERNMENT LAW COLLEGE, PUDUPAKKAM

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ABSTRACT

Section 105 of the Criminal Procedure Code of India addresses arrangements established by the Central Government with foreign governments for the delivery of summons/warrants/judicial processes. In the case of nations with which India has an operating MLAT, the provisions of Section 105 of the Cr.P.C. must be observed, however in the case of other countries, the ministry makes a request based on assurances of reciprocity. The State Police serve summonses issued by foreign courts/authorities and received at the Ministry of Home Affairs via CBI-Interpol. When an offence is committed, the first issue that should be asked is which Court has jurisdiction over the offence. As previously stated, Sections 177-189 deal with the concept of criminal court jurisdiction. Under normal circumstances, the case will be investigated and tried by the court whose jurisdiction the offence was committed, as per Section 177. However, in some occasions, two Courts have jurisdiction to investigate and try the cases. As a result, Sections 178 to 189 deal with these unique situations. The courts and the parties involved should carefully analyse the principles of criminal court jurisdiction.

KEY WORDS : Judiciary, jurisdiction, border, state authority, cross investigation

INTRODUCTION

Governance in Indian Country is a complicated field, made more so by civil laws, programs and court opinions. Police officers in the field are asked to navigate a redoubtable body of law to determine what authority they may or may not have in a wide variety of situations. Officers, who must treat every routine business stop as a potentially life hanging situation, must consider the position of an alleged crime, their present position, the political identity of the contended perpetrator, the political identity of the contended victim and the nature of the alleged crime before determining what action, if any, they're authorized to take. Numerous agencies have tried to meliorate the problem of furnishing effective law enforcement in Indian country by entering into collaborative agreements with girding authorities. These agreements expand the authority of officers who would naturally not be suitable to apply certain laws against certain individualities. Cooperative arrangements including Deputization, Cross-Deputization or collective Aid agreements have proved necessary in streamlining the exercise of law enforcement in Indian Country; allowing officers to more effectively perform their duties of guarding the public from crime. As preliminarily bandied, felonious governance in Indian Country depends on numerous factors, including where the crime was committed, who committed the crime and the nature of the crime committed. Depending on these factors, any number of law enforcement agencies may have governance to arrest malefactors or conduct examinations. For illustration, the Federal Bureau of Investigation FBI has authority to probe certain major crimes " committed by Indians against the persons or property of Indians and non-Indians, all offenses committed by Indians against the person or property of non Indians and all offenses committed by non-Indians against the persons or property of Indians". Also, the Indian Law Enforcement Reform Act

establishes a Branch of Felonious examinations within the Division of Law Enforcement (" DLE ") of the Bureau of Indian Affairs, which " shall be responsible for furnishing, or for aiding in the provision of, law enforcement services in Indian Country. " The liabilities of the DLE includes " the enforcement of civil law and with the concurrence of the Indian lineage, ethnical law; and in cooperation with applicable civil and ethnical law enforcement agencies; the disquisition and donations for execution of cases involving violations of U.S.C § 1152 and§ 1153 within Indian Country. " These police departments are administered by the BIA itself and the staffers in these departments are considered civil workers.

CROSS JURISDICTIONS

Indian Country Crimes Act (" ICCA ") In 1817 when Congress firstly passed the Indian Country Crimes Act(ICCA), 10 it was generally assumed that state law was irrelevant to Indian Country. The ICCA purported to give civil discipline for all crimes committed by non Indians in Indian Country and some crimes committed by Indians against non-Indians. Because of recent developments in Indian law, the ICCA presently functions to allow the civil execution of crimes by non-Indians against Indians and non-major crimes by committed by Indians against non-Indians. While Congress presumably intended for the ICCA to give for operation of civil governance to all crimes committed by non Indians in Indian Country, 11 two opinions of the Supreme Court have confined its compass as applied to non-Indians. For civil law to apply via the ICCA, the alleged victim of a crime committed by anon-Indian must be an Indian, and the victim's identity must be an element proved in court. The ICCA also doesn't apply to crimes committed by Indians against Indians, crimes committed by Indians that have been penalized by the lineage, crimes over which a convention gives exclusive governance to the lineage, and victimless crimes committed by Indians. As bandied below, another civil law subjects Indians to civil governance for specified crimes, the Major Crimes Act. Assimilative Crimes Act the Assimilative Crimes Act fills in gaps in felonious law that would else live in simply civil areas similar as civil castles and magazines. The provision effectively borrows utmost of state felonious law and applies it through the civil law to areas under civil governance, similar as special maritime areas under the governance of the United States. The Assimilative Crimes Act is important to civil Indian law because it's one of the general laws of the United States that reaches into Indian Country via the Indian Country Crimes Act. Major Crimes Act Congress passed the Major Crimes Act14 in 1885 as a direct response to the Supreme Court's decision in Ex parte Crow Dog, where the Court held that civil courts had no governance over a ethnical member who killed another ethnical member in Indian Country. The enactment provides for civil governance over an Indian who commits one of several enumerated crimes including murder, manslaughter, hijacking , maiming, a felony under chapter 109A, incest, assault with a dangerous armament, assault performing in serious fleshly injury, an assault against an existent who has not attained the age of 16 times, wildfire, burglary, thievery, and a felony under§ 661 of title, According to 18U.S.C.§ 3242, a supplemental jurisdictional enactment, Indians fulfilled under the Major Crimes Act must be tried in the " same courts and in the same manner as are all other persons committing similar offenses within the exclusive governance of the United States. " One problem presented by this enactment is whether an Indian can plea- bargain by contending shamefaced to a lower included offense when being tried under the Major Crimes Act. A plain reading of§ 3242 suggests that this should be allowed, but the court would not have governance over the lower included offenses if its governance was only conferred by the Major Crimes Act. The Supreme Court has held that a jury should be instructed that it may condemn an Indian of a lower included offense when tried under the Major Crimes Act. Lower courts have dissented as to the plea- logrolling issue and the Supreme

Court has not yet resolved it.

FEDERAL CRIMES OF NATIONWIDE APPLICABILITY

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CROSS BORDER INVESTIGATIONS

To probe the ethnical court experience, the term" recognition" of judgments must be astronomically defined. At the van is the standard inquiry of what force and effect a reviewing court will go judgments rendered by a ethnical court. But," recognition" in terms of the approach taken by non-judicial state agencies when ethnical court orders are at issue is also a necessary part of the inquiry. These non-judicial agencies include law enforcement officers and executive agencies, similar as vital statistics departments, health and mortal services agencies, and child support enforcement

agencies. important of the caselaw and the maturity of narrative on recognition and enforcement of judgments focuses on plutocrat judgments within the judicial system. The prevailing party seeks ratification of an earlier final judgment on the graces by a court within another governance. The thing is to gain the alternate governance's backing in administering the decision of the first court.

Limiting the discussion to these types of court-to- court scripts, still, ignores a range of other practical problems encountered by individualities seeking recognition of ethnical court orders. For case, if a ethnical court enters a domestic violence protection order, do state law enforcement officers give preventative protection on the base of that order alone? Will a state department of vital statistics record information from a ethnical court maternity decree with out a posterior order of recognition issued by a state court? Will a state child support enforcement agency help in collecting payments ordered by a ethnical court without being ordered to do so by a state court? Will a state- operated internal institution accept a ethnical commitment order? Indeed if we constrict the focus to court- to- court relations only, there are broader" recognition" issues than whether the ethnical court judgment will admit full faith and credit or harmony by the state court. Is relitigation of issues forestalled by virtue of previous ethnical court rulings in affiliated cases? Do countries enter contending orders with the knowledge that a ethnical court is contemporaneously exercising governance, indeed if a final judgment has not been reached? Each of these scripts is encompassed within the meaning of" recognition" for purposes of this study, with the ultimate comparison being whether a state's action or inactivity would differ had the issuing court been commodity other than a ethnical forum. ethnical courts moment entertain an expansive range of cases from misdemeanor felonious matters to complex commercial tort claims. The colorful ethnical court systems apply different substantial laws and procedural conditions, but ethnical courts, like their state counterparts, are slightly subject to the federally commanded minimum due process conditions. The countries are commanded by the U.S. Constitution and the lines are commanded by the Indian Civil Rights Act(ICRA).

The Honorable Robert Yazzie, Chief Justice of the Navajo Nation, provides a ethnical court interpretation of the ICRA What about the Indian Civil Rights Act? Does not it stamp everything? Look at it another way The Indian Civil Rights Act has certain" minimums" you must follow. still, when it comes to ideas of due process, which is introductory fairness, or equal treatment of persons, Indian values most frequently give far more protections and consideration than Anglo values. Too frequently, it seems that" due process" in non-Indian court systems means power and plutocrat. To Indians, it means respect, talking effects out, harkening to everyone's point of view, and using your values. As an fresh check to ethnical adjudicatory authority, all challenges to ethnical court governance are granted civil review. These" safeguards," to ethnical court authority are fairly new additions to civil Indian law, and represent the ongoing attempt to define the relationship of ethnical governments within, or to, our civil union. In Mehlin and Exendine, which were argued in the same term and decided in 1893, the Eighth Circuit concluded that judgments of the Cherokee Nation" are on the same footing with the proceedings and judgments of the courts of the homes of the Union, and are entitled to the same faith and credit." In Cornells, a Muscogee(Creek) Nation judgment was also demonstrated original to judgments of the territorial courts, to be swung the same respect and the same faith and credit.4 0Likewise, the Standley decision honored the validity of a Choctaw quiet title action. Curiously, none of these early cases pursues the analogy of lines to homes so as to reach the precise question of whether full faith and credit was due ethnical court judgments under the general full faith and credit enactment, U.S.C.§ 1738.

These opinions nevertheless indicate that by the

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turn of the last century, civil courts treated ethnical court judgments with the same respect as those of any other court within the civil union. As a logical extension of these opinions, the civil courts also demonstrated restraint by limiting post-exhaustion review simply to issues of governance. From Mackey in 1855 to Cornells in 1894, the civil courts easily placed ethnical courts on the same aeroplane as the territorial courts of the United States, and therefore accorded them the same full faith and credit as the countries. This logic applied to ethnical court civil adjudication anyhow of whether the petitioners were Indian or non-Indian. This clear accreditation of recognition soon faded down, still, due to a shift in civil Indian policy. In fact, only four times after Cornells, Congress abolished the Cherokee court system. When these Indian home cases were decided, the movement that led to the late- nineteenth century demise of ethnical courts was formerly underway. A decade before Mehlin, a decision of the Brule Sioux played the commanding part as catalyst for a archconservative shift in civil Indian policy following a murder trial monumentalized as Ex Parte Crow Dog. Crow Dog involved an intra-tribal murder on the Brule Sioux reservation that had been resolved by a ethnical medium that progressive e- thinkers moment might call" restorative justice." The murder was settled, as a matter of ethnical law, by a forum conforming of the family members of both bushwhacker and victim. Crow Dog's judgment called for reparation to the victim's family but the bench didn't put the death penalty.

One time latterly, Crow Dog was tried and doomed to death by the civil quarter court for the Dakota home. Within several decades, Congress and the administrative branch conceded that civil Indian policy of aggressive assimilation had failed, calling formerly again for a reversal of policy directives that led to the passage of the Indian Reorganization Act of 1934(IRA). The IRA encouraged reorganization of ethnical governments. As a result, numerous lines espoused new constitutions and ultimately revitalized their ethnical courts. Navajo Chief Justice Robert Yazzie clarifies a frequent misconception about the IRA Our court systems weren't created by the Indian Reorganization Act. They're honored by the Indian Reorganization Act. The law is relatively clear that Indian courts are the creation of their own Indian nation.

INTERNATIONAL INVESTIGATIONS

"Cross-deputization" agreements authorize one reality's law enforcement officers to issue citations, make custodial apprehensions, and else act as enforcement officers in the home of another reality. Without such an agreement, countries generally warrant governance to probe crimes committed in Indian Country against Indian victims, while lines may not exercise felonious governance over non-Indian citizens of the United States.

Some cases fall under the governance of the civil government, but the Department of Justice declines to make sixty- five percent of all reservation cases. Accordingly, Indian reservations witness violent crime rates two and a half times advanced than the public normal, and American Indian women are ten times more likely to be boggled than other Americans. A 2016 Department of Justice study stated that eighty- four percent of Indian women have endured violence, fifty- six percent have endured sexual violence, and over ninety percent have endured violence at the hands of a nontribal member. The cross-deputization of state and ethnical police officers is one of the only means of filling the jurisdictional void created by separate state and ethnical authorities. According to a 2002 tale of ethnical law enforcement agencies, 165 ethnical agencies employ at least one full- time sworn officer with arrest powers ninety- three reported being honored by a state as peace officers, and eighty- four lines had across-deputization agreement with a neighboring nontribal authority. still, these figures are adding .

For illustration, the Southern Ute Indian Tribe inked its first cross-deputization agreements.

While cross-deputization isn't exclusive to Indian law, this Composition will concentrate on the relationship between lines and state and original governments and the impact cross-deputization agreements have on administering felonious law in Indian Country. Section II examines the recent rise and elaboration in ethnical law enforcement powers. Section III briefly addresses the current capability of ethnical police to apply laws off ethnical land and the capability of state police to apply laws on ethnical land. Eventually, Section IV examines both the benefits and issues involved with cross-deputization agreements.

CONCLUSION

All though it sometimes is compromised as a point in the concession ofcross- border deals, selection of Indian law to govern a contract raises significant issues of its own. As directed out above, Indian courts reserve to themselves the right to reject foreign arbitral awards if they find at the judges erroneously applied Indian law. Consequently, a party to a contract governed by Indian law may be stepping straight into the "public policy" trap.