दसवां प्रतिवेदन

याचिका समिति

(सत्रहवीं लोक सभा)

विदेश मंत्रालय

एवं

गृह मंत्रालय

(21.9.2020 को लोक सभा को प्रस्तुत किया गया)

लोक सभा सचिवालय
नई दिल्ली

सितंबर, 2020/भाद्रपद,1942 (शक)

सीपीबी सं 1 खंड X

मूल्य : रू._____

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लोक सभा के प्रक्रिया एवं कार्य-संचालन नियम (सोलहवां संस्करण) के नियम 382 के अंतर्गत प्रकाशित और प्रबन्धक, भारत सरकार मुद्रणालय, मिन्टो रोड़, नई दिल्ली-110002, द्वारा मुद्रित।

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प्रतिवेदन

सुश्री पारुल कौल के पति, श्री राजेश कौल द्वारा अपनी पत्नी के प्रति क्रूरता, आपराधिक विश्वास भंग, सामान्य इरादे को बढ़ावा देने के संबंध में किए गए कृत्यों को लेकर उनके प्रत्यापर्ण में असाधारण विलंब के बारे में सुश्री पारुल कौल के पिता श्री टी॰ के॰ कौल से प्राप्त अभ्यावेदन पर याचिका समिति (सोलहवीं लोकसभा) द्वारा अपने बावनवें प्रतिवेदन में की गई सिफारिशों पर सरकार द्वारा की-गई-कार्रवाई प्रतिवेदन। 1

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(i) प्रत्यर्पण अनुरोध तैयार करने के लिए सुझाव/ दिशानिर्देश (विदेश मंत्रालय-सीपीवी डिवीज़न) 32

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(iii) दिल्ली उच्च न्यायालय आदेश दिनांक 10.7.2018 की प्रति 88

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याचिका समिति का गठन

(2019-20)

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4. श्री हरीश द्विवेदी
5. श्री पी. रवीन्द्रनाथ कुमार
6. श्री पी॰के॰ कुन्हालकुट्टी
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8. श्री संजय सदाशिवराव मांडलिक
9. श्रीमती अनुप्रिया पटेल
10. डॉ भारती प्रवीण पवार
11. श्री वी श्रीनिवास प्रसाद
12. श्री बृजेंद्र सिंह
13. श्री सुशील कुमार सिंह
14. श्री प्रभुभाई नागरभाई वसावा
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2. श्री राजू श्रीवास्तव - निदेशक
3. श्री जी॰सी॰ डोभाल - अपर निदेशक
4. श्री आनंद कुमार हाँसदा - सहायक कार्यकारी अधिकारी

याचिका समिति का दसवां प्रतिवेदन

(सत्रहवीं लोक सभा)

प्राक्कथन

मैं, याचिका समिति का सभापति, समिति द्वारा प्रतिवेदन प्रस्तुत किए जाने हेतु प्राधिकृत किए जाने पर सुश्री पारुल कौल के पति, श्री राजेश कौल द्वारा अपनी पत्नी के प्रति क्रूरता, आपराधिक विश्वास भंग, सामान्य इरादे को बढ़ावा देने के संबंध में किए गए कृत्यों को लेकर उनके प्रत्यापर्ण में असाधारण विलंब के बारे में सुश्री पारुल कौल के पिता श्री टी॰ के॰ कौल से प्राप्त अभ्यावेदन पर याचिका समिति (सोलहवीं लोकसभा) द्वारा अपने बावनवें प्रतिवेदन में की गई सिफारिशों पर सरकार द्वारा की-गई-कार्रवाई संबंधी समिति का यह दसवां प्रतिवेदन (सत्रहवीं लोक सभा) प्रस्तुत करता हूँ।

2. समिति ने 16.9.2020 को हुई अपनी बैठक में प्रारूप दसवें की-गई-कार्रवाई प्रतिवेदन पर विचार किया और उसे स्वीकार किया।

3. उपरोक्त मामले में समिति की टिप्पणियों/सिफ़ारिशों को प्रतिवेदन में शामिल किया गया है।

नई दिल्ली;
16 सितंबर, 2020
25 भाद्रपद, 1942 (शक)

डॉ॰ वीरेंद्र कुमार,
सभापति,
याचिका समिति।

<u>प्रतिवेदन</u>

सुश्री पारुल कौल के पिता श्री टी.के. कौल द्वारा सुश्री पारुल कौल के पति श्री रजनेश कौल द्वारा उन पर की गई क्रूरता, आपराधिक विश्वास भंग एवं आम नीयत में किए गए कृत्यों के लिए उनके प्रत्यर्पण में अत्यधिक विलंब होने के संबंध में दिए गए अभ्यावेदन पर याचिका समिति (सोलहवीं लोक सभा) के 52वें प्रतिवेदन में की गई सिफारिशों पर सरकार द्वारा की गई कार्रवाई

याचिका संबंधी समिति (सोलहवीं लोक सभा) ने दिनांक 3.8.2018 को अपना बावनवां प्रतिवेदन लोक सभा में प्रस्तुत किया था, जो श्री टी.के. कौल द्वारा सुश्री पारुल कौल के पति श्री रजनेश कौल द्वारा उन पर की गई क्रूरता, आपराधिक विश्वास भंग एवं आम नीयत से किए गए कृत्यों के लिए उसने प्रत्यर्पण में होने वाले असाधारण विलंब विषय पर अभ्यावेदन से संबंधित है।

2. समिति ने इस संबंध में कुछ टिप्पणियां/सिफारिशें की थीं तथा विदेश मंत्रालय एवं गृह मंत्रालय से उन सिफारिशों को लागू करने के लिए कहा गया था और उनसे उन पर की गई कार्रवाई उत्तर प्रस्तुत करने का निवेदन किया था ताकि समिति इस पर आगे विचार कर सके।

3. विदेश मंत्रालय तथा गृह मंत्रालय से उपरोक्त प्रतिवेदन में अंतर्विष्ट सभी टिप्पणियों/सिफारिशों पर की गई कार्रवाई उत्तर क्रमश: का. ज्ञा. संख्या एए/सं./125/53/2017, दिनांक 3.10.2018 तथा पत्र संख्या 25012/2015-एलसी(83)(भाग एक), दिनांक 22.6.2020 के माध्यम से प्राप्त हो चुके हैं। समिति

द्वारा की गई सिफारिशें तथा उन पर विदेश मंत्रालय एवं गृह मंत्रालय द्वारा प्रस्तुत किए गए उत्तरों को परवर्ती पैरा में विस्तार से दिया गया है।

4. प्रतिवेदन के पैरा संख्या 30, 31 तथा 32 में समिति ने इस प्रकार टिप्पणी/सिफारिश की थी:-

"*समिति गृह मंत्रालय द्वारा दी गई जानकारियों से यह नोट करती है कि सुश्री पारुल कौल, पुत्री टी.के. कौल की अपने पति श्री रजनेश कौल और उनके अन्य परिवार के सदस्यों के विरुद्ध की शिकायत पर* 07.09.2012 *को पुलिस स्टेशन (महिला अपराध प्रकोष्ठ), नानकपुरा, नई दिल्ली में एफआईआर संख्या 118/12 के तहत* 498क/406/34 *पीसी के तहत मामला दर्ज किया। जांच के दौरान आरोपी श्री रजनेश कौल को द्वारका कोर्ट नई दिल्ली की मेट्रोपोलिटन मजिस्ट्रेट सुश्री त्यागीता सिंह की एलडी कोर्ट ने 'घोषित अपराधी' करार दिया। मामले में आरोप पत्र* 29-08-2013 *को संबंधित न्यायालय में दायर की गई थी। सुनवाई के दौरान द्वारका की मेट्रोपोलिटन मजिस्ट्रेट सुश्री ऋचा गुसाईं सोलंकी की न्यायालय ने* 28.05.2016 *के आदेश के तहत आरोपी के खिलाफ ब्लू कॉर्नर नोटिस जारी करने का आदेश दिया था।*

समिति ने विदेश मंत्रालय द्वारा दी गई जानकारी से यह भी नोट करती है कि आपराधिक मामले 'पारूल कौल बनाम रजनेश कौल एवं अन्य' के संबंध में श्री रजनेश कौल द्वारा दायर हलफनामे के अनुसार अभियुक्त श्री रजनेश कौल 5, *नील्ड स्ट्रीट, रोप्स क्रॉसिंग, एनएसडब्ल्यू-*2760, *ऑस्ट्रेलिया में रह रहा है। समिति यह तथ्य भी नोट करती है कि यदि कोई व्यक्ति चाहता है कि भारत में सुनवाई हो और वह वर्तमान में किसी अन्य देश में रह रहा है, तो इस प्रक्रिया से प्रत्यर्पण हो सकता है, जिस पर स्थापित अंतर्राष्ट्रीय कानूनी सिद्धांतों के आधार पर बातचीत की जा सकती है और भारत गणराज्य की सरकार और आस्ट्रेलिया सरकार के बीच प्रत्यर्पण संधि मौजूद है।*

इस संबंध में समिति यह तथ्य नोट करती है कि श्री टीके कौल की पुत्री सुश्री पारूल कौल की शिकायत पर उनके पति श्री रजनेश कौल व उनके अन्य परिजनों के खिलाफ 07.09.2012 *को मामला दर्ज किया गया था। हालांकि, मामले में आरोप-पत्र* 29-08.2013 *को संबंधित न्यायालय में दायर किया गया था। आरोपी श्री रजनेश कौल को महानगर मजिस्ट्रेट, नई दिल्ली ने* 02.05.2014 *को घोषित अपराधी घोषित किया था। इसके बाद द्वारका, नई दिल्ली के मेट्रोपोलिटन मजिस्ट्रेट ने* 28.05.2016 *के अपने आदेश के तहत आरोपी के खिलाफ ब्लू कॉर्नर नोटिस जारी करने का आदेश दिया। इस संबंध में समिति यह नोट कर चिंतित है कि दिल्ली पुलिस को आरोपियों के खिलाफ न्यायालय में आरोप पत्र दाखिल करने में लगभग एक पूरा वर्ष लग गया जो इस मामले के प्रति संबंधित एजेंसियों की गंभीरता की कमी को दर्शाता है। इसलिए समिति यह सिफारिश करती है कि गृह मंत्रालय संबंधित एजेंसियों के परामर्श से पीड़ित महिलाओं के ऐसे विशेष मामलों से निपटने के लिए रणनीति तैयार करे जिससे समुचित न्यायालय में समयबद्ध तरीके से आरोप पत्र आदि दायर किए जा सकें।*"

5. गृह मंत्रालय ने अपनी की गई कार्रवाई उत्तर में बताया कि:-

"*समिति की सिफारिशों को नोट कर लिया गया है। गृह मंत्रालय ने जांच एजेंसियों को उन मामलों में जांच करने और आरोप पत्र दाखिल करने की प्रक्रिया में तेजी लाने के लिए जागरूक किया है, जिनमें विदेशी राष्ट्रों से सहायता की जरूरत है। इस संबंध में गृह मंत्रालय ने विदेश में रहने वाले लोगों पर समन और नोटिस सौंपे जाने की प्रक्रिया में तेजी लाने के विशेष प्रावधान किए हैं। इसके अलावा इस मामले की जांच सामाजिक न्याय एवं अधिकारिता मंत्रालय की इंटीग्रेटेड नोडल एजेंसी (आईएनए) भी कर रही है, जिसमें गृह मंत्रालय का भी प्रतिनिधित्व है।*"

6. *प्रतिवेदन के पैरा संख्या 33 तथा 34 में समिति ने निम्नलिखित टिप्पणी/सिफारिश की है :-*

" गृह मंत्रालय की ओर से दी गई जानकारी से समिति यह नोट करती है कि कि आरोपी श्री रजनेश कौल के खिलाफ ब्लू कॉर्नर नोटिस जारी करने के लिए न्यायालय के दिनांक 28-05-2016 के आदेश के अनुपालन में दिल्ली पुलिस द्वारा ब्लू कॉर्नर नोटिस के विधिवत भरे प्रोफार्मा के साथ एक अनुरोध पत्र 08.06.2016 को केंद्रीय जांच ब्यूरो (सीबीआई) को भेजा गया था। इसके अलावा, कानून प्रवर्तन एजेंसी अर्थात इंटरपोल द्वारा श्री रजनेश कौल के विरुद्ध ब्लू कॉर्नर नोटिस का प्रकाशन दिल्ली पुलिस से उचित सूचना प्राप्त न होने के कारण लंबित था। इस मामले को सीबीआई या दिल्ली पुलिस किसी के भी द्वारा गृह मंत्रालय के संज्ञान में नहीं लाए जाने के कारण पीड़िता की समस्याएं और बढीं।

समिति यह जानकर स्तब्ध है कि दिल्ली पुलिस, सीबीआई और गृह मंत्रालय के बीच संवाद की सिस्टमगत विफलता हुई है । श्री रजनेश कौल के विरुद्ध ब्लू कॉर्नर नोटिस के प्रकाशन का मामला दिल्ली पुलिस से उचित जानकारी के अभाव के कारण लंबित होने से बहुमूल्य समय का नुकसान हुआ है, साथ ही इसे नोडल मंत्रालय के ध्यान में नहीं लाया गया। इसलिए समिति सिफारिश करती है कि पीडित महिलाओं से संबंधित मामलों में भविष्य में संबंधित एजेंसियों द्वारा निर्देशों का कड़ाई से पालन किया जाए और इस प्रकार की संवादहीनता को भी मंत्रालय स्वीकार न करे तथा उनसे संबंधित व्यक्तियों/प्राधिकारियों को न केवल जवाबदेह ठहराए बल्कि उनके खिलाफ निश्चित रूप से दंडात्मक कार्रवाई किया जाए। गृह मंत्रालय को इस प्रकार के विशेष मामलों में दिशा-निर्देश भी तैयार करना चाहिए और मंत्रालय से संवाद स्थापित करने के संबंध में अपने सभी विभागों/एजेंसियों को निर्धारित नियमों के कड़ाई से अनुपालन के लिए निदेश जारी करना चाहिए। इसलिए समिति

चाहती है कि इस रिपोर्ट को सभा में प्रस्तुत करने के तीन महीने के भीतर इस दिशा में उठाए गए कदमों से उसे अवगत कराया जाए।"

7. गृह मंत्रालय ने अपने की गई कार्रवाई उत्तर में बताया कि:-

"ब्लू कॉर्नर नोटिस को 'पूछताछ नोटिस' भी कहा जाता है और इसे किसी की पहचान सत्यापित करने के लिए; किसी व्यक्ति के आपराधिक रिकॉर्ड का विवरण प्राप्त करने के लिए; किसी ऐसे व्यक्ति का पता लगाने जो लापता है या एक पहचाना हुआ या अज्ञात अंतरराष्ट्रीय अपराधी है या साधारण आपराधिक कानून के उल्लंघन के लिए वांछित है और जिसके प्रत्यर्पण का अनुरोध किया जा सकता है, के लिए जारी किया जा सकता है। यह नोटिस इंटरपोल, लियोन द्वारा जारी किए जाते हैं और इन मामलों पर केंद्रीय जांच ब्यूरो (भारतीय राष्ट्रीय अपराध ब्यूरो के रूप में नामित) द्वारा कार्रवाई की जाती है।

इस संबंध में सीबीआई मुख्यालय में एक कार्यशाला आयोजित की गई थी, जिसमें स्टेट्स इंटरपोल संपर्क अधिकारी ने भाग लिया था।"

8. प्रतिवेदन के पैरा 35, 36 तथा 37 में, समिति ने इस प्रकार टिप्पणी/सिफारिश की थी:-

"समिति 'दोहरी आपराधिकता' के संबंध में विदेश मंत्रालय द्वारा दी गई जानकारी के आधार पर यह नोट करती है कि दोहरी आपराधिकता की अपेक्षा पर विचार करते समय आस्ट्रेलियाई न्यायालयों ने यह निर्धारित किया है कि यह आवश्यक नहीं है कि प्रत्येक देश के पास 'समान रूप से परिभाषित अपराध' है। बल्कि, वह आचरण जो अनुरोध करने वाले देश में अपराध माना

जाता है, ऑस्ट्रेलिया में भी एक अपराध होना चाहिए। इसका तात्पर्य यह है कि दोनों देशों में अपराधों के शब्दों या नामों को समान होने की आवश्यकता नहीं है, लेकिन जिस आचरण को अनुरोध करने वाले देश में अपराध माना जाता है, उसे ऑस्ट्रेलिया में भी अपराध माना जाना चाहिए (और उसके लिए 12 महीने से अधिक की कारावास का दंड होना चाहिए)। इस मामले में दोहरी आपराधिकता की अर्हताएं पूरी हो सकेंगी यदि जांच एजेंसी मुख्य रूप से आईपीसी की धारा 498-क, 406 और 34 के उल्लंघन पर प्रत्यर्पण के लिए औपचारिक अनुरोध करे और यह इस बात पर निर्भर करेगा कि प्रत्यर्पण अनुरोध उस आचारण को अपराध कहनाने योग्य व्याख्यायित करने तथा उस आचरण के संबंध में विशिष्ट विवरण प्रदान करे।

समिति गृह मंत्रालय द्वारा प्रदान की गई जानकारी से यह भी नोट करती है कि गृह मंत्रालय को सुश्री पारूल कौल के पति श्री रजनेश कौल को प्रदान करने के लिए नोटिस मिली थी और दिल्ली पुलिस से प्राप्त एफआईआर की प्रति दहेज की मांग पर जोर देती है; जो इस मामले को कुल मिलाकर कमजोर बनाती है जिससे यह भारत और आस्ट्रेलिया के बीच प्रत्यर्पण संधि में उल्लिखित 'दोहरी आपराधिकता' के शर्त को पूरा नहीं कर सकता है।

समिति यह भी नोट कर चिंतित है कि संबंधित मामला कमजोर था क्योंकि यह भारत और आस्ट्रेलिया के बीच प्रत्यर्पण संधि में प्रदान की गई दोहरी आपराधिकता की शर्त को पूरा नहीं कर सकता है। अतएव समिति यह सिफारिश करती है कि गृह मंत्रालय की संबंधित एजेंसियों द्वारा प्रत्यर्पण अनुरोध को विदेश मंत्रालय को अग्रसारित करते समय कानून प्रवर्तन एजेंसियों को जिसके अनुरोध करने वाले देश में आपराधिक गतिविधि मानी जाय तथा साथ ही आस्ट्रेलिया सहित अन्य देशों में भी वह आपराधिक गतिविधि हो और उन्हें विशिष्ट ब्यौरा दिया जाए ताकि यह तय हो सके कि कोई विशेष मामला 'दोहरी आपराधिकता' के अधीन आता है कि नहीं तथा साथ ही उन्हें भारतीय दंड संहिता की विविध धाराओं की उपयुक्तता

के विषय में भी जानकारी दी जानी चाहिए जिससे प्रत्यर्पण अनुरोध के लौटाए जाने अथवा उसमें संशोधन किए जाने की संभावना न्यूनतम रह जाए और समय बर्बाद होने से बचा जा सके। खामी रहित प्रत्यर्पण अनुरोध भेजते समय संबंधित कानून प्रवर्तन एजेंसियों को इन पहलुओं को ध्यान में रखना चाहिए।"

9. गृह मंत्रालय ने अपने की गई कार्रवाई उत्तर में बताया कि:-

"*मंत्रालय संबंधित कानून प्रवर्तन एजेंसी से संपर्क करते समय प्रत्यर्पण के लिए अनुरोध करने में कानून प्रवर्तन एजेंसियों को सहायता और उचित मार्गदर्शन प्रदान कर रहा है ।*

*हाल ही में भोपाल में राष्ट्रीय न्यायिक अकादमी द्वारा **23** से **24** नवंबर, **2019** तक सभी न्यायिक अधिकारियों के लिए 'विदेश में रहने वाले व्यक्तियों से संबंधित मामलों पर राष्ट्रीय ओरिएंटेशन कार्यक्रम' पर दो दिवसीय कार्यशाला आयोजित की गई थी। विधि और न्याय मंत्रालय द्वारा न्यायिक अकादमी से अंतर्राष्ट्रीय सहयोग से संबंधित विषयों/थीम्स पर अगले शैक्षणिक सत्रों के दौरान विभिन्न सम्मेलनों/सेमिनारों/कार्यशालाओं का आयोजन करने का भी अनुरोध किया गया था। मंत्रालय ने आगे बताया कि कानून प्रवर्तन एजेंसियों के पास कानून प्रवर्तन अधिकारियों के लिए अपने जागरूकता कार्यक्रम भी होते हैं।''*

10. प्रतिवेदन के पैरा संख्या 38 तथा 39 में समिति ने इस प्रकार टिप्पणी/सिफारिश की थी:-

"*समिति यह नोट करती है कि विधिक न्यायशास्त्र में दहेज एक अवधारणा नहीं है तथा आस्ट्रेलिया सहित अधिकांश देशों के कानूनों के अंतर्गत अपराध भी नहीं है। तथापि, भारत में आम तौर पर शिकायतकर्ता और कानून प्रवर्तन एजेंसियां पूरे मामले को 'दहेज' से संबंधित बनाती हैं, जबकि न तो भारतीय*

दंड संहिता की धारा 498-क और न ही 405 और 406 में 'दहेज' शब्द का उल्लेख है। महिला के प्रति उसके पति या उसके रिश्तेदारों द्वारा क्रूरता किए जाने के आरोपों को समर्थन में सदा ही साक्ष्य का अभाव होता है। इसी तरह सामान्यत: तथ्यों और साक्ष्य में आवश्यक उस तत्व की कमी होती है जो प्रथमदृष्टया यह साबित कर सके कि पति या उसके संबंधियों द्वारा विश्वास भंग किया गया हो।

समिति यह भी नोट कर चिंतित है कि भारत में उत्पीड़न के कुल मामलों में से दहेज के लिए उत्पीड़न के मामलों की संख्या सर्वाधिक होती है। इसका कारण कुछ भी हो सकता है। समिति उस कानून के बारे में जानकर आश्चर्यचकित है कि जो भारत में कानून के तहत अपराध है और दंडनीय है लेकिन कानूनी न्यायशास्त्र में एक अवधारणा नहीं है और ऑस्ट्रेलिया सहित अधिकांश विदेशों के कानूनों के तहत अपराध नहीं है। इसलिए समिति सिफारिश करती है कि अधिकारी इस पहलू पर गंभीरता से विचार करे और अप्रवासी भारतीय पति से शादी करने वाली पीड़ित महिलाओं को राहत देने के लिए ठोस कदम उठाए जाएं। भारतीय परिदृश्य को ध्यान में रखते हुए ऑस्ट्रेलिया सहित विदेशों में भी 'दहेज उत्पीड़न' के मामलों को न्यायोचित ठहराने के लिए प्रत्यर्पण संधि में 'दहेज के लिए उत्पीड़न' खंड को शामिल करने के लिए भी कदम उठाए जाएं।"

11. गृह मंत्रालय ने अपने की गई कार्रवाई उत्तर में बताया कि:-

" *विदेश मंत्रालय द्वारा प्रत्यर्पण अधिनियम प्रशासित किया जा रहा है तथा विदेश मंत्रालय के मार्गदर्शन के अंतर्गत संधियों पर बातचीत और उन्हें अंतिम रूप प्रदान किया जा रहा है। तथापि, विदेश मंत्रालय का विदेशी भारतीय मामले प्रभाग तथा इंटीग्रेटिड नोडल एजेंसी (आईएनए), सामाजिक न्याय एवं अधिकारिता मंत्रालय इन मामलों पर कार्रवाई कर रहा है तथा एनआरआई मामलों की सक्रिय रूप से मॉनीटरिंग कर रहा है।*"

12. विदेश मंत्रालय ने अपने की गई कार्रवाई उत्तर में बताया कि:-

" जैसा कि याचिका समिति की 52वीं रिपोर्ट में नोट किया गया है, भारत और आस्ट्रेलिया के बीच प्रत्यर्पण संधि के अनुरच्छेद 2(1) के अनुसार जिन अपराधों के लिए प्रत्यर्पण की मांग की गई है, वे प्रत्यर्पण योग्य होने चाहिए अर्थात ऐसे अपराध जिनके लिए भारत और आस्ट्रेलिया दोनों के कानूनों के तहत कम से कम एक वर्ष की सजा का प्रावधान हो (दोहरी अपराधशीलता)।

आस्ट्रेलियाई आदलतों ने यह विनिश्चित किया है कि दोनों देशों के लिए 'समान रूप से परिभाषित' अपराधों का होना जरूरी नहीं है। बल्कि अनुरोधकर्ता राष्ट्र में जो आचरण अपराध की श्रेणी में आता है, वह आस्ट्रेलिया में भी अपराध हेाना चाहिए।

दहेज निषेध अधिनियम, 1961 (1961 का अधिनियम संख्या 28) के अनुच्छेद 3(1) में उल्लेख है कि इस अधिनियम की लागू हेाने के बाद यदि कोई व्यक्ति दहेज लेता या देता है या दहेज लेने या देने के लिए उकसाता है, तो वह कम से कम 5 वर्षों की अवधि के कारावास और कम से कम पन्द्रह हजार रुपए या दिए गए दहेज के बराबर की राशि, जो भी अधिक हो, से दंडित किया जाएगा।

प्रत्यर्पण संधि में नो-लिस्ट पद्धति का प्रयोग किया जाता है और भारत और आस्ट्रेलिया दोनों के कानूनों के तहत एक वर्ष या अधिक के कारावास वाला कोई भी आचरण /अपराध प्रत्यर्पण योग्य है। अत: ऐसा आचरण जिसे 'दहेज के लिए प्रताड़ना' समझा जाए, को इस संधि के दायरे में पहले ही शामिल किया गया है।'

13. प्रतिवेदन के पैरा संख्या 40, 41 तथा 42 में, समिति ने इस प्रकार टिप्पणी/सिफारिश की थी:-

"समिति ने विदेश मंत्रालय द्वारा दी गई जानकारी के आधार पर यह नोट करती है कि किसी अभियुक्त/भगोड़े के प्रत्यर्पण अनुरोध को समुचित न्यायालय के समक्ष आरोप पत्र दाखिल करने के बाद शुरू किया जा सकता है और न्यायालय ने मामले का संज्ञान लेते हुए आरोपी/भगोड़े की आरोप पत्रक में उपलब्ध साक्ष्यों के आधार पर आरोपी/भगोड़े द्वारा अपराध किए जाने की पुष्टि करते हुए तथा मामले में मुकदमे का सामना करने के लिए आरोपी/भगोड़े की उपस्थिति के आदेश/निर्देश जारी किए हैं। अन्य देश में रहने वाले किसी आरोपी को उस प्रत्यर्पण अनुरोध के अनुसार भारत प्रत्यर्पित किया जा सकता है जिसे संबंधित कानून प्रवर्तन एजेंसी द्वारा विदेश मंत्रालय द्वारा ऐसे अनुरोध को तैयार करने के लिए जारी किए गए दिशानिर्देशों के अनुसार तैयार किया जाना है और इसकी जांच किसी कमी, यदि हो, को दूर करने के उद्देश्य से विदेश मंत्रालय के कानूनी और संधि स्कंध के परामर्श से की जाएगी। तत्पश्चात् माननीय विदेश मंत्री की मंजूरी लेने के बाद भारतीय मिशन के माध्यम से प्रत्यर्पण अनुरोध को विचार के लिए अनुरोधित राज्य को भेज दिया जाता है।

समिति यह नोट कर चिंतित है कि ऐसे अनुरोध को तैयार करने, प्रस्तुत करने तथा अग्रेसित करने की प्रक्रिया लंबी होती है, तथा इसमें काफी समय लगता है, जो कि न्यायलय से आदेश/निदेश प्राप्त करने की लंबी न्यायिक प्रक्रिया के साथ शुरू होकर मुकदमे के लिए आरोप पत्र में उपलब्ध साक्ष्य के आधार पर आरोपी/भगोड़े द्वारा अपराध किए जाने के स्पष्टीकरण तथा मामले में मुकदमे का सामना करने के लिए आरोपी/भगोड़े की उपस्थिति तथा उसके बाद माननीय विदेश मंत्री की मंजूरी प्राप्त करने तक जाती है।

अप्रवासी भारतीय से शादी कर चुकी पीड़ित महिलाओं की मानसिक और शारीरिक स्थिति को ध्यान में रखते हुए समिति का यह मत है कि विदेश मंत्रालय और गृह मंत्रालय संबंधित देश द्वारा प्रत्यर्पण अनुरोध पर विचार किए जाने के लिए प्रत्यर्पण अनुरोध को तैयार करने, उसकी सहज प्रस्तुति तथा त्वरित रूप से अग्रसारित किए जाने के लिए एक छोटे तथा आसान तरीके की तलाश करें।

अप्रवासी भारतीय से शादी कर चुकी पीड़ित महिलाओं की मानसिक और शारीरिक स्थिति को ध्यान में रखते हुए समिति का यह मत है कि प्रत्यर्पण अनुरोध को प्रस्तुत करने और अग्रेषित करने की प्रक्रिया को सरल बनाया जाए जिससे न केवल समय की बचत होगी बल्कि पीड़ित महिलाओं को समय पर न्याय मिलने में भी मदद मिलेगी। वर्तमान मामले में विदेश मंत्रालय और गृह मंत्रालय श्री रजनेश कौल के खिलाफ प्रत्यर्पण की कार्यवाही शुरू करने के संबंध में कोई ठोस कदम नहीं उठा पा रहे हैं। इसलिए समिति विदेश मंत्रालय और गृह मंत्रालय से आग्रह करती है कि वह संबंधित देश द्वारा प्रत्यर्पण अनुरोध पर विचार किए जाने के लिए प्रत्यर्पण अनुरोध को तैयार करने, उसकी सहज प्रस्तुति तथा त्वरित रूप से अग्रसारित किए जाने के लिए एक छोटे तथा आसान तरीके की तलाश करें।"

14. गृह मंत्रालय, ने अपने की गई कार्रवाई उत्तर में बताया कि:-

"विदेश मंत्रालय प्रत्यर्पण का नोडल मंत्रालय है तथा इसने प्रत्यर्पण अनुरोध तैयार करने के लिए सुझाव/दिशानिर्देश जारी किए हैं (अनुबंध -एक)। इन दिशानिर्देशों को सीपीवी (कान्सलर, पासपोर्ट और वीजा) प्रभाग के शीर्ष के अंतर्गत प्राप्त किया जा सकता है। (http://www.mea.gov.in/cpv extradition.htm)

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गृह मंत्रालय ने आपराधिक मामलों में पारस्परिक कानूनी सहायता का नोडल मंत्रालय होने के नाते नए कानूनों, विनियमों और समझौतों के आधार पर अंतरराष्ट्रीय सहयोग में पर्याप्त बदलावों को ध्यान में रखते हुए प्रक्रिया को सरल तथा कारगर बनाने तथा भारत सहित संपूर्ण विश्व में प्रक्रियात्मक कानूनों में संशोधन करने के लिए 'दिसम्बर, 2019 में आपराधिक मामलों में पारस्परिक कानूनी सहायता के लिए संशोधित विस्तृत दिशानिर्देश जारी किए हैं (अनुबंध - दो)। इन दिशानिर्देशों को गृह मंत्रालय की वेबसाइट http:/mha.gov.in (गृह मंत्रालय का प्रभाग) - आंतरिक सुरक्षा-|| प्रभाग - अधिसूचना/नीति दिशानिर्देश पर भी प्राप्त किया जा सकता है। इन दिशानिर्देशों का लिंक है - https://mha.gov.in /sites/default/files/IS||-comprehensive guidelines - 17122019.pdf

सभी राज्यों/संघ राज्य क्षेत्रों और कानून प्रवर्तन एजेंसियों से कानूनी/न्यायिक अधिकारियों, अभियोक्ताओं, पुलिस अधिकारियों तथा अन्य जांच एजेंसियों के अधिकारियों का सतत क्षमता निर्माण करने का भी अनुरोध किया गया है। यह मंत्रालय राज्यों/एलईए को जैसे ही और जब, विषय-वस्तु से संबंधित विशेषज्ञों की संकाय सहायता प्रदान करा रहा है।

इसके अलावा, राज्यों/संघ राज्य क्षेत्रों/एलईए से उनकी संबद्ध अकादमियों में सेवाकलीन प्रशिक्षण, सम्मेलनों, कार्यशालाओं आदि के माध्यम से न्यायिक अधिकारियों तथा कानून प्रवर्तन अधिकारियों को प्रशिक्षित करने का अनुरोध किया गया है।''

15. विदेश मंत्रालय ने अपने की गई कार्रवाई उत्तर में बताया कि:-

" *उल्लेखनीय है कि विदेश मंत्रालय स्वयं प्रत्यर्पण अनुरोध की प्रक्रिया आरंभ नहीं करता। कोई प्रत्यर्पण अनुरोध प्राप्त होने पर विदेश मंत्रालय द्विपक्षीय प्रत्यर्पण संधि के अंतर्गत कानूनी एवं प्रक्रियात्मक अपेक्षाओं का ध्यान रखते हुए उस पर शीघ्रता से कार्रवाई आरंभ करता है। तत्पश्चात्, माननीय विदेश मंत्री का अनुमोदन प्राप्त करने के उपरांत प्रत्यर्पण अनुरोध को भारतीय मिशन के माध्यम से अनुरोध प्राप्तकर्ता देश को उसके विचारण हेतु भेजा जाता है।*

उल्लेखनीय है कि विदेश मंत्रालय ने भारत में प्रत्यर्पण प्रक्रियाओं के बारे में स्पष्ट दिशा-निर्देश मुहैया कराने के लिए 'भारतीय दंड संहिता की धारा 498-*क और दहेज संबंधी अन्य अपराधों के अंतर्गत आने वाले अपराधों के लिए प्रत्यर्पण अनुरोधों से संबंधित विशेष अभियुक्तियां सहित 'प्रत्यर्पण अनुरोध तैयार करने हेतु सुझाव' और 'विदेश से भगोड़े अपराधियों के प्रत्यर्पण के लिए भारतीय विधि प्रवर्तन एजेंसियों के लिए दिशा-निर्देश' जारी किए थे। विदेश मंत्रालय अनुरोध प्राप्त होने पर प्रत्यर्पण अनुरोध तैयार करने में संबंधित विधि प्रवर्तन एजेंसियों का मार्गदर्शन भी करता है। विदेश मंत्रालय के पदाधिकारी प्रत्यर्पण अनुरोध तैयार करने में सहायता देने के लिए विधि प्रवर्तन एजेंसियों में संबंधित पदाधिकारियों और मामला-दर-मामला आधार पर इन अपराधों के शिकार लोगों से भी मुलाकात करते हैं।*

श्री रजनेश कौल के आस्ट्रेलिया से प्रत्यर्पण की मौजूदा स्थिति

गृह मंत्रालय ने अपने पत्र सं. 25012/10/2015-*एलसी* (83)(*पार्ट* I) *दिनांक* 8 *अगस्त*, 2018 *जो विदेश मंत्रालय को* 23 *अगस्त* 2018 *को प्राप्त हुआ, द्वारा सूचित किया है कि माननीय दिल्ली उच्च न्यायालय ने सुश्री पारूल कौल और उनके पूर्व पति श्री रजनेश कौल के बीच संपत्ति के बंटवारे सहित सभी वित्तीय पहलुओं पर हुए सुलह-समझौते को ध्यान में रखते हुए सुश्री पारूल कौल द्वारा दायर करायी गई एफआईआर और उससे संबंधित सभी कार्यवाहियों*

को रद्द कर दिया है। दिल्ली उच्च न्यायालय के निर्णय की एक प्रति अनुबंध-III में भी संलग्न भी की गई है।"

16. प्रतिवेदन के पैरा संख्या 43 तथा 44 में समिति ने इस प्रकार टिप्पणी/सिफारिश की थी:-

"समिति गृह मंत्रालय द्वारा प्रदान की गई जानकारी के आधार पर यह नोट करती है कि जिन मामलों में कानून प्रवर्तन एजेंसियां आचरण के विवरण/ब्यौरे के विषय में उल्लेख किए समुचित स्पष्टीकरण के बिना प्रत्यर्पण के लिए अपने अनुरोध को अग्रेषित कर रही हैं या जिसमें कानून प्रवर्तन एजेंसियों द्वारा उपलब्ध कराए गए तथ्यों के आधार पर प्रथम दृष्टया मामला तैयार नहीं किया गया है, या ऐसे सभी मामलों में जहां गैर जमानती वारंट में कथित आरोपों का समर्थन करने वाले किसी दस्तावेज के बिना केवल उक्त वारंट किया जाता हो, तो प्रत्यर्पण के औपचारिक अनुरोध को संशोधित करने के लिए विदेशों की संबंधित एजेंसियों द्वारा संबंधित न्यायालयों/कानून प्रवर्तन एजेंसियों को अनुरोध वापस भेजे जाते हैं ताकि कथित अभियुक्तों के खिलाफ प्रथम दृष्टया किए गए मामले को स्पष्ट रूप से सामने लाया जा सके। इस संदर्भ में गृह मंत्रालय ने पिछले तीन वर्षों के दौरान 313 मामलों की जांच की है जिनमें से 242 मामले संशोधनों/सुधारों के लिए न्यायालयों/कानून प्रवर्तन एजेंसियों को वापस कर दिए गए।

समिति ने नोट किया है कि भारत में मुकदमे का सामना करने के लिए किसी व्यक्ति के प्रत्यर्पण के लिए औपचारिक अनुरोध करते समय कानून प्रवर्तन एजेंसियां आचरण को पर्याप्ततः स्पष्ट नहीं करती या उसका विशेष विवरण नहीं देती हैं, जो संशोधनों/सुधारों के लिए न्यायालयों/कानून प्रवर्तन एजेंसियों को मामले लौटाए जाने का कारण बनता है। समिति यह नोट करके व्याकुल है कि पिछले तीन वर्षों में गृह मंत्रालय ने 313 मामलों की जांच की थी और

संशोधनों/सुधारों के लिए न्यायालयों/कानून प्रवर्तन एजेंसियों को 242 मामले वापस किए गए थे। इसलिए समिति इस बात की पुरजोर सिफारिश करती है कि गृह मंत्रालय वांछित सूचना, संबंधित कागजात और दस्तावेजों आदि के साथ अपनी संबंधित एजेंसियों के साथ परामर्श करके अपनी रणनीति फिर से तैयार करे ताकि समय की हानि से बचने के लिए विदेश मंत्रालय को दिए गए प्रत्यर्पण अनुरोधों की संख्या को कम किया जा सके और पीड़ितों को समय पर न्याय मिलने में भी मदद मिल सके । समिति को इस संबंध में की गई कार्रवाई से अवगत कराया जाए।"

17. गृह मंत्रालय, ने अपने की गई कार्रवाई उत्तर में बताया कि:-

"गृह मंत्रालय सक्षम न्यायालय के साथ संवाद स्थापित करते हुए प्रत्यर्पण अनुरोध करने की विस्तृत प्रक्रिया प्रदान करता है। गृह मंत्रालय प्रत्यर्पण अनुरोध करने के लिए समय-समय पर विभिन्न कानून प्रवर्तन अधिकारियों को उपयुक्त दिशानिर्देश प्रदान कर रहा है। मामलों की संवेदनशीलता और अपराधों की गंभीरता को ध्यान में रखते हुए गृह मंत्रालय जांच अधिकारियों को प्रत्यर्पण अनुरोध विदेश मंत्रालय को भेजे जाने से पूर्व उन्हें तैयार करने में सहायता करने के लिए बुलाता है। इसके अलावा, गृह मंत्रालय के अधिकारी विधि एवं न्याय मंत्रालय तथा विदेश मंत्रालय द्वारा आयोजित किए जा रहे सम्मेलनों/कार्यशालाओं में शामिल हो रहे हैं और प्रत्यर्पण संबंधी मामलों पर विभिन्न प्रतिभागियों को व्याख्यान दे रहे हैं ताकि इन एजेंसियों के अधिकारियों को प्रशिक्षित किया जा सके।"

18. प्रतिवेदन के पैरा संख्या 45 तथा 46 में समिति ने इस प्रकार टिप्पणी/सिफारिश की थी:-

" समिति ने गृह मंत्रालय द्वारा सौंपी जानकारी के आधार पर यह भी नोट किया कि विदेश मंत्रालय को प्रत्यर्पण अनुरोध करने में देरी से भगोड़े को प्रत्यर्पित होने से बचने या प्रत्यर्पण की प्रक्रिया में देरी करने का अवसर मिल सकता है। एक बार भगोड़े और उसके ठिकाने का पता लग जाने के बाद तत्काल कानून प्रवर्तन एजेंसी से अनुरोध किया जाता है कि वह 'अनंतिम गिरफ्तारी अनुरोध' भेजे और इसे विदेश मंत्रालय के माध्यम से संबंधित देश को प्रेषित किया जाए। इसके बाद प्रत्यर्पण अनुरोध को संधि में निर्धारित प्रावधान के साथ देश भेजा जाता है। गृह मंत्रालय को 21.7.2017 को दिल्ली पुलिस से आरोपी श्री रजनेश कौल के प्रत्यर्पण अनुरोध का प्रारूप प्राप्त हुआ है।

समिति यह नोट करके चिंतित है कि परेशान महिलाओं के अप्रवासी भारतीय जीवन साथी से शादी करने के ऐसे मामलों से निपटने के लिए विदेश मंत्रालय, गृह मंत्रालय, कानून प्रवर्तन एजेंसी और दिल्ली पुलिस के बीच संवाद और समझ का अभाव है; जिसके परिणामस्वरूप प्रत्यर्पण अनुरोध करने में देरी हुई और भगोड़े को प्रत्यर्पित होने से बचने या प्रत्यर्पण की प्रक्रिया में देरी करने के लिए उपाय करने का अवसर मिला है। इसलिए समिति एक त्रुटि मुक्त और त्वरित नेटवर्क बनाने की पुरजोर सिफारिश करती हैं ताकि न केवल प्रत्यर्पण अनुरोध करने में लगने वाले समय की बचत हो बल्कि अपराधी को प्रत्यर्पित होने से बचने या प्रत्यर्पण की प्रक्रिया में देरी करने के लिए उपाय करने का अवसर न दिया जा सके। इसके अलावा, मंत्रालय महत्वपूर्ण प्रकृति के ऐसे मामलों पर नजर रखने तथा विदेश मंत्रालय द्वारा प्रत्यर्पण अनुरोध किए जाने एवं उसकी जांच करने में विलंब से बचने के लिए भी कदम उठाए और साथ ही संबंधित एजेंसियों अर्थात गृह मंत्रालय, विदेश मंत्रालय, दिल्ली पुलिस के साथ नियमित अंतराल पर बैठक का प्रावधान भी तय किया जाए।"

19. गृह मंत्रालय ने अपने की गई कार्रवाई उत्तर में बताया कि:-

" गृह मंत्रालय समयसमय पर संबंधित- विधि प्रवर्तन एजेंसियों के अधिकारियों को विभिन्न व्याख्यानोंकार्यशालाओं/सम्मेलनों/ आदि के माध्यम से मार्गदर्शन प्रदान करने के अलावा, प्रत्यर्पण अनुरोधों की समीक्षा के लिए मसौदा प्रस्ताव लाने के लिए उन्हें अपने अधिकारियों को निर्देशित करने का अनुरोध कर रहा है।"

20. विदेश मंत्रालय ने अपनी की गई कार्रवाई प्रतिवेदन में इस संबंध में उपरोक्त पैरा संख्या 15 में अपनी स्थिति को दोहराया है।

21. प्रतिवेदन के पैरा संख्या 47 और 48 में समिति ने इस प्रकार टिप्पणी/सिफारिश की थी:-

" गृह मंत्रालय ने 5.12.2017 को अपने पत्र के माध्यम से याचिका संबंधी समिति, लोकसभा को सूचित किया कि 12-6-2017 को याचिका समिति की बैठक के बाद, इस जांच के अधीन चल रहे मामले की बारीकी से निगरानी की जा रही है। सीबीआई और दिल्ली पुलिस से पाक्षिक आधार पर अद्यतन स्थिति के विषय में उन्हें सूचित करने का अनुरोध किया गया था। श्री रजनेश कौल के प्रत्यर्पण अनुरोध का प्रारूप दिल्ली पुलिस ने 21.7.2017 को विदेश मंत्रालय को भेज दिया था। विदेश मंत्रालय ने 02.08.2017 को भारतीय उच्चायोग ऑस्ट्रेलिया को अनुरोध भेजा। विदेश मंत्रालय ने दिल्ली पुलिस से उसी के अनुसार प्रत्यर्पण अनुरोध तैयार करने का अनुरोध किया।

इस संबंध में समिति यह देखकर चकित है कि लोकसभा की याचिका समिति के हस्तक्षेप के बाद ही गृह मंत्रालय सक्रिय होता है, जबकि गृह मंत्रालय के मार्गदर्शन में समग्र प्रक्रिया को स्वत: ही संचालित किया जाना चाहिए था। इसलिए समिति सिफारिश करती है कि गृह मंत्रालय को प्राप्त सभी प्रत्यर्पण अनुरोधों पर समय पर कार्रवाई सुनिश्चित करनी चाहिए ताकि भविष्य में ऐसे

मामले न उठें। समिति को इस संबंध में मंत्रालय द्वारा किए गए उपायों से अवगत कराया जाए।"

22. गृह मंत्रालय, ने अपने की गई कार्रवाई उत्तर में बताया कि:-

" *विदेश मंत्रालय ने सभी प्रत्यर्पण अनुरोधों को समय पर निपटाने के लिए सुझाव/दिशानिर्देश जारी किए हैं (अनुबंध - एक)। इन दिशानिर्देशों को विदेश मंत्रालय की वेबसाइट पर सीपीवी (कॉनसुलर, पासपोर्ट और वीजा) प्रभाग शीर्ष के अंतर्गत भी एक्सेस किया जा सकता है* (http://www.mea.gov.in/cpv-extradition.htm) |

इसी प्रकार, गृह मंत्रालय ने विदेशों से प्राप्त पारस्परिक विधिक सहयोग संबंधी सभी अनुरोधों के ससमय निपटान के लिए दिसम्बर, 2019 *में "आपराधिक मामलों में पारस्परिक विधिक सहयोग" के लिए व्यापक दिशानिर्देश जारी किए थे। दिशानिर्देशों में यह उल्लेख किया गया है कि महिलाओं और बच्चों के विरुद्ध किए गए गंभीर अपराधों से संबंधित मामलों में समन/नोटिस/न्यायिक प्रक्रिया, यदि प्रस्ताव सही हैं तो अधिमानत: दस कार्य दिवसों की अवधि के भीतर अनुरोधकर्ता देश को सौंपने हेतु प्रयास किए जाएंगे।*"

23. प्रतिवेदन के पैरा संख्या 49 तथा 50 में, समिति ने इस प्रकार टिप्पणी/सिफारिश की थी:-

" समिति ने नोट किया कि श्री शिव कुमार उडासी, संसद सदस्य, लोक सभा द्वारा उठाए गए अतारांकित प्रश्न संख्या 917 के उत्तर में विदेश मंत्रालय में राज्यमंत्री जनरल (डॉ) वी.के. सिंह (सेवानिवृत्त) ने जवाब दिया था कि सरकार ने अप्रवासी भारतीयों के वैवाहिक विवादों पर एक विशेषज्ञ समिति का गठन किया था, जिसने अगस्त, 2017 में अपनी रिपोर्ट प्रस्तुत की थी। एकीकृत नोडल

एजेंसी (आईएनए) के गठन सहित इसकी कुछ सिफारिशों को स्वीकार कर लिया गया है और उन्हें लागू कर दिया गया है और कुछ की आगे की जांच की जा रही है ।

इस संबंध में समिति यह चाहती है कि अप्रवासी भारतीयों के वैवाहिक विवादों पर उक्त विशेषज्ञ समिति की सिफारिशों को लागू करने के साथ उक्त समिति की शेष सिफारिशों की जांच की स्थिति के विषय में उसे अवगत कराया जाए।"

24. विदेश मंत्रालयने अपने की गई कार्रवाई उत्तर में बताया कि:-

" *एकीकृत नोडल एजेंसी एक प्रभावी निकाय के रूप में कार्य कर रही है और प्रभावित महिलाओं की समस्याओं के लिए एक ही स्थान से समय पर समाधान मुहैया करा रही है तथा इस संबंध में किए जा रहे कल्याणकारी उपायों की बेहतर ढ़ंग से निगरानी कर रही है। अब तक एकीकृत नोडल एजेंसी की आठ बैठकें हो चुकी हैं और उसने दोषी पति । पत्नियों के खिलाफ* 5 *लुकआउट परिपत्र जारी किए हैं।*"

जहां तक अप्रवासी भारतीयों के वैवाहिक विवादों पर विशेषज्ञ समिति की अन्य सिफारिशों का सवाल है तो उनकी जांच महिला और बाल विकास मंत्रालय, विधि और न्याय मंत्रालय तथा गृह मंत्रालय द्वारा की जा रही है।"

टिप्पणियां/सिफारिशें

समयबद्ध तरीके से चार्जशीट दाखिल करने हेतु कानून प्रवर्तन एजेंसियों को जागरूक करना

25. समिति ने श्री टी के कौल के प्रत्यावेदन की विस्तृत जांच के दौरान यह नोट किया कि कि सुश्री पारूल कौल की अपने पति श्री रजनीश कौल और उनके परिवार के अन्य सदस्यों के विरुद्ध शिकायत पर दिनांक 7.9.2012 को पुलिस स्टेशन (महिला के विरुद्ध अपराध प्रकोष्ठ) नानकपुरा, नई दिल्ली में भारतीय दंड संहिता की धारा 498-ए, 406 और 34 के अंतर्गत एफआईआर संख्या 118/12 के तहत मामला दर्ज किया गया था। जांच के दौरान आरोपी श्री रजनीश कौल को महानगर मजिस्ट्रेट, द्वारका, नई दिल्ली की अदालत ने 'घोषित अपराधी' घोषित कर दिया। हालांकि, मामले का आरोप-पत्र दिनांक 29-8-2013 को संबंधित अदालत में दायर किया गया था। इसके बाद सुनवाई के दौरान मेट्रोपोलिटन मजिस्ट्रेट, द्वारका, नई दिल्ली की अदालत ने 28.5.2016 के फैसले के साथ आरोपी के खिलाफ ब्लू कॉर्नर नोटिस जारी करने का आदेश दिया। यह नोट करने के बाद कि दिल्ली पुलिस को आरोपियों के खिलाफ न्यायालय में आरोप-पत्र दाखिल करने में लगभग एक वर्ष लग गया जिससे संबंधित मामले के प्रति जांच एजेंसियों में गंभीरता का अभाव स्पष्ट होता है, समिति ने गृह मंत्रालय से यह सिफारिश की थी कि वह संबंधित एजेंसियों के साथ परामर्श कर के पीड़ित महिलाओं के इस प्रकार के विशिष्ट मामलों से निपटने के लिए रणनीति तैयार करे जिसमें आरोप पत्र आदि को समयबद्ध तरीके से समुचित न्यायालय में दायर किया जाय।

26. गृह मंत्रालय ने अपनी की गई कार्रवाई उत्तरों में बताया कि मंत्रालय ने कानून प्रवर्तन एजेंसियों को उन मामलों में जांच और आरोप-पत्र दाखिल करने की प्रक्रिया में तेजी लाने के लिए कहा है जहां विदेशों से सहायता की जरूरत है और विदेशों में रहने वाले व्यक्तियों को समन और नोटिस भेजने की प्रक्रिया में तेजी लाने के विशेष प्रावधान किए हैं। मंत्रालय ने आगे कहा है कि इस मामले की जांच सामाजिक न्याय और अधिकारिता मंत्रालय की एकीकृत नोडल एजेंसी (आईएनए) द्वारा भी की जा रही है, जिसमें गृह मंत्रालय का भी प्रतिनिधित्व है।

27. **समिति यह नोट करके असंतुष्ट है कि गृह मंत्रालय ने केवल यह कहा है कि उन्होंने कानून प्रवर्तन एजेंसियों को उन मामलों में जांच और आरोप-पत्र दाखिल करने की प्रक्रिया में तेजी लाने के लिए कह दिया है जहां विदेशों से सहायता की आवश्यकता है लेकिन इस प्रक्रिया की रूपरेखा और उसकी बारीकियों से संबंधित ऐसी कोई जानकारी नहीं दी है कि ऐसे मामलों में जांच की प्रक्रिया में तेजी लाने और चार्जशीट दाखिल करने के लिए कानून प्रवर्तन एजेंसियों को किस प्रकार संवेदनशील बनाया जा रहा है, सिवाय उन मामलों के जहां अभियुक्त कार्यशालाओं, व्याख्यानों में भाग लेने आदि के स्वरूप के इतर किसी अन्य देश में रह रहा है। मंत्रालय ने ऐसे आरोपियों को समन और नोटिस भेजने की प्रक्रिया में तेजी लाने संबंधी विशेष प्रावधानों से भी समिति को अवगत नहीं कराया है। इसके अलावा समिति को सामाजिक न्याय और अधिकारिता मंत्रालय के अंतर्गत आने वाली उस एकीकृत नोडल एजेंसी के आवश्यक कार्यक्षेत्र से भी अवगत नहीं कराया गया है जो ऐसे मामलों की देखरेख करती है।**

28. इसलिए समिति गृह मंत्रालय से आग्रह करती है कि वह उपरोक्त सभी पहलुओं यथा, जांच की प्रक्रिया में तेजी लाने और आरोप पत्र आदि को समयबद्ध तरीके से समुचित न्यायालय में दाखिल करने के लिए संबंधित जांच और कानून प्रवर्तन

एजेंसियों को जागरूक करने के लिए उनके द्वारा तैयार की गई रूपरेखा; विदेश में रह रहे अभियुक्तों/भगोड़ों को समन और नोटिस भेजने की प्रक्रिया में तेजी लाने के संबंध में विशेष प्रावधान; तथा एकीकृत नोडल एजेंसी की सांविधिक स्थिति, उद्देश्य, अधिदेश और कार्यों से संबंधित विवरण सभा में यह प्रतिवेदन प्रस्तुत किए जाने के तीन महीने के भीतर समिति के समक्ष प्रस्तुत करे।

<u>विविध कानून प्रवर्तन एजेंसियों द्वारा निर्देशों/ परामर्शों का अनुपालन</u>

29. इस विचित्र मामले की जांच करते समय और एक 'टेस्ट-केस' के रूप में इस संबंध में समिति को यह जानकर दुख हुआ कि दिल्ली पुलिस, केंद्रीय जांच ब्यूरो (सीबीआई) और गृह मंत्रालय के बीच संचार में प्रणालीगत विफलता हुई है क्योंकि आरोपी श्री रजनीश कौल के खिलाफ इंटरपोल ब्लू कॉर्नर नोटिस के प्रकाशन का मामला दिल्ली पुलिस से उचित जानकारी के अभाव में लंबित रहा जिससे बहुमूल्य समय का नुकसान हुआ और आगे मामले को सीबीआई अथवा दिल्ली पुलिस में से किसी के द्वारा भी नोडल मंत्रालय यानी गृह मंत्रालय के ध्यान में नहीं लाया गया।

30. **इसीलिए समिति ने सिफारिश की कि भविष्य में पीड़ित महिलाओं से संबंधित मामलों में संबंधित एजेंसियों द्वारा निर्देशों का कड़ाई से पालन किया जाए और संचार की इस प्रकार की विफलता को भी गृह मंत्रालय द्वारा स्वीकार नहीं किया जाना चाहिए और उनसे संबंधित व्यक्तियों/प्राधिकारियों को न केवल जवाबदेह ठहराया जाना चाहिए बल्कि उनके विरुद्ध आवश्यक दंडात्मक कार्रवाई की जानी चाहिए। समिति ने आगे यह भी सिफारिश की कि मंत्रालय को इस प्रकार के विशेष मामलों में मंत्रालय से संवाद स्थापित करने के संबंध में अपने सभी विभागों/एजेंसियों को निर्धारित**

नियमों के कड़ाई से अनुपालन के संबंध में दिशा-निर्देश भी तैयार कर जारी करने चाहिए ।

31. गृह मंत्रालय ने अपनी की गई कार्रवाई उत्तर में यह बताया है कि इंटरपोल, लियोन (फ्रांस) द्वारा 'ब्लू कॉर्नर नोटिस' जारी किए जा रहे हैं और इन मामलों पर केन्द्रीय जांच ब्यूरो (भारतीय राष्ट्रीय अपराध ब्यूरो के रूप में नामित) द्वारा कार्रवाई की जा रही है। इस संबंध में मंत्रालय ने यह भी बताया है कि सीबीआई मुख्यालय में एक कार्यशाला आयोजित की गई थी, जिसमें राज्यों के इंटरपोल संपर्क अधिकारीयों ने भी भाग लिया था ।

32. समिति गृह मंत्रालय द्वारा प्रस्तुत किए तथ्यों से संतुष्ट है कि सीबीआई मुख्यालय में ब्लू कॉर्नर नोटिस की प्रोसेसिंग पर एक कार्यशाला आयोजित की गई थी, जिसमें राज्यों के इंटरपोल संपर्क अधिकारी भी भाग लिए थे। इस संबंध में, समिति यह अपेक्षा करती है कि गृह मंत्रालय नियमित आधार पर राज्य/संघ राज्य क्षेत्रों की सरकारों और अन्य सरकारी संगठनों द्वारा नामित कानून प्रवर्तन एजेंसियों के संपर्क अधिकारियों के लिए ब्लू कॉर्नर नोटिस की प्रॉसेसिंग के विभिन्न पहलुओं पर ऐसी कार्यशालाओं का आयोजन करता रहे। इसके बावजूद, समिति अपनी पिछली सिफारिश को दोहराना चाहती है कि ब्लू कॉर्नर नोटिस की प्रॉसेसिंग पर नियमित कार्यशालाओं के आयोजन के अलावा, गृह मंत्रालय को 'ब्लू कॉर्नर नोटिसों' को त्रुटिहीन तरीके से प्रॉसेस करने के मामले में निदेशों, निर्देशों, आदेशों तथा विनिर्दिष्ट नियमों/दिशानिर्देशों के कड़े अनुपालन के लिए दिशानिर्देश तैयार कर अपने सभी विभागों, जांच तथा कानून प्रवर्तन एजेंसियों को जारी करना चाहिए ताकि इस प्रकार के अत्यधिक जरुरतमंद पीड़ित महिलाओं से संबधित विशेष मामलों में ब्लू कॉर्नर नोटिस जारी

करने में तेजी लाने के लिए नोडल एजेंसी अर्थात् गृह मंत्रालय के साथ बेहतर समन्वय स्थापित हो सके।

<u>प्रत्यर्पण निवेदन तैयार करना</u>

33. समिति ने सिफारिश की थी कि गृह मंत्रालय की संबंधित एजेंसियों द्वारा प्रत्यर्पण अनुरोध विदेश मंत्रालय को भेजते समय कानून प्रवर्तन एजेंसियों को इस तथ्य की विस्तार से जांच करनी चाहिए कि अनुरोध करने वाले देश में अभियुक्त द्वारा किया गया अपराध आस्ट्रेलिया सहित अन्य देशों में भी एक आपराधिक गतिविधि हो ताकि 'दोहरी आपराधिकता' के पहलू को पूरा न करने और/अथवा अन्य संबंधित कमियों के आधार पर प्रत्यर्पण के निवेदन को टाले जाने की संभावना को दूर करने के लिए भारतीय दंड संहिता की विभिन्न धाराओं के प्रभाव के साथ-साथ दोहरी आपराधिकता के सिद्धांत की पुष्टि हो।

34. गृह मंत्रालय ने अपने की गई कार्रवाई उत्तर में यह बताया है कि मंत्रालय संबंधित कानून प्रवर्तन एजेंसियों के संपर्क करने पर प्रत्यर्पण के लिए अनुरोध करने में सहायता और उचित मार्गदर्शन प्रदान कर रहा है । इस संबंध में गृह मंत्रालय ने समिति को यह भी सूचित किया है कि हाल ही में भोपाल में राष्ट्रीय न्यायिक अकादमी द्वारा 23 से 24 नवंबर, 2019 तक सभी न्यायिक अधिकारियों के लिए 'विदेश में रहने वाले व्यक्तियों से संबंधित मामलों पर राष्ट्रीय ओरिएंटेशन कार्यक्रम' पर दो दिवसीय कार्यशाला आयोजित की गई थी। विधि और न्याय मंत्रालय द्वारा न्यायिक अकादमी से अंतर्राष्ट्रीय सहयोग से संबंधित विषयों/थीम्स पर अगले शैक्षणिक सत्रों के दौरान विभिन्न सम्मेलनों/सेमिनारों/कार्यशालाओं का आयोजन करने का भी

अनुरोध किया गया था। मंत्रालय ने आगे बताया कि कानून प्रवर्तन एजेंसियों के पास कानून प्रवर्तन अधिकारियों के लिए अपने जागरूकता कार्यक्रम भी होते हैं।

35. समिति गृह मंत्रालय द्वारा प्रस्तुत किए इस आशय के तथ्यों से संतुष्ट नहीं है कि वे कानून प्रवर्तन एजेंसियों को प्रत्यर्पण अनुरोध करने में केवल उनके संपर्क करने पर ही सहायता और मार्गदर्शन प्रदान कर रहे हैं। इस संबंध में समिति यह अपेक्षा करती है कि गृह मंत्रालय अन्य बातों के साथ-साथ किसी प्रत्यर्पण संबंधी मामले में विभिन्न जटिल और तकनीकी खंडों जैसे 'दोहरी आपराधिकता' के साथ साथ भारतीय दंड संहिता की उपयुक्त धाराओं को लागू करने के लिए, जिससे वे प्रत्यर्पण निवेदन में सुधार के लिए लौटाए जाने हेतु विसंगतियों को कम से कम करने के लिए उपयुक्त तरीके से आरोपी/भगोड़े के आचरण की व्याख्या कर सकें, न केवल विधि और न्याय मंत्रालय तथा विदेश मंत्रालय बल्कि एकीकृत नोडल एजेंसी (सामाजिक न्याय और अधिकारिता मंत्रालय) को भी जानकारी के समान स्तर पर लाने हेतु सम्मेलनों, सेमिनारों, कार्यशालाओं आदि के आयोजन में सक्रिय रूप से शामिल होना चाहिए।

<u>'दहेज के लिए उत्पीड़न' खंड को प्रत्यर्पण संधि में शामिल किया जाना</u>

36. प्रत्यर्पण संधि में 'दहेज के लिए उत्पीड़न' खंड को शामिल करने के संबंध में समिति ने इस तथ्य को नोट किया कि दहेज विधिक न्यायशास्त्र में एक अवधारणा नहीं है तथा आस्ट्रेलिया सहित अधिकतर विदेशी कानूनों के अंतर्गत अपराध भी नहीं है। तथापि, भारत में आम तौर पर शिकायतकर्ता और कानून प्रवर्तन एजेंसियां पूरे मामले को 'दहेज' से संबंधित बनाती हैं, जबकि न तो भारतीय दंड संहिता की धारा 498-ए और न ही 405 और 406 में स्पष्ट रूप से 'दहेज' शब्द का उल्लेख है। इस

संबंध में समिति ने पाया कि अपने पति या उसके रिश्तेदारों द्वारा क्रूरता की शिकार हुई महिला के आरोपों का समर्थन करने के लिए ऐसे तथ्यों और साक्ष्यों की निरपवाद रूप से कमी है जिनसे प्रथमदृष्टया यह साबित हो सके कि उनके द्वारा विश्वास का आपराधिक उल्लंघन किया गया था। समिति ने आगे नोट किया कि भारत में उत्पीड़न के कुल मामलों में से दहेज के लिए उत्पीड़न संबंधी मामलों की संख्या सर्वाधिक होती है। अतएव, समिति ने अधिकारियों को इन पहलुओं पर विचार करने और अप्रवासी भारतीय पति से शादी करने वाली पीड़ित महिलाओं को राहत देने के लिए ठोस कदम उठाने की सिफारिश की।

37. गृह मंत्रालय ने अपनी की गई कार्रवाई उत्तर में यह बताया है कि प्रत्यर्पण अधिनियम विदेश मंत्रालय (विदेश मंत्रालय) द्वारा प्रशासित किया जा रहा है तथा संधियों पर विदेश मंत्रालय के मार्गदर्शन के अधीन बातचीत की जाती है और उन्हें अंतिम रूप दिया जाता है। तथापि, विदेश मंत्रालय का प्रवासी भारतीय मामलों संबंधी स्कंध तथा सामाजिक न्याय और अधिकारिता मंत्रालय की एकीकृत नोडल एजेंसी (आईएनए) मामलों को देख रहे हैं एवं एनआरआई मामलों की सक्रियता पूर्वक निगरानी कर रहे हैं। इस संदर्भ में विदेश मंत्रालय ने यह भी बताया कि भारत और ऑस्ट्रेलिया के बीच प्रत्यर्पण संधि के अनुच्छेद 2 (1) के अनुसार, जिन अपराधों के लिए प्रत्यर्पण का अनुरोध किया गया है, उन्हें प्रत्यर्पण के योग्य, अर्थात् भारत और आश्ट्रेलिया दोनों के कानूनों के तहत कम से कम एक वर्ष की अवधि वाला दंडनीय अपराध (दोहरा आपराधीकरण), होना चाहिए। मंत्रालय ने यह भी सूचित किया है कि ऑस्ट्रेलियाई न्यायालयों ने यह निर्धारित किया है कि प्रत्येक देश के लिए 'समान रूप से परिभाषित अपराध' होना आवश्यक नहीं है, तथापि, वह आचरण जो अनुरोध करने वाले देश में अपराध कहला सके आश्ट्रेलिया में भी अपराध कहलाने योग्य होना चाहिए। मंत्रालय ने समिति को यह भी बताया कि दहेज प्रतिषेध अधिनियम, 1961

(1961 के अधिनियम संख्या 28) के अनुच्छेद 3 (1) में कहा गया है कि यदि कोई व्यक्ति इस अधिनियम के प्रारंभ के बाद दहेज देता अथवा लेता अथवा दहेज देने या लेने के लिए उकसाता है तो उसे ऐसी अवधि के लिए कारावास, जो पांच वर्ष से कम न हो, और जुर्माना, जो पंद्रह हजार रुपये अथवा ऐसे दहेज की राशि, दोनों में से जो सबसे अधिक हो, से कम न हो, की सजा होगी। मंत्रालय ने समिति को इस विषय में भी अवगत कराया कि प्रत्यर्पण संधि एक 'नो लिस्ट' प्रणाली का उपयोग भी करती है तथा ऐसा कोई भी आचरण/अपराध जो भारत और आश्ट्रेलिया दोनों के कानूनों के अंतर्गत एक वर्ष या उससे अधिक के साथ दंडनीय हो, प्रत्यर्पण के योग्य है, तथा इस प्रकार 'दहेज के लिए उत्पीड़न' करने वाला आचरण पहले से ही इसमें शामिल है।

38. इस तथ्य के बावजूद कि प्रत्यर्पण योग्य अपराध जिनके लिए प्रत्यर्पण का अनुरोध किया गया है, को ऑस्ट्रेलिया के मामले में 'दोहरी आपराधिकता' के मानदंडों को पूरा करना चाहिए तथा ऑस्ट्रेलियाई अदालतों ने यह भी निर्धारित किया है कि ऐसे मामलों के लिए प्रत्येक देश के लिए 'समान रूप से परिभाषित अपराध' होना आवश्यक नहीं है, समिति विदेश मंत्रालय से यह सिफारिश करती है कि कि चूंकि पीड़ित महिलाओं के विरुद्ध उत्पीड़न के अधिकतर मामले दहेज से संबंधित हैं, इसलिए किसी अन्य देश के साथ प्रत्यर्पण संधि तैयार करते समय 'दहेज के लिए उत्पीड़न', जो कि पहले से ही दहेज प्रतिषेध अधिनियम, 1961, (1961 का अधिनियम संख्या 61) के खंड 3(1) के रूप में पहले से ही एक अपराध है, पर एक स्पष्ट खंड को प्रत्यर्पित अपराध के रूप में शामिल करने के प्रयास किए जाएं।

<u>'प्रत्यर्पण निवेदन' करने की प्रक्रिया का सरलीकरण</u>

39. सरकार द्वारा प्रत्यर्पण अनुरोध करने के लिए अपनाई जा रही प्रक्रिया की जांच करते समय समिति यह नोट कर चिंतित थी कि ऐसे अनुरोध को तैयार करने, प्रस्तुत करने तथा अग्रेषित करने की प्रक्रिया न केवल लंबी बल्कि अत्यधिक समय लेने वाली भी है , जो कि न्यायालय से आदेश/निदेश प्राप्त करने की लंबी न्यायिक प्रक्रिया के साथ शुरू होकर मुकदमे के लिए आरोप पत्र में उपलब्ध साक्ष्य के आधार पर आरोपी/भगोड़े द्वारा अपराध किए जाने के स्पष्टीकरण तथा मामले में मुकदमे का सामना करने के लिए आरोपी/भगोड़े की उपस्थिति तथा उसके बाद माननीय विदेश मंत्री की मंजूरी प्राप्त करने तक जाती है। अप्रवासी भारतीय से शादी कर चुकी पीड़ित महिलाओं की मानसिक और शारीरिक स्थिति को ध्यान में रखते हुए समिति ने विदेश मंत्रालय और गृह मंत्रालय से आग्रह किया है कि वह संबंधित देश द्वारा प्रत्यर्पण अनुरोध पर विचार किए जाने के लिए प्रत्यर्पण अनुरोध को तैयार करने, उसकी सहज प्रस्तुति तथा त्वरित रूप से अग्रसारित किए जाने के लिए एक छोटे तथा आसान तरीके की तलाश करें।

40. गृह मंत्रालय ने अपनी की गई कार्रवाई उत्तर में कहा कि प्रत्यर्पण के लिए नोडल मंत्रालय विदेश मंत्रालय है तथा उसी ने प्रत्यर्पण अनुरोध तैयार करने के लिए सुझाव/दिशा-निर्देश जारी किए हैं। साथ ही साथ विदेश मंत्रालय ने अपनी की गई कार्रवाई उत्तर में यह कहा है कि प्रत्यर्पण अनुरोध का आरंभ वे नहीं करते हैं। प्रत्यर्पण अनुरोध प्राप्त होने पर मंत्रालय द्विपक्षीय प्रत्यर्पण संधि के तहत कानूनी और प्रक्रियात्मक आवश्यकताओं को ध्यान में रखते हुए इस संबंध में तेजी से कार्रवाई करता है। तत्पश्चात् माननीय विदेश मंत्री की मंजूरी लेने के बाद भारतीय मिशन के माध्यम से प्रत्यर्पण अनुरोध को विचार के लिए अनुरोधित राज्य को भेज दिया जाता है। विदेश मंत्रालय ने समिति को यह भी बताया कि भारत में प्रत्यर्पण प्रक्रियाओं के संबंध में व्यापक मार्गदर्शन प्रदान करने हेतु 'प्रत्यर्पण अनुरोध तैयार करने के लिए

सुझाव' तथा 'भारतीय दंड संहिता की धारा 498-ए तथा अन्य दहेज-संबंधी अपराधों के अंतर्गत आने वाले अपराधों के लिए प्रत्यर्पण अनुरोधों से संबंधित विशिष्ट टिप्पणियों सहित 'विदेशों से भगोड़ों के प्रत्यर्पण के लिए भारतीय न्याय प्रवर्तन एजेंसियों के लिए दिशानिर्देश' भी जारी किए गए हैं। मंत्रालय ने यह भी बताया कि, जब भी ऐसा अनुरोध किया जाता है, प्रत्यर्पण अनुरोध तैयार करने के लिए संबंधित कानून प्रवर्तन एजेंसियों को भी सलाह दी जाती है।

41. समिति इस बात से संतुष्ट है कि गृह मंत्रालय तथा विदेश मंत्रालय, दोनों ही प्रत्यर्पण अनुरोधों को तैयार करने और तत्संबंधी कार्रवाई के संबंध में सुझाव, दिशा-निर्देश, निदेश आदि जारी करते रहे हैं। समिति को आशा है कि प्रत्यर्पण अनुरोधों पर इस तरह के सुझाव, दिशा-निर्देश, निदेश आदि बनाते समय उचित और व्यवस्थित अंतर-मंत्रालयी और अंतर-विभागीय समन्वय और सहयोग स्थापित किया जाएगा तथा अन्य हितधारकों, यथा, राज्य सरकारों की कानून प्रवर्तन एजेंसियों, भारतीय राष्ट्रीय अपराध ब्यूरो, एकीकृत नोडल एजेंसी, अन्य कानून प्रवर्तन एजेंसियां और इस विषय पर काम करने वाले गैर-सरकारी संगठनों के विचारों/मत को भी संबंधित देश द्वारा विचार करने के लिए प्रत्यर्पण अनुरोध को तैयार करने एवं अग्रसारित करने हेतु एक लघु, सरल तथा त्वरित मार्ग की तलाश करने हेतु संज्ञान में लिया जाएगा। समिति को आशा है कि प्रत्यर्पण के लिए नोडल मंत्रालय होने के नाते विदेश मंत्रालय गृह मंत्रालय के साथ यह सुनिश्चित करेगा कि प्रत्यर्पण की तैयारी, प्रस्तुत करने और अग्रेषित करने संबंधी दिशा-निर्देशों और निदेशों का कानून प्रवर्तन एजेंसियों द्वारा ईमानदारी से पालन किया जाएगा ।

<u>अप्रवासी भारतीयों के वैवाहिक विवादों पर विशेषज्ञ समिति की सिफारिशों को लागू करना</u>

42. समिति ने नोट किया कि सरकार ने अप्रवासी भारतीयों के वैवाहिक विवादों पर एक विशेषज्ञ समिति का गठन किया था, जिसने अगस्त, 2017 में अपनी रिपोर्ट प्रस्तुत की थी तथा एकीकृत नोडल एजेंसी (आईएनए) के गठन सहित इसकी कुछ सिफारिशों को स्वीकार एवं लागू किया गया था तथा अन्य सिफारिशों की जांच की जा रही है। इस संबंध में समिति ने उक्त विशेषज्ञ समिति की महत्वपूर्ण सिफारिशों के कार्यान्वयन की स्थिति के विषय में जानने की इच्छा व्यक्त की। जिसके प्रत्युत्तर में विदेश मंत्रालय ने अपने की गई कार्रवाई उत्तर में यह बताया कि आईएनए एक प्रभावी निकाय के रूप में कार्य कर रहा है और प्रभावित महिलाओं की समस्याओं का एकल खिड़की के माध्यम से, समयबद्ध तरीके से समाधान उपलब्ध करा रहा है और इस संबंध में किए जा रहे कल्याणकारी उपायों की बेहतर निगरानी की जा रही है। विदेश मंत्रालय ने यह भी बताया कि आईएनए ने अब तक आठ बैठकों का आयोजन किया है और दोषी जीवन साथियों के विरुद्ध 05 लुक आउट परिपत्र जारी किए हैं । विदेश मंत्रालय ने आगे बताया है कि जहां तक एनआरआई वैवाहिक विवादों पर विशेषज्ञ समिति की अन्य सिफारिशों का संबंध है, महिला एवं बाल विकास मंत्रालय, विधि और न्याय मंत्रालय तथा गृह मंत्रालय द्वारा उनकी जांच की जा रही है।

43. समिति इस बात से संतुष्ट है कि अप्रवासी भारतीयों के वैवाहिक विवादों पर एक विशेषज्ञ समिति की सिफारिशों पर एकीकृत नोडल एजेंसी (आईएनए) के रूप में एक समर्पित निकाय की स्थापना की गई है ताकि अपने अप्रवासी भारतीय पति के साथ वैवाहिक विवाद से प्रभावित पीड़ित महिलाओं की समस्याओं का एकल खिड़की के माध्यम से समयबद्ध तरीके से समाधान किया जा सके और उनके लिए बने कल्याणकारी उपायों की निगरानी की जा सके । तथापि, समिति चाहती है कि विदेश मंत्रालय उन्हें विशेषज्ञ समिति की उन अन्य महत्वपूर्ण सिफारिशों के कार्यान्वयन की

स्थिति से अवगत करायें, जिनकी फिलहाल महिला और बाल विकास मंत्रालय, विधि और न्याय मंत्रालय तथा गृह मंत्रालय द्वारा जांच की जा रही है।

नई दिल्ली; **डॉ॰ वीरेंद्र कुमार,**
16 सितंबर, 2020 **सभापति,**
25 भाद्रपद, 1942 (शक) **याचिका समिति।**

अनुबंध-(i)

Ministry of External Affairs
CPV Division
(Extradition Section)

SUGGESTION FOR DRAWING UP EXTRADITION REQUESTS

Extradition request for an accused/fugitive can be initiated after the charge sheet has been filed before an appropriate Court and the said Court, having taken cognizance of the case, has issued orders/directions justifying the accused's/fugitive's committal for trial on the basis of evidence made available in the charge sheet and has sought the presence of the accused/fugitive to face trial in the case.

All extradition requests should be formatted as specified and should contain by documents and information enumerated below:

1. The extradition request should be spiral-bound and should contain an index with page numbers.

2. The request should be supported by a self-contained affidavit, executed by the Court by whom the fugitive is wanted, or by a Senior Officer in-charge of the case (not below the rank of Superintendent of Police of the concerned investigating agency) sworn before a Judicial Magistrate (of the Court by which the fugitive is wanted for prosecution). The affidavit should contain brief facts and history of the case, referring at the appropriate places to the statements of witnesses and other documentary evidence; description of criminal clearly establishing his identity; provisions of the law invoked etc. so that a prima facie case is made out against the fugitive criminal. The affidavit should not rely on acronyms/abbrevations which may be clear to an Indian reader, but may not be familiar to a foreign reader.

(i) Paragraph 1 of the affidavit should indicate the basis/capacity in which the affidavit is executed.

(ii) The affidavit should indicate the offences for which the accused is charged in India.

(iii) The affidavit should confirm that the law in question was in force at the time of commission of offences and that it is still in force, including the penalty provisions.

(iv) The affidavit should confirm that, if the accused was extradited to India, he would be tried in India only for those offences for which extradition is sought.

(v) The affidavit should confirm that the offences are not barred by the period of limitation.

(vi) The affidavit should also include references to documents and information that would establish the offences for which extradition is sought, together with a detailed written statement setting out the acts or omissions which are alleged against the accused in respect of each offence for which his extradition is sought.

3. Copy of First Information Report (FIR), duly countersigned by the competent judicial authority, should be enclosed with the request.

4. The competent authority should countersign a copy of charge sheet, which is enclosed with the documents.

5. *The request should include a letter/order from the concerned court justifying the accused person's committal for trial on the basis of evidence made available in the Charge Sheet, with a direction seeking the accused person's presence in court to stand trial in said court from the country of present stay.*

6. The Warrant of Arrest should be in original and open-dated, indicating clearly only those offences for which the accused is charged and the Court has taken cognizance of, with the relevant Sections thereof.

7. The nationality, identity and address of the accused should be made available with the request.

8. The photograph and finger print (if available) of the accused person should be identified through an affidavit in the request.

9. The request should enclose copies of the relevant provisions under which the accused is charged, along with extracts of the relevant laws, indicating the maximum sentence prescribed for the offence for which the accused is charged or convicted.

10 If any CD/floppy is enclosed with the documents for establishing the crime, a certified transcript of the CD/floppy should also be enclosed with the extradition dossier, duly countersigned by the competent judicial authority.

11. The extradition request is to be submitted in quadruplicate (four copies - one original + three copies).

12. All the documents should be clear, legible and in a presentable form as they are to be presented to Governments of Foreign Countries.

13. Original documents in national languages should be sent along with certified English translation of each such document from authorized translators.

14. Extradition requests/documents submitted to countries where English is not first language should be submitted along with a duly translated copy in the host country's official language, as specified in the Extradition Treaty. The Court issuing the warrant should certify such a translated copy.

15. All the pages in original as well as photocopies (and in translated copies where are applicable) should be counter-signed by the competent judicial authorities.

After completion of necessary formalities, the request for extradition should contain a letter/note from a Senior Officer (not below the rank of Joint Secretary) of the concerned State Government, confirming the correctness of the case/material, with a request to the Central Authority to forward it to the Government of the concerned foreign country.

N.B.: In cases where the extradition request is originating from the concerned court, it should be prepared in the form of an affidavit in the first-person, i.e. by the Hon'ble Magistrate/Judge himself/herself. *(Such requests, when received from Court Masters or other court officials writing in third person on behalf of the Court, are objected to by authorities in the Requested State).*

अनुबंध-(ii)

F. No. 25016/52/2019-LC
Government of India
Ministry of Home Affairs
IS-II Division/Legal Cell-I
****

2nd Floor, Dhyanchand National Stadium
Near India Gate, New Delhi
Date 04/12/2019

To

1. Secretary, MoF/ MEA/MoL&J/ DoP&T New Delhi.
2. All Chief Secretaries of States/ UTs.
3. All DGPs of States/ Commissioner of UTs.
4. Director CBI/ IB/ ED/ DRI/ NIA/CBDT & NCB.
5. Registrar, Supreme Court, New Delhi.
6. All Registrars of High Court of States/ UTs.

Sub: Comprehensive Guidelines for investigation abroad and issue of Letters Rogatory (LRs)/ Mutual Legal Assistance (MLA) Request and Service of Summons/Notices/Judicial documents in respect of Criminal Matters.

Sir,

The Ministry of Home Affairs (MHA) had issued comprehensive guidelines regarding investigation abroad and issue of Letters Rogatory (LRs) in 2007 and regarding service of summons/notices/ judicial documents on the persons residing abroad, in 2009. With a view to streamlining the process of MLAT in criminal matters, the guidelines have been revised in respect of LRs, MLA request and service of summons/notices/ judicial documents, etc. The revised guidelines incorporate various legal and technical developments in the recent years and aim to make the documentation in this regard more precise and focused as well as compliant with international requirements.

2. A copy of the guidelines is enclosed with a request to circulate these among officers concerned for following the procedure laid-down in the guidelines.

Encl: As above.

Yours faithfully,

04/12/19
(M. K. Chahar)
Under Secretary to the Govt. of India
Tel:-23070164

Copy to:-

MHA: Joint Secretary, C& IC Division, MHA, North Block, New Delhi.
MEA: Joint Secretary, CPV Division, MEA, JLN Bhawan New Delhi.
NIA: IG (Policy) (HQ), Opposite CGO Complex, New Delhi.
CBI: Joint Director (Interpol), CGO Complex, New Delhi.
MoL&J: Joint Secretary, Department of Legal Affairs, Shastri Bhawan, New Delhi.
ED: Joint Director (Policy), 6th Floor, Lok Nayak Bhavan, Khan Market, New Delhi

सत्यमेव जयते

Guidelines on Mutual Legal Assistance in Criminal Matters

MINISTRY OF HOME AFFAIRS

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List of Abbreviations

AD (IPCC), CBI	Assistant Director, International Police Cooperation Cell, Central Bureau of Investigation
AD (NCB), CBI	Assistant Director, National Central Bureau, Central Bureau of Investigation
CPV Division, MEA	Consular, Passport & Visa Division, Ministry of External Affairs
CrPC	Code of Criminal Procedure, 1973
DOP	Director of Prosecution
ED	Enforcement Directorate
FEOA	Fugitive Economic Offenders Act, 2018
INTERPOL	International Criminal Police Organization
IS-II Division, MHA	Internal Security-II Division, Ministry of Home Affairs
ILO	Interpol Liaison Officer
JD (TFC), CBI	Joint Director (Technical, Forensic & Co-ordination), Central Bureau of Investigation
LR	Letters Rogatory
MLA Request	Mutual Legal Assistance Request
MLAT	Mutual Legal Assistance Treaty
NIA	National Investigation Agency
PMLA	Prevention of Money Laundering Act, 2002
UT	Union Territory

Part I: Overview

A. Mutual Legal Assistance in Criminal Matters

1.1 Mutual Legal Assistance is a mechanism whereby countries cooperate with one another in order to provide and obtain formal assistance in prevention, suppression, investigation and prosecution of crime to ensure that the criminals do not escape or sabotage the due process of law for want of evidence available in different countries.

1.2 India provides mutual legal assistance in criminal matters through Bilateral Treaties/Agreements, Multilateral Treaties/Agreements or International Conventions or on the basis of assurance of reciprocity.

1.3 The Mutual Legal Assistance Treaties (MLATs) in criminal matters are the bilateral treaties, entered between the countries for providing international cooperation and assistance. India has entered into Mutual Legal Assistance Treaties/Agreements with 42 countries (November 2019).

Figure 1.1: List of countries having MLAT/Bilateral Agreements with India

Arab Republic of Egypt (2009)	Kingdom of Morocco* (2018)	Republic of Kazakhstan (2000)	Russian Federation (2000)
Bosnia & Herzegovina (2010)	Kingdom of Spain (2007)	Republic of Korea (2005)	State of Israel (2015)
Canada (1998)	Kingdom of Thailand (2004)	Republic of Maldives* (2019)	State of Kuwait (2007)
Commonwealth of Australia (2011)	Kyrgyz Republic (2014)	Republic of Mauritius (2006)	Sultanate of Oman (2015)
Confederation of Switzerland (1989)	Malaysia (2012)	Republic of Singapore (2005)	Ukraine (2003)
Democratic Socialist Republic of Sri Lanka (2010)	Mongolia (2004)	Republic of South Africa (2005)	Union of Myanmar (2010)
French Republic (2005)	People's Republic of Bangladesh (2011)	Republic of Tajikistan (2003)	United Arab Emirates (2000)
Hong Kong Special Administrative Region of the People's Republic of China (2009)	Republic of Azerbaijan (2013)	Republic of Turkey (1993)	United Kingdom of Great Britain and Northern Ireland (1995)
Islamic Republic of Iran (2010)	Republic of Belarus (2006)	Republic of Uzbekistan (2001)	United Mexican States (2009)
Kingdom of Bahrain (2005)	Republic of Bulgaria (2008)	Republic of Vietnam (2008)	United States of America (2005)
Kingdom of Cambodia* (2018)	Republic of Indonesia (2011)		

*The MLAT has been signed but yet to come in force.

Figure 1.2: List of International Conventions signed by India having provisions related to Mutual Legal Assistance	
1)	United Nations Convention Against Transnational Organized Crime, 2000 (list of member countries: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=_en)
2)	United Nations Convention Against Corruption, 2003 (list of member countries: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-14&chapter=18&lang=en)
3)	United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substance, 1988 (Vienna Convention) (list of member countries: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-19&chapter=6&clang=_en)
4)	Hague Convention (list of member countries: https://www.hcch.net/en/states/hcch-members)
5)	SAARC Convention (list of SAARC countries: http://saarc-sec.org/about-saarc)
6)	Commonwealth Scheme (Harare Scheme) (list of Commonwealth countries: http://thecommonwealth.org/member-countries)

B. Letters Rogatory (LR)

1.4 The term *'Letters Rogatory'* is derived from the Latin term *rogātōrius*. Letters Rogatory are the letters of request sent by the Court of one country to the Court of another country for obtaining assistance in investigation or prosecution of a criminal matter.

1.5 In India, Section 166A and Section 105K of Code of Criminal Procedure, 1973 (CrPC), Section 57 and Section 61 of Prevention of Money Laundering Act, 2002 (PMLA), Section 12 of Fugitive Economic Offenders Act, 2018 (FEOA), etc., lays down the procedure of sending *'letter of request'* through Competent Court on the request of Investigating Officer.

1.6 The procedure for execution of a request received from the foreign Court or Competent Authority has been enshrined in Section 166B and 105K of CrPC, Section 58 of PMLA, etc. In General, the assistance sought under Letters Rogatories is for service of documents and taking of evidence. Letters Rogatory may be made to any country on the basis of Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention or on the basis of *assurance of reciprocity*.

C. Mutual Legal Assistance (MLA) Request

1.7 Mutual Legal Assistance Request in the Indian context is a formal request made by the Central Authority of India i.e., Ministry of Home Affairs to the Central Authority of another country on the request of Investigating Officer or Agency under any Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention.

D. Difference between Mutual Legal Assistance (MLA) Request and Letters Rogatory(LR)

Figure 1.3: Difference between MLA Request and Letters Rogatory

	Mutual Legal Assistance Request (MLA) Request	Letters Rogatory (LR)
Nature	MLA request is made by the Central Authority of India to the Central Authority of another country on the request of the Investigating Officer or Investigating Agency.	LR is issued by the Indian Court on the request of the Investigating Officer or Investigating Agency under Section 166A and Chapter VII A of CrPC.
Scope	MLA Request can only be made to the countries with which India has Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention	LRs can be issued to the countries with whom India has Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention under the same arrangements. Further, LR can also be issued to any other country (with whom India does not have any existing Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention) on the basis of assurance of Reciprocity.

E. Service of Summons, Notices and Judicial Processes

1.8 In India, Section 105 and Chapter VIIA of CrPC, Section 59 and Section 61 of PMLA, Section 10 of FEOA, etc., provides for service of summons, notices and judicial processes. The summons, notices and judicial processes are sent by the Court of competent jurisdiction to IS-II Division, MHA and are further sent by MHA to the foreign country concerned either directly or through Indian Mission/Embassy/Diplomatic Channels for service on the person through the Competent Authorities in the foreign country.

F. Central Authority of India

1.9 The MINISTRY OF HOME AFFAIRS is the Central Authority of India for dealing with requests of mutual legal assistance in criminal matters. The Central Authority transmits and receives all requests for assistance either directly or through diplomatic channels.

All the requests to the Central Authority of India should be addressed to:

Under Secretary (Legal) Internal Security-II Division, 2nd Floor, Ministry of Home Affairs, Major Dhyan Chand National Stadium, New Delhi-110001, India	Tele Fax: 011-23075338 Telephone: 011-23070164 Email: us-legal@mha.gov.in

1.10 The Central Authority of India i.e., Ministry of Home Affairs performs the following functions with respect to providing and obtaining mutual legal assistance in criminal matters:

i) It ensures that the widest measure of legal assistance is provided by India

ii) It formulates and takes the policy decision on mutual legal assistance in criminal matters.

iii) It reviews all requests received by it from the Investigating Agencies/State

Governments/UTs/Judicial Authorities and takes appropriate actions. If necessary, it corresponds with the agency or Court sending the request regarding the inadequacy or the need to supplement the request and provide information on how they can be improved.

iv) For delivering the request to foreign country and follow up of the requests , the IS-II Division, MHA functions through AD (IPCC), CBI.

v) It receives requests from foreign countries.

vi) It promptly gets the requests executed through the appropriate Authority, in accordance with the Indian laws and in the manner specified by the foreign country, if it is not contrary to Indian law.

vii) It answers queries related to Indian law and provides information to the countries wishing to make requests to India

viii) It coordinates arrangements for the representation of foreign countries in India for any proceedings arising out of a request for assistance.

ix) It periodically participates in the bilateral consultations with the Central Authority of the Contracting States to take measure for the prevention and suppression of crime and early execution of requests.

x) It arranges training for Indian law enforcement agencies in coordination with CPV Division MEA, AD (IPCC) CBI, NIA and State Police Authorities. It takes assistance of AD (IPCC), CBI for arranging the training programmes at CBI academy or at State Police academies.

xi) It arranges training programmes in coordination with foreign experts on the subject of mutual legal assistance in criminal matters and extradition.

1.11 IS-II Division, MHA for maintaining record and data for MLA Request/LRs and follow-up of such cases takes the assistance of AD (IPCC), CBI. The contact details of AD (IPCC), CBI are as follows:

The Assistant Director, IPCC, 06th Floor, CBI HQ, 5-B, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, New Delhi- 110003	Tele Fax : 011-24364070 Telephone : 011-24392170 Email : adco@cbi.gov.in

G. Informal Requests

1.12 For getting informal information or leads, the assistance can be sought through INTERPOL Channels. The Investigating Agency is required to take up the matter with Assistant Director, NCB, Central Bureau of Investigation, 5-B, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, New Delhi-110003.

H. Types of Request

1.13 Common forms of assistance provided to or sought by India are as follows:

i) identifying and locating persons and objects;

ii) taking evidence and obtaining statements;

iii) assisting in the availability of person in custody or others to give evidence or assist in investigations or appear as a witness;

iv) effecting service of judicial documents;

v) executing searches and seizures;

vi) providing information, documents, records and other evidentiary items;

vii) taking measures to identify, locate, attach, freeze, restrain, confiscate or forfeit the proceeds and

instrumentalities of crime;

viii) taking measures to restitute the embezzled public funds;

ix) delivery of property including lending exhibits;

x) protecting and preserving computer data;

xi) any other form of assistance not prohibited by the law of the Contracting States.

I. Grounds for Refusal or Postponement of Request for Assistance

1.14 The request for assistance is generally refused if:

i) the execution of the request would impair sovereignty, security, public order and essential public interest of India or foreign country.

ii) the request for assistance has been made for the purpose of investigating and prosecuting a person on account of that person's sex, race, religion, nationality, origin or political opinions or that person's position may be prejudiced for any of those reasons.

iii) the request is made for conduct or offence which is an offence under military law but not an offence under ordinary criminal law in India or foreign country.

iv) the request relates to an offence in respect of which the accused person has been finally acquitted or pardoned.

v) *de minimis* request is made i.e. the request is trivial or disproportionate in nature.

vi) the request seeking restraint, forfeiture or confiscation of proceeds and instrumentalities of crime or seizure of property is in respect of conduct/activity which cannot be made the basis for such restraint, forfeiture, confiscation or seizure in the Contracting States.

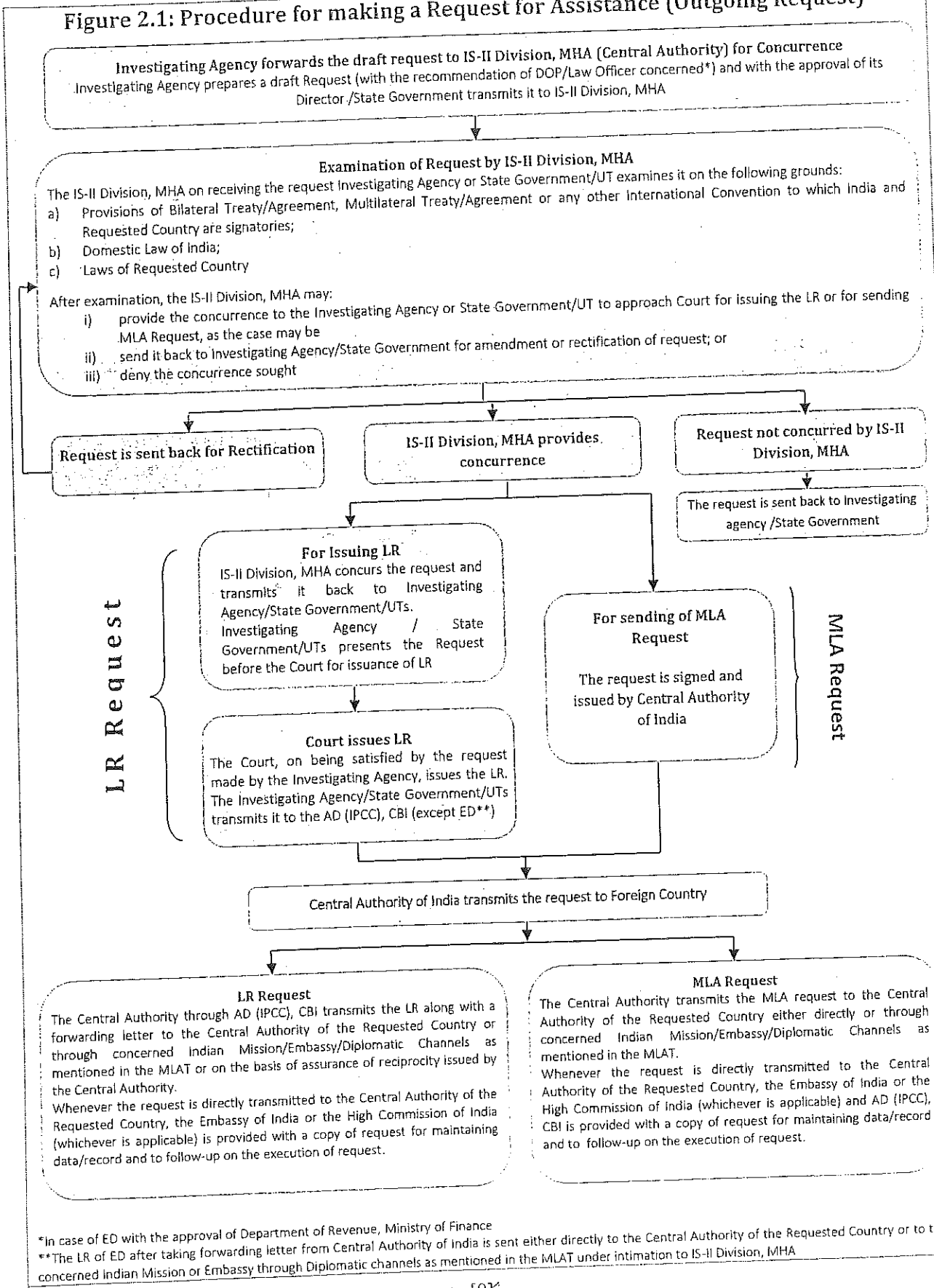
1.15 The execution of request may be postponed if it would interfere with an ongoing criminal investigation, prosecution or proceeding in the Contracting States. Such request may be executed subject to conditions determined necessary after consultations with the Central Authority of the Requesting Country.

1.16 The execution of request shall not be refused solely on the ground of bank secrecy or because the request for assistance does not include all the information if it can otherwise be executed in accordance with the laws of Contracting State.

Part II: Procedure for Sending and Executing Request for Mutual Legal Assistance

A. Procedure for Sending Request for Assistance (Outgoing Requests)

Figure 2.1: Procedure for making a Request for Assistance (Outgoing Request)



*In case of ED with the approval of Department of Revenue, Ministry of Finance
**The LR of ED after taking forwarding letter from Central Authority of India is sent either directly to the Central Authority of the Requested Country or to the concerned Indian Mission or Embassy through Diplomatic channels as mentioned in the MLAT under intimation to IS-II Division, MHA

Figure 2.2: Step-by-Step Procedure for making Letters Rogatory Request (Sec 166A CrPC[1], 105K CrPC[2], Chapter VII A CrPC, Sec 57[3] and Sec 61[4] PMLA, Sec 12 FEOA[5], etc.)

Step 1 Drafting of Request by Investigating Officer or Agency and transmitting it to IS-II Division, MHA-

⇒ The Investigating Officer compiles the facts related to the case and brings out assistance needed from the foreign country. The draft of the request is sent with the legal opinion/recommendation of Director of Prosecution (DOP)[6] and approval of Director/ Director General/Head of Central Investigating Agency or the Ministry concerned or the State Government as the case may be.

⇒ After receiving the approval from the Director / State Government, the Draft request (one copy) is transmitted to the Central Authority of India. Such draft request is routed through the Home Department of State in case of State Police or is sent to the Central Authority of India by the Central Agencies with the approval of their respective Ministries/ Head of Departments.

⇒ The IS-II Division, MHA (Central Authority of India) examines the draft request and may:

i) provide the concurrence to the Investigating Agency or State Government/UT to approach Court for issuing the LR; or

ii) send it back to the Investigating Agency or State Government/UT for amendment or rectification of request; or

iii) deny the concurrence sought.

It is to be noted that all the requests for issue of LR by Investigation Officer/ Agency are to be sent to the IS-II Division, MHA (Central Authority of India) for concurrence before being presented to the Court for issuance.

The Central Authority may consult the contact person of the Investigating Agency whenever required in relation with the request.

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[1] CrPC- Section 166A. Letter of request to competent authority for investigation in a country or place outside India.— (1) Notwithstanding anything contained in this Code, if, in the course of an investigation into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that evidence may be available in a country or place outside India, any Criminal Court may issue a letter of request to a Court or an authority in that country or place competent to deal with such request to examine orally any person supposed to be acquainted with the facts and circumstances of the case and to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing which may be in his possession pertaining to the case and to forward all the evidence so taken or collected or the authenticated copies thereof or the thing so collected to the Court issuing such letter.

(2) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.

(3) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be the evidence collected during the course of investigation under this Chapter.

[2] CrPC- 105K. Procedure in respect of letter of request.—Every letter of request, summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent to the concerned Court in India in such form and in such manner as the Central Government may, by notification, specify in this behalf.

[3] PMLA- Section 57.Letter of request to a contracting State in certain cases.-(l) Notwithstanding anything contained in this Act or the Code of Criminal Procedure, 1973 (2 of 1974) if, in the course of an investigation into an offence or other proceedings under this Act, an application is made to a Special Court by the Investigating Officer or any officer superior in rank to the Investigating Officer that any evidence is required in connection with investigation into an offence or proceedings under this Act and he is of the opinion that such evidence may be available in any place in a contracting State, and the Special Court, on being satisfied that such evidence is required in connection with the investigation into an offence or proceedings under this Act, may issue a letter of request to a court or an authority in the contracting State competent to deal with such request to-

(i) examine facts and circumstances of the case,

(ii) take such steps as the Special Court may specify in such letter of request, and

(iii) forward all the evidence so taken or collected to the Special Court issuing such letter of request.

(2) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.

(3) Every statement recorded or document or thing received under subsection (1) shall be deemed to be the evidence collected during the course of investigation.

[4] PMLA-61. Procedure in respect of letter of request.—Every letter of request, summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent to the concerned Court in India and in such form and in such manner as the Central Government may, by notification, specify in this behalf.

[5] FEOA-Section 12. Declaration of fugitive economic offender.—..(5) Where the Special Court has made an order for confiscation of any property under sub-section (2), and such property is in a contracting State, the Special Court may issue a letter of request to a Court or authority in the contracting State for execution of such order.

(6) Every letter of request to be transmitted to a contracting State under sub-section (5) shall be transmitted in such form and manner as the Central Government may, by notification, specify in this behalf...

[6] In case of ED the approval of Department of Revenue, Ministry of Finance is also required

The following documents are required to be sent to IS-II Division, MHA:

a) Draft request;
b) Copy of FIR;
c) English translation of FIR if filed in vernacular language;
d) Opinion/recommendation of DOP or the Law Officer commenting on the need for making such request;
e) Application by Investigating Agency to the Court for issuing LR;
f) Applicable Laws of Requested Country;
g) Any other necessary document related to evidence sought from the foreign country;
h) Contact details of the officer of the law enforcement agency concerned.

Step 2 **Presenting the concurred request before the Court**

After obtaining the concurrence of the IS-II Division, MHA for presenting the request before the Court, the Investigating Officer files an Application in the Court of competent jurisdiction for issuing of LR addressed to the Competent Authorities of the Requested Country.

The following documents are required to be presented before the Court for issue of LR:

a) Request concurred by the IS-II Division, MHA (Central Authority) along with all the connected documents;
b) Application by Investigating Agency to the Court for issuing of LR;
c) Extract of the sections of Indian law mentioned in the request including the law on limitation (For example, Section 468[7] CrPC or provisions of any special law applicable)

Note: Certain documents may be relevant for the investigation but are not related to the request and are not required to be attached for presenting the request before the Court. These documents are:

- Case dairy
- Copy of FIR
- English translation of FIR
- Opinion of DOP/Law Officer, etc.

Step 3 **Court to issue LR under relevant law i.e. CrPC, PMLA, FEOA, etc.**

The Competent Court may decide to issue a LR addressed to the Competent Authority in the Requested Country as prayed for or otherwise. If the Court is satisfied with the request, it will issue LR under its seal and authority.

Step 4 **Transmission of LR**

Once the LR is issued, the Investigating Agency or State Government/UT will transmit three copies of the request to the AD (IPCC), CBI and one copy to IS-II Division, MHA. AD (IPCC), CBI will take the forwarding letter from IS-II Division, MHA and then send it directly to the Central Authority of the country concerned or through Indian Mission/Embassy/Diplomatic Channels as the case may be under intimation to the Central Authority of India.

The LR of ED after taking forwarding letter from Central Authority of India is sent either directly to the Central Authority of the Requested Country or to the concerned Indian Mission or Embassy through Diplomatic channels as mentioned in the MLAT under intimation to IS-II Division, MHA

[7] CrpC Section 468. Bar to taking cognizance after lapse of the period of limitation.—(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.
(2) The period of limitation shall be— (a) six months, if the offence is punishable with fine only; (b) one year, if the offence is punishable with imprisonment for a term not exceeding one year; (c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.
(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

	Where the request is directly sent by AD (IPCC), CBI to the Central Authority of the foreign country, a copy of LR along with communication in this regard is to be sent to Indian Embassy /Mission abroad.
	The following documents are required to be sent for transmission of request LR issued by the Court under Section 166A of CrPC: a) Forwarding letter by Central Authority of India; b) LR issued by the Court; c) Extract of the sections of Indian law with highlighted sentence or penalty for the offence; d) List of witnesses to be examined (if any); e) List of questions to be asked from the witness (if any); f) List of documents to be collected (if any) (Description of documents/articles to be collected & procedure for the same to be provided; g) Certified copy of the order for attachment or forfeiture of property (if any).

Figure 2.3: Step-by-step Procedure for making MLA Request	
Step 1	**Forwarding the information to the Central Authority of India** The Investigating Agency or State Government/UT forwards a self- contained proposal with the recommendation of DOP/Law Officer and approval by Director/State Government to IS-II Division, MHA. (The documents to be attached with the MLA Request are same as that required to be sent with the LR Request)
Step 2	**Issue of Request by Central Authority** The IS-II Division, MHA examines and compares the draft along with the relevant documents and prepares an MLA Request. The MLA request is signed by the officer designated at IS-II Division, MHA and is transmitted along with a forwarding letter to the Central Authority of the Requested Country. Whenever the request is directly transmitted to the Central Authority of the Requested Country, the Embassy of India or the High Commission of India (whichever is applicable) and AD (IPCC), CBI is to be provided with a copy of request for maintaining data/record and to follow-up on the execution of request.

B. Procedure to be followed after Central Authority of India forwards the Request to Foreign Country

2.1 The procedure to be followed after IS-II Division, MHA forwards the request to a foreign country is as follows:

i) After transmission of the request to the foreign country, the IS-II Division, MHA (Central Authority of India) either directly or through AD (IPCC), CBI takes the follow-up action for execution of the Request by making correspondence with the Indian Mission abroad or Central Authority of the foreign country.

ii) The Central Authority of the foreign country/Mission may directly communicate with the Central Authority of India or through AD (IPCC), CBI or the contact person of Investigating Agency in case it seeks clarification, additional material, etc., concerning to the request made.

iii) If the communication is made to IS-II Division, MHA, then on receiving such communication, the IS-II Division, MHA would obtain the required clarifications, additional materials, etc., from the

Investigating Officer concerned and transmit the same to the foreign country either directly or through diplomatic channels and a copy of such communication is marked to AD (IPCC), CBI for maintaining record and follow-up.

or

If the request is received by AD (IPCC), CBI, then AD (IPCC), CBI would obtain the required clarifications, additional materials, etc., from the Investigating Officer concerned and transmit the same to the foreign country either directly or through diplomatic channels and a copy of such communication is marked to IS-II Division, MHA for maintain record and follow-up.

or

On receiving such communication by Investigating Agency, the contact person of Investigating Agency would obtain the required clarifications, additional materials, etc., from the Investigating Officer concerned and transmit the same to the foreign country, directly, in urgent cases and in all other circumstances the communication is made through IS-II Division, MHA.

iv) After executing the request, the foreign country may forward the Execution Report to IS-II Division, MHA or AD (IPCC), CBI or Indian Mission/Embassy along with the evidence and supporting material. The same is then forwarded to Investigating Agency or State Government/UT.

v) On receipt of execution report, the Investigating Agency or State Government/UT promptly informs the IS-II Division, MHA (Central Authority) about the execution of request and shortcomings if any.

vi) In case, after receiving of the Execution Report, new facts have come to light and it is felt by the Investigating Agency to seek further information from the concerned country, a supplementary request may be sent. The procedure for making a supplementary request is the same as that of sending any other request.

C. Procedure for Executing Request in India (Incoming Request)

2.2 Section 166B[8], Section 105K[9] and Chapter VII A of CrPC, Section 58[10] and Section 61[11] of PMLA, etc., gives the outline of execution of an incoming request in India. All the requests to India for the mutual legal assistance in criminal matters are made to the Central Authority of India. The requests received through diplomatic channels by Ministry of External Affairs i.e. Territorial Division, CPV Division, etc., are also forwarded to IS-II Division, MHA (Central Authority). After receiving the request, the Central Authority of India examines whether the request is complete and fit to be executed in India. While deciding about the execution of request, the Central Authority of India can take the assistance of MEA and other relevant enforcement agencies in India including JD (TFC), CBI.

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[8] CrPC-Section 166B. Letter of request from a country or place outside India to a Court or an authority for investigation in India—(1) Upon receipt of a letter of request from a Court or an authority in a country or place outside India competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to an offence under investigation in that country or place, the Central Government may, if it thinks fit—
(i) forward the same to the Chief Metropolitan Magistrate or Chief Judicial Magistrate or such Metropolitan Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced, or
(ii) send the letter to any police officer for investigation, who shall thereupon investigate into the offence in the same manner, as if the offence had been committed within India.
(2) All the evidence taken or collected under sub-section (1), or authenticated copies thereof or the thing so collected, shall be forwarded by the Magistrate or police officer, as the case may be, to the Central Government for transmission to the Court or the authority issuing the letter of request, in such manner as the Central Government may deem fit.

[9] Ibid., Page 10

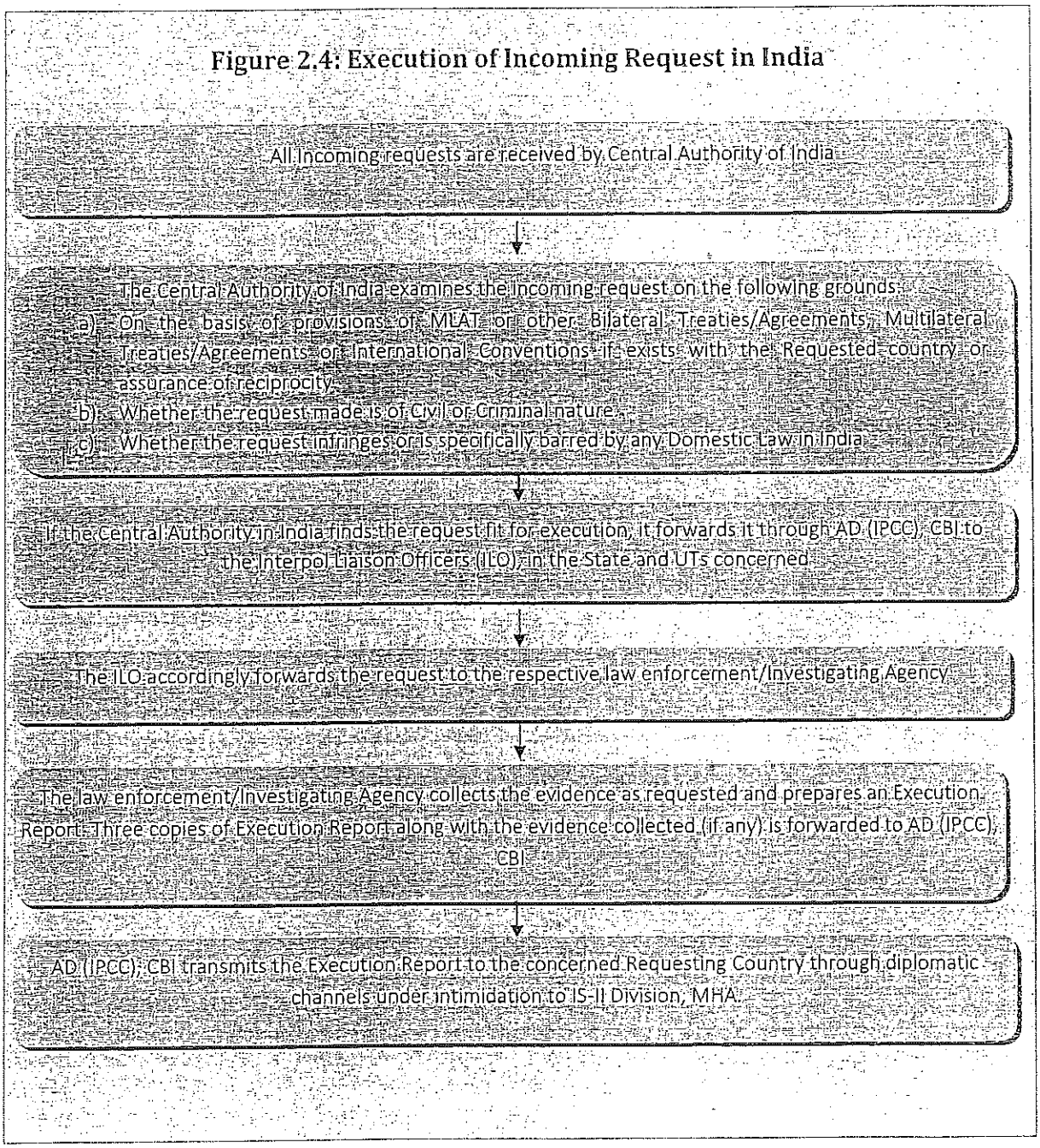
[10] PMLA-Section 58. Assistance to a contracting State in certain cases.-Where a letter of request is received by the Central Government from a court or authority in a contracting State requesting for investigation into an offence or proceedings under this Act and forwarding to such court or authority any evidence connected therewith, the Central Government may forward such letter of request to the Special Court or to any authority under the Act as it thinks fit for execution of such request in accordance with the provisions of this Act or as the case may be, any other law for the time being in force.

[11] Ibid., Page 10

2.3 In case the request is found to be fit for execution, the Central Authority sends it for execution through AD (IPCC), CBI to the Interpol Liaison Officers (ILO), of State/UTs or the law enforcement agency concerned. Whenever the Central Authority of India decides that the request should be refused or postponed for the execution, it promptly intimates the same to the Requesting Country.

2.4 All the incoming requests are executed in terms of the provisions of extant Bilateral Treaties/Agreements, Multilateral Treaties/Agreements or International Convention and in accordance with Indian Laws.

Figure 2.4: Execution of Incoming Request in India



D. Monitoring Process

2.5 AD (IPCC), CBI shall provide the complete details of the execution of request to IS-II Division, MHA in the format provided below in the last week of every month or earlier, as required by IS-II Division, MHA.

Figure 2.5: Format in which information has to be provided to IS-II Division, MHA

Name of Country

(Give the title of case –for example M/S Green Infrastructure Ltd.)

MHA File No.	(Please mention MHA's File No.)
Interpol/ED File Number	(Please mention File No.)
Investigating Agency	(Please mention name of Investigating Agency and Branch/State Police)
Case No	(Please mention case No.)
MLA Request/ LR Issued by	(Please give designation of Court)
MLA Request/ LR Sent on	(Please give date of sending LR to Indian Mission abroad)
Penal sections	(Give applicable sections of law under which the offence is registered)

Allegation:

Assistance sought:

Present Status:

2.6 On quarterly basis, IS-II Division, MHA along with officers of AD (IPCC), CBI, ED and NIA review the compilation of data and progress of execution of requests.

2.7 Biannual meeting of ILO's concerned for analyzing the progress of execution and issues faced in making the requests.

Part III: Form, Content and Language of Request

A. Form of Request

3.1 A request for assistance shall be made in writing. However, in urgent circumstances, a request may be made orally or by email or facsimile or any other agreed forms of electronic media or through INTERPOL but shall be confirmed in writing by the Investigating Agency or State Government/UT concerned with all relevant documents within 5 days after making such request to IS-II Division, MHA.

B. Content of Request

3.2 The request for assistance **shall** include the following information:

a) name of the requesting office and the name of the Competent Authority or Agency conducting the investigation, prosecution or proceedings to which the request relates or name of the Competent Authority seeking or providing the assistance in respect of prevention or suppression of crimes;
b) nature of the investigation, prosecution or proceedings;
c) summary of the facts;
d) copy of the applicable laws;
e) contact details of a person capable of responding to enquiries concerning request;
f) purpose of request and the nature of assistance sought;
g) establishing a link between criminal matter and assistance sought;
h) information available for the person under investigation or property under investigation;
i) criminal history of alleged accused, if any;
j) degree of confidentiality required and the reasons thereof;
k) any time limit within which the request should be executed;
l) such other information as is necessary for the proper execution of the request;
m) mandatory assurances;
n) country-specific assurances (where required) and
o) cost related to the execution of the request, where applicable.

3.3 If necessary, and wherever possible, requests for assistance shall include:

a) Identity, nationality and location of a person or persons who is/are the subject of investigation, prosecution or proceedings;
b) Details of any particular procedure or requirement that needs to be followed in Requested Country and the reasons thereof.

C. Language of Request

3.4 The request for assistance and all the supporting documents shall be provided in English and *wherever necessary*, the request and the supporting documents should be translated in the language required by the Requested Country. The translated copies (if any) should be duly certified by the translator and authenticated by the concerned Investigating Agency.

Figure 3.1: Points to be considered by Investigating Officer/Agency before drafting a Request for Assistance

☐ **Necessity and grounds of request**	The Investigating Officer or Agency should ensure whether they have sufficient grounds to make a request to a foreign country.
☐ **Timeline**	The Investigating Officer or Agency should bring out clearly the period/timeline during which the request needs to be executed.
☐ **Potential ground of Refusal**	It should be ensured that the request does not fall under the grounds of refusal mentioned in the MLAT or Agreement or as compiled in Part I of these Guidelines.
☐ **Legal Basis of Request**	The provisions of the Bilateral Treaty/Agreements, Multilateral Treaty/Agreements or International Convention as well as requirement of the law of Requested Country such as principle of dual criminality, assurance of reciprocity, etc., may be studied with view to determine that such a request would fall within the parameters of legal requirements of the Requested Country. Where no such Bilateral Treaty/Agreements, Multilateral Treaty/Agreements or International Convention exists, request may be made on the basis of assurance of reciprocity. The assurance of Reciprocity is to be provided by the Central Authority of India to the Requested Country.
☐ **Format of the document and any evidentiary requirement in Requested Country**	Before making a request it should be checked whether there is a specific format prescribed by the Requested Country for entertaining/execution of request or if there is any mandatory requirement in the form of assurances, etc., in the Requested Country.
☐ **Language of the Request**	The request and supporting documents should be made or accompanied by a certified translation with a language specified in the MLAT or the official language of the Requested Country (non-treaty countries).
☐ **Confidentiality Requirement**	It should be evaluated if there is any need for confidentiality requirement for execution of request.
☐ **Limitation**	The investigation/prosecution is not barred by the period of limitation.

Figure 3.2: Check List of Documents to be attached with Draft Request (MLA Request/LR) (to be sent to Central Authority for concurrence)

All the documents are to be sent to "Under Secretary (Legal Cell), Internal Security-II Division, Ministry of Home Affairs, 2nd Floor, Major Dhyan Chand National Stadium, New Delhi-110001"

- ☐ 1. Draft application containing brief facts of the case (Refer to figure 3.4 and 3.5)
- ☐ 2. Original copy of the legal opinion of the Director of Prosecution or Senior Law Officer
- ☐ 3. Copy of application from Investigating Agency requesting the Court to issue LR
- ☐ 4. Copy of FIR and translated version of FIR (if filed in any vernacular language)
- ☐ 5. Extracts of relevant Sections of Indian Law
- ☐ 6. Applicable laws of Requested Country
- ☐ 7. Contact details of the officer of the law enforcement agency concerned
- ☐ 8. Any other necessary document related to evidence sought

Figure 3.3: Check List of Documents to be sent to AD (IPCC), CBI after Letters Rogatory has been issued by Court

All the documents are to be sent to "The Assistant Director, IPCC, 6th Floor, CBI HQ, 5-B, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, New Delhi- 110003"

- ☐ Covering Letter by Investigating Agency or Court
- ☐ LR issued by Court under relevant provisions of law i.e. CrPC, PMLA, FEOA, etc.
- ☐ Extract of sections of Indian law mentioned in the request including the law on limitation
- ☐ English translation of all the documents attached and translation in the language required by the requested country (wherever required)

Case-wise list of documents to be attached with the request

- ☐ List of witnesses to be examined (if any)
- ☐ List of questions to be asked from the witness (if any)
- ☐ List of documents to be collected (if any) (Description of documents/articles to be collected & procedure for the same is to be provided)
- ☐ Certified copy of the order for attachment or forfeiture of property (if any)

Figure 3.4: Executive Summary of the information to be included in the Request

1)	Purpose for making the request				
2)	Nature of request				
3)	Name of the Requested Country				
4)	Basis of request	☐	MLAT	☐	UNTOC
		☐	SAARC Convention	☐	UNCAC
		☐	Hague Convention	☐	Harare Scheme
		☐	Vienna Convention, 1988 (NDPS)		
		☐	Any other Bilateral Treaties/Agreements, Multilateral Treaties/Agreements _____ (Specify)		
		☐	Any other International Convention/Resolution _____ (Specify)		
		☐	Assurance of Reciprocity		
5)	Issuing Authority	Name: Address: Details of the contact person at Issuing Authority:			
6)	Investigating Authority	Name: Address: Details of the contact person who can give clarification on the case:			
7)	Case details	FIR No./ Case Number: Section under which FIR / Case Number has been registered:			
8)	Brief summary of the case	Brief fact of the case:			
		Link between alleged offence(s) and assistance requested:			
		Applicable laws and maximum penalties for the offence in India:			
		Limitation Period:			
		Current Status of the case			
9)	Any other relevant information for proper execution of request				
10)	Any specific manner/ procedure to be followed for execution of request				
11)	Cost for executing the request				
12)	Timeline for executing the request				
13)	Limitation of use				
14)	Confidentiality requirement with reasons (if any)				

Date:

(to be signed and stamped by the Issuing Authority)

Figure 3.5: Format and contents of Letters Rogatory and Mutual Legal Assistance Request

For Letters Rogatory: To: The Competent Authority of the _____(Requested Country)

(Court of Jurisdiction)

I, [name of the presiding officer of the Court], has been authorized to make this request for mutual legal assistance in criminal matters, respectfully request the assistance of the Government (name of the Requested Country) in the criminal matter.

For Mutual Legal Assistance Request: To: The Central Authority of the _____(Requested Country)

Certificate on behalf of the _____ (Requesting party)

I, _____, Under Secretary to the Government of India, IS-II Division Ministry of Home Affairs am authorized to make this request for mutual legal assistance in criminal matters on behalf of government of India and certify that the Government of _____ (Requested Country) in relation to criminal proceeding involving _____ (describe nature of criminal proceedings)

Request: _____ *(to be filled by Investigating Agency /Court*

[This request is made by the Government of the Republic of India for assistance in accordance with the provisions [describe the relevant provisions] of Treaty between Republic of India and (name of the Requested country) or United Nations Convention Against Corruption or United Nations Convention Against Transnational Organized Crime or SAARC Convention or Harare Scheme (or any other Treaty/Agreement which is relevant); Or

This request is made by the Government of the Republic of India for assistance in accordance with the Assurance of Reciprocity in similar matters. Original Assurance of Reciprocity issued by Ministry of Home Affairs, Govt. of the Republic of India, who is Central Authority of India, is attached herewith.]

Nature of Request: _____ *(to be filled by Investigating Agency /Court*

[This request relates to (describe the subject of criminal matter). The Authority/agency conducting the investigation/prosecution of the criminal matter is (describe authority/agency concerned with the criminal matter).

Indicate whether judicial proceedings have been, or are to be, instituted or concluded, as the case may be, and provide details of such proceedings (example the level of the Court).]

Criminal Offences / Applicable Legislation / Penalties: _____ *(to be filled by Investigating Agency /Court*

[Set out the offences alleged to have been contravened in relation to the criminal proceedings as well as the maximum penalties for these offences and attach copies of applicable legislative provisions. State identity of Suspect/ accused person, if known. If the matter pertains to the enforcement of foreign confiscation order etc., then state also the legal provisions pursuant to which the foreign confiscation order was/is intended to be made, as the case may be.]

Period of Limitations: _____ *(to be filled by Investigating Agency /Court*

[Here it may also be mentioned that the offence is not time-barred or punishment has not lapsed, citing the relevant provision of the period of limitation of Indian Law.]

Statement of Facts: _____ *(to be filled by Investigating Agency /Court*

[This column is to be filled up on case to case basis.

a) Describe the material facts of the criminal matter including, in particular, those necessary to establish circumstances in the Requesting Country ie. India connected to the evidence or assistance sought, and the relevance of the evidence in India in the criminal matter.

b) Clearly state the connection of material sought. E.g. if bank records are sought, the connection of bank accounts in requested country with the investigation being conducted in India may be specifically mentioned. If the bank accounts have been utilized in the commission of crime, that may also be invariably mentioned.

c) Indicate whether and how any person(s) has carried on or benefited from the offence(s) committed in the Requesting State. State how the thing sought to be produced by this Request (whether by itself or with another thing) will be of substantial value to the criminal matter.

d) State also whether a foreign confiscation order has been or may be made in such proceeding and whether any person(s) affected or will be affected by such an order has been notified of the proceedings in accordance with the Domestic Law. Provide details of seizure, confiscation, restitution of the property to the Requested Party against which restraint / enforcement is sought and how such property is bona fide linked to the offence.]

Purpose of the Request: _____ *(to be filled by Investigating Agency /Court* _____

[State purpose which is intended to be achieved by the assistance sought, e.g. investigation, prosecution, prevention, suppression of crime, freezing, seizure, confiscation and return of the proceeds of crime in a criminal matter and secure admissible evidence to be used in the trial.]

Assistance Requested: The Competent Authority of Government of _____(name of the Requested country) is requested to take such steps as are necessary for:

_____ *(to be filled by Investigating Agency /Court* _____

[use only relevant portion which is related to the case.

The Competent Authority of Government of (name of the Requested country) is requested to take such steps as are necessary for:

a) Examination of a witness in the Requested Party;

E.g. Mr. X of ABC Co. Ltd., (address) is to be orally examined on the following matters:

- Specify clearly the relevant issues/ areas relating to the subject-matter of the criminal proceedings/investigation on which evidence of the witness is sought and/or provide a list of the relevant questions. Specify clearly the manner of examination and applicable legal safeguards as well (witness rights as per India Law).
- Include all available personal details of the witness (including name, nationality, location, passport information and gender etc)
- State the status of the witness (suspect/accused, or simply a witness)
- Include a clear explanation of how the information sought from the witness is relevant to the case.

b) production of documents, records or items before a Court (and obtaining of oral evidence of the witness producing such material for the purpose of identifying and providing the material produced)

E.g. - Director of ABC Co. Ltd., (address) is required to produce (describe the form of evidence e.g. "certified copies") the following documents, records or items for the period (state relevant time frame):

- Specify documents, records or items or classes thereof.
- The above witness to be orally examined on the following matters for the purpose of identifying and proving the documents, records or items produced)
- state relevant particulars, e.g. to provide confirmation as to his position in a company/office and that he is responsible for keeping/ maintaining /holding the documents, records or items in relation to the subject-matter of the investigation; that he is authorized by the relevant law of the Requested Party to make the statement ; to confirm that he has access to the documents, records or items kept in relation to the subject-matter of the investigation in the normal course of his duties; to confirm the authenticity of the copies of the documents, records or items supplied; to confirm that the documents, records or items were created in the ordinary course of business.

c) search of person or premises for documents, records or items; (read section 105 of Cr. PC)

E.g. - The premises of ABC Co. Ltd., (address) to be searched under a search warrant for the seizure of the following from the company:

- provide details of the documents, records or items sought to be searched for and seized,
- support any request for originals of documents, records or items seized with reasons,
- support the belief that relevant documents would be available in the premises of the ABC Co. Ltd.
- Search being a coercive procedure, the information/evidence supplied shall invariably show the nexus of the premises/computer/electronic device with the Crime/Criminal to establish reasonable suspicion/probable cause.
- State how the items seized will be relevant to the case.

d) production of documents, records or items through production orders;

E.g. - Manager of ABC Bank Ltd., (address) to be required to produce copies of the following documents, records or items under a production order:

- (describe particulars of material required to be produced and where located).
- (state grounds for believing that the material sought is likely to be of substantial value to the criminal matter).

- (support any request for the production of originals of documents with reasons).
- (if original cannot be produced, request for authenticated copies of the same).
- For bank document, indication of the name and address of the bank, account number, account holder name, time period for the production of the bank statements, types of banking documents requested (account opening documents, statements, wires, loan agreements, among others), relation of the bank account with the crimes committed along with the certificate provided in the respective Statute.

e) Arrangement of travel of person/persons in custody or an expert from (name of Requested Party) to assist in a criminal matter;

Read Section 105B of Cr. PC.

E.g.-Arrangements to be made for Mr. X (address) to travel to (name of Requesting Party) to give assistance in a (criminal matter) by rendering the following assistance:

- specify the assistance sought.
- provide the undertakings required by the law of (name of Requested Party).
- provide details of the allowances to which the person will be entitled, and of the arrangements for security and accommodation for the person, while the person is in (name of Requesting Party) pursuant to the request).

f) Enforcement of a forfeiture order/request to assist in the restraining of dealing in property; (Read section 105 C of Cr.PC).

- include an official, certified copy of the relevant order(s)
- include an official, certified copy of the conviction of the person
- include the provisions of the relevant proceeds of crime laws (including information about restraint and forfeiture regimes)
- provide confirmation that the conviction and the order are final and are not subject to appeal
- include information about the location and particulars of the assets to be restrained, forfeited or used to satisfy a pecuniary order
- include as much information as possible to link the criminal conduct of the person to the assets located in Requesting country (including evidence of transfers or other financial information)
- include any information if there is any third party interest in any of the properties in the Requested country.

g) Assistance in locating / identifying and locating a person who is suspected to be involved in/to have benefited from the commission of a serious offence;

E.g. - Arrangements to be made to locate / identify and locate Mr. X who is believed to be in (name of Requested Party) with the last known address at (address).

- State particulars of person concerned.

h) assistance in tracing property suspected to be connected to a serious offence;

E.g. - Arrangements to be made to trace (description of property) believed to be in (name of Requested Party).

- state particulars of property concerned.

i) Arrangement of examination of a person as witness through commission to assist in a criminal matter;

- read Section 285 of Cr. PC.
- Specify clearly the relevant issues/ areas relating to the subject-matter of the criminal proceedings/investigation on which evidence of the witness is sought and/or provide a list of the relevant questions. Specify clearly the manner of examination and applicable legal safeguards as well)
- Attach original order of the Court issuing the commission.

j) Electronic Evidence

If electronic evidence is being sought, the connection if relevant email/Twitter/Facebook account with crime and criminal may be mentioned. How the said account has been used in the commission of crime may also be highlighted. It may also be mentioned that preservation request has already been sent to concern ISPs.]

Mandatory Assurance And Undertakings

It is confirmed that this request:

(a) Neither relates to the investigation, prosecution or punishment of a person for a criminal offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character nor it is made for the purposes of investigating, prosecuting, punishing or otherwise causing prejudice to a person on account of that person's race, religion, sex, ethnic origin, nationality or political opinions;

(b) Does not relate to the investigation, prosecution or punishment of a person for an offence in a case where the person has been convicted, acquitted or pardoned by a Competent Court or other Authority of the Republic of India or has undergone the punishment provided by the laws of the Republic of India, in respect of that offence or of another offence constituted by the same act or omission as that offence.

(c) As per Indian Law, it is not necessary to give any notice to the accused either before issuing the LR or before examining him as a witness/ accused.

(d) Cost: Generally, the cost of execution of letter of Request shall be borne by requesting State as per the provisions of the Mutual Legal Assistance Treaty. However, if there are significant costs involved like travel of witnesses/Cost of obtaining Expert Opinion etc., mention the readiness to meet the expenditure to be incurred.

(e) Should the Judicial Authority of the Requested Country require the return of any information / evidence / thing obtained in pursuant to this request at the conclusion of the criminal proceeding, the same shall be returned to the Judicial Authority of the Requested Country.

(f) The person(s) whose attendance is requested shall not:

i. be detained, prosecuted, punished and subjected to any other restriction of personal liberty in the territory of Republic of India for any acts, omissions of convictions which preceded the person(s) departure from the Requested Country other than that to which the request relates.

ii. be subjected to any civil suit in respect of any act or omission of the person that is alleged to have occurred, or that had occurred before the person's departure from the Requested Country.

iii. be required to give evidence in any proceeding or to assist in any investigation(s) other than the proceeding or investigation(s) to which the request relates, without the person's consent.

(g) In the matter of investigation of an offence for which the maximum punishment prescribed under the law is death, an assurance for non-execution of such penalty by commutation or remission of such penalty may be given on a case to case basis.

[Paragraph (f) shall cease to apply if a person, being free to leave the country has not left within 30 days or for any period agreed upon or after receiving official notification that the person's attendance is no longer required has remained voluntarily in the territory of the country or, having left has voluntarily returned.]

Limitation of Use: *(to be filled by Investigating Agency /Court*

[Unless otherwise agreed, the Investigation agency of India, who is conducting investigation in the present case, shall not, without the consent of the Requested Country, use or transfer information or evidence provided by the Requested Country for investigations or proceedings other than those stated in the request. However, in cases where the charge is altered, the material provided may be used in so far as the offence, as charged, is an offence in respect of which mutual assistance could be provided under the present Treaty.]

Execution of Request: *(to be filled by Investigating Agency /Court*

[Procedure to be followed:

- (State details of manner and form in which evidence is to be taken and transmitted to Requesting Party, if relevant.)
- (State any special requirements as to certification / authentication of documents.)
- (State if attendance by representative of appropriate Authority of Requesting Party is required at examination of witnesses / execution of request and, if so, the title of the office held by the proposed representative.)

E.g.-Permission is requested for an officer of (name of appropriate Authority in Requesting Party) to travel to (name of

Requested Party) to remain present during the examination of witness and to assist the authorities of Requested Country (if required) during the execution of this request.]

Period of Execution: *(to be filled by Investigating Agency /Court*

[If required, state that it is requested that the request be executed urgently / within (state period giving reasons i.e. specify likely trial or hearing dates or any other dates/reasons relevant to the execution of the request.]

Confidentiality: *(to be filled by Investigating Agency /Court*

[Here explicitly mention the confidentiality requirement during handling of the request by Requested Country if any.

Eg: "The details of this investigation are considered sensitive. Therefore, please treat this request, its contents, the fact that this request has been made and the results of its execution as confidential and do not disclose it and share it with any subjects, except all those who are dealing with this request for the purpose of its execution, without the consent of the Requesting Authority."]

Liaison: *(to be filled by Investigating Agency /Court*

[Provide the details of the officers who are handling this request for liaising with Requested Country: State name of officer(s); Address; Telephone Number; Facsimile Number; Electronic mail address]

Please accept the assurance of our highest consideration.

(Signature along with seal)

Name of the Presiding Officer of the case:

Office:

Date:

Figure 3.6: List of countries having MLAT with India

S.No	Countries and year of MLAT or Agreement	Central Authority- Address and Email ID	Language requirement as per MLAT	Specifications requirements for making a request
1.	Australia "Commonwealth of Australia" MLAT-2011	Assistant Secretary International Crime Cooperation Central Authority International Crime Cooperation Division Attorney-General's Department 3-5 National Circuit BARTON ACT 2600 AUSTRALIA Telephone: +61 2 6141 3244 Facsimile: +61 2 6141 5457 Email: mutualassistance@ag.gov.au	Requests shall be submitted in the English language	No specific requirement.
2.	Azerbaijan "Republic of Azerbaijan" MLAT-2013	Ministry of Justice AZ 1073, Baku, Inshaatchilar ave.1 Tel: (994 12) 430-09-77 Fax : (994 12) 430-09-81 E-mail: mincus@azdata.net Web site: www.justice.gov.az	Contracting States shall use their national language attaching the translation in the national language of the other Contracting State or in the English language	No specific requirement.
3.	Bahrain "Kingdom of Bahrain" Agreement-2005	Ministry of Justice 82 Rd No 1702, Manama, Bahrain	Requests and supporting documents shall be accompanied by a translation into one of the official languages of the Requested State or into English	No specific requirement.
4.	Bangladesh "People's Republic of Bangladesh" Agreement-2011	Ministry of Home Affairs	Requests and supporting documents shall be accompanied by a translation into English.	No specific requirement.
5.	Belarus "Republic of Belarus" MLAT-2006	General Prosecutor's Office of the Republic of Belarus and the Supreme Court of the Republic of Belarus	Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in English.	No specific requirement.
6.	Bosnia & Herzegovina "Bosnia and Herzegovina" MLAT-2010	Ministry of Justice of Bosnia and Herzegovina 1 Trg BiH Street, 71 000 Sarajevo Tel: + 387 33 223 501, 223 502 Fax: +387 33 223 504	Requests with supporting documents shall be submitted in the English language, if required, accompanied by a translation in the language of the Requested State	No specific requirement.
7.	Bulgaria "Republic of Bulgaria" MLAT-2008	Ministry of Justice Address: 1 Slavyanska str. 1040, Sofia, Bulgaria Email: priemna@justice.government.bg Phone: +359 (2) 9237 555	Requests for legal assistance and supporting documents shall be accompanied by a certified translation in English or in the language of the Requested State	No specific requirement.
8.	Cambodia* "Kingdom of Cambodia" MLAT 2018	Ministry of Interior N° 275, Norodom, Phnom Penh; Phone: 855-23 721 190; Phone: 855-23 721 905	Request shall be submitted in the English language.	No specific requirement.
9.	Canada MLAT-1998	International Assistance Group Litigation Branch, Criminal Law Division Department of Justice Canada 284 Wellington Street, 2nd Floor Ottawa, ON K1A 0H8 Telephone: +613 957 4832 After hours: +613 851 7891 Facsimile: +613 957 8412 E-mail: cdncentralauthority@justice.gc.ca	Requests and supporting documents shall be accompanied by a translation into one of the official languages of the Requested State	No specific requirement.
10.	Egypt "Arab Republic of Egypt" Agreement-2009	Ministry of Justice Lazoughly Square Abdeen, Cairo Governorate, Egypt	Requests and supporting documents shall be accompanied by a translation in English or in the language of the Requested State	No specific requirement.
11.	France "French Republic" Agreement-2005	Ministry of Justice Ministère de la Justice et des Libertés Direction des Affaires criminelles et des Grâces Bureau de l'Entraide Pénale Internationale 13 place Vendôme 75042 Cedex 01 Telephone: +331 44 86 14 22, Facsimile: +331 44 86 14 11	Requests and supporting documents shall be accompanied by a translation into one of the official languages of the Requested Party. (French Translation)	No specific requirement..

12.	Hong Kong "Hong Kong Special Administrative Region of the People's Republic of China" Agreement 2009	Secretary for Justice The Mutual Legal Assistance Unit Department of Justice 47/F, High Block Queensway Government Offices 66 Queensway Hong Kong Telephone: (852) 2867 4343 Facsimile: (852) 2523 7959	Requests shall be in, or translated into, an official language of the Requested Party. All documents submitted in support of a request shall be accompanied, if so required by the Requested Party, by a translation into an official language of the Requested Party	Mandatory assurances[12] are required.
13.	Iran "Islamic Republic of Iran" Agreement 2010	Central Authority is the Judiciary	Requests and supporting documents shall be accompanied by a translation in English or in the language of the Requested State	No specific requirement.
14.	Indonesia "Republic of Indonesia" MLAT 2011	Ministry of Law and Human Right H.E. Minister for Law and Human Rights Directorate General of Legal Administrative Affairs, Jl. H.R. Rasuna Said Kav. 6-7 Jakarta 12940 Indonesia Telephone: +62 21 520 23 91 Facsimile: +62 21 526 10 82	English and the Indonesian translation (Bhasha Indonesia)	No specific requirement.
15.	Israel "State of Israel" MLAT 2015	Ministry of Justice 216 Y'affo st. Jerusalem (Sha'arei H'air building) Israel Tel. ++972-2-6595601 Fax ++972-2-6595611	Requests shall be submitted in the English language	No specific requirement.
16.	Kazakhstan "Republic of Kazakhstan" MLAT 2000	Office of the Attorney General	Requests and supporting documents shall be accompanied by a translation into one of the languages of the requested Party. (Translation in Kazakh or Russian)	No specific requirement.
17.	Kyrgyzstan "Kyrgyz Republic" MLAT 2014	General Prosecutor's Office" 010000, the Republic of Kazakhstan, Nur-Sultan city, Mangilik El avenue, 14 Chancery: +7 (7172) 71-28-68	the Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in the English or Russian languages	No specific requirement.
18.	Kuwait "State of Kuwait" Agreement 2007	Ministry of Justice (Criminal Execution Office & Foreign Communications)	Requests and supporting documents shall be accompanied by a translation into one of the official languages of the Requested Party or into English.	No specific requirement.
19.	Malaysia "Malaysia" MLAT 2012	Attorney General of Malaysia c/o International Cooperation Unit Attorney General's Chambers No. 45 Persiaran Perdana Precinct 4, 62100 Putrajaya, MALAYSIA Telephone: (+603) 8872 2000 Facsimile: (+603) 8890 2218	Requests and supporting documents thereto and other communications related to the request shall be submitted in the English language.	No specific requirement.
20.	Maldives "Republic of Maldives" MLAT 2019	Prosecutor General's Office Majeedhee Magu, Malé 20040, Maldives Phone: +960 300-0655	Request has to be sent in English	No specific requirement.
21.	Mauritius "Republic of Mauritius" Agreement 2006	Attorney General's Office Ground Floor, 2nd, 3rd, 4th, 5th, and 6th floor Renganaden Seeneevassen Building Port Louis, MAURITIUS Phone : (230) 203-4740 Fax : (230) 212-6742 Email : ago@govmu.org	Requests shall be submitted in the English language	No specific requirement.
22.	Mexico "United Mexican States" MLAT 2009	Office of the Attorney General Dirección General de Extradiciones y Asistencia Jurídica Procuraduría General de la República Avenida Paseo de la Reforma Nº 211-213, Segundo Piso, Colonia Cuauhtémoc, Delegación Cuauhtémoc,	Requests and supporting documents shall be in the language of the Requested Party or in English	No specific requirement.

[12] MANDATORY ASSURANCES

(a) does not relate to the prosecution or punishment of a person for a criminal offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character;

(b) is not made for the purposes of prosecuting, punishing or otherwise causing prejudice to a person on account of that person's race, religion, nationality or political opinions;

(c) does not relate to the prosecution of a person for an offence in a case where the person has been convicted, acquitted or pardoned by a competent court or other authority of (name of requesting place), in respect of that offence or of another offence constituted by the same act or omission as that offence; and

(d) does not have as its primary purpose the assessment or collection of tax.

		México, Distrito Federal, C.P. 06500 , Telephone: +52 55 53 46 01 13, Facsimile: +52 55 53 46 09 02, E-mail: fresendiz@pgr.gob.mx		
23.	Mongolia "Mongolia" MLAT-2004	General Prosecutor's Office.	Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in the English language.	No specific requirement.
24.	Morocco* "Kingdom of Morocco" MLAT 2018	Ministry of Justice Ministry of Justice Mamounieh Square, PO Box 1015, Rabat, Morocco Phone: +212 5372-13737	Arabic translation	No specific requirement.
25.	Myanmar "Union of Myanmar" MLAT-2010	Ministry of Home Affairs Office Building No.8, Administrative Zone Naypyitaw, UNION OF MYANMAR Telephone No. : +95-1-412-135 Facsimile No. : +95-1- 412-015	Requests shall be submitted in the English language.	No specific requirement.
26.	Russia "Russian Federation" MLAT-2000	Prosecutor General's Office of the Russian Federation Main Department of International Legal Cooperation 15a, Bolshaya Dmitrovka, GSP-3 Moscow 125993 Russia Telephone: +7 495 692 32 06 Facsimile: +7 495 692 29 79, +7 495 692 16 60; E-mail: transgprf@mal.ru	Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting party or in the English language. (Russian Translation)	No specific requirement.
27.	Singapore "Republic of Singapore" Agreement-2005	Director-General International Affairs Division The Attorney-General's Chambers 1 Upper Pickering Street Singapore 058288 REPUBLIC OF SINGAPORE	All requests and supporting documents submitted by the Requesting State shall be in English.	Foreign Law immunity certificate[13] and Mandatory assurances are required.
28.	South Africa "Republic of South Africa" MLAT-2005	Director General of the Department of Justice & Constitutional Development Private Bag x81 PRETORIA 0001 +27 315 1111	Requests shall be submitted in the English language	No specific requirement.
29.	South Korea "Republic of Korea" MLAT-2005	International Criminal Affairs Division Criminal Affairs Bureau Ministry of Justice, Republic of Korea Gwacheon-Si Gwanmoon-Ro 88, Government Complex Building #5, Postal Code 427-720 Telephone: +82 2 2110 3555 Facsimile: +82 2 3480 3113	Requests with supporting documents and other communications made shall be made in the English language accompanied by a translation into the Korean language	No specific requirement.
30.	Spain "Kingdom of Spain" Agreement-2007	Ministry of Justice Ministerio de Justicia Subdirección General de Cooperación Jurídica Internacional c/San Bernardo, 62 28071 Madrid , Spain Telephone: +34 91 390 22 98/44 33 Facsimile: +34 91 390 44 57	Requests and supporting documents shall be accompanied by a translation into the official language of the Requested Party or English	No specific requirement.
31.	Sri Lanka "Democratic Socialist Republic of Sri Lanka" MLAT-2010	Ministry of Justice and Law Reforms Secretary Ministry of Justice and Prison Reforms Superior Courts Complex Adhikarana Mawatha Colombo 12, Sri Lanka Fax : +94 112 445 447 Email : secretary@moj.gov.lk	Requests shall be submitted in the English language.	No specific requirement.
32.	Switzerland "Confederation of Switzerland" Exchange of		French, German or Italian translation is required.	No specific requirement.

[13] [Letter head]
FOREIGN LAW IMMUNITY CERTIFICATE
I, [name & designation], on behalf of the Government of India certify that under the law of India, persons generally or a specified person could, either generally or in specified proceedings and either generally or in specified circumstances, be required to[answer such questions as are sought to be asked / produce the equivalent of the document/things/information/evidence] sought by this Request.
[Signature and/or seal]
[Name, Designation, Office, Date]

	Diplomatic Notes-1989			
33.	Sultanate of Oman Agreement-2015	Royal Oman Police	Requests and supporting documentation shall be accompanied by a translation into one of the official languages used in the Requested State	No specific requirement.
34.	Tajikistan Republic of Tajikistan MLAT-2003	Prosecutor's Office of the Republic of Tajikistan 734025, Dushanbe city, Tehron 36 Street (+992 37) 2215327 Email: dushanbe@prokuratura.tj	Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in the English language	No specific requirement.
35.	Thailand Kingdom of Thailand MLAT-2004	International Affairs Department Office of the Attorney General, Rajaburi Direkriddhi Building, Government Complex Chaeng Watthana Road, Lak si Bangkok 10210, Thailand Telephone: +66 2 142 1660 Facsimile: +66 2 143 9797 Email: inter@ago.go.th	Requests shall be submitted in English language	No specific requirement.
36.	Turkey Republic of Turkey Agreement-1993	Ministry of Justice General Directorate of International Law and Foreign Relations Mustafa Kemal Mahallesi 2151. Cadde No:34/A 06520 Söğütözü, Ankara, Turkey Telephone: +90 312 2187821 Facsimile: +90 312 2194523 E-mail: uhdigm@adalet.gov.tr	Request and documents to be provided in the English language	No specific requirement.
37.	Ukraine MLAT-2003	General Prosecutor's Office of Ukraine (concerning requests by pre-trial investigation authorities) and the Ministry of Justice of Ukraine (concerning requests by courts)	Requests and supporting documents shall be accompanied by a translation into English	No specific requirement.
38.	United Arab Emirates Agreement-2000	Ministry of Interior 1st Street, W 56 - Abu Dhabi United Arab Emirates	Requests and supporting documents shall be accompanied by a translation into one of the official languages of the Requested Party. (Arabic along with English Translation)	Legal provisions relating to lapse and limitation of law suit.
39.	United Kingdom United Kingdom of Great Britain and Northern Ireland Agreement-1995	UK Home Office 5th Floor Fry Building 2 Marsham Street London SW1P 4DF Telephone: +44 20 7035 4040 Facsimile: +44 20 7035 6985	Request and supporting documents shall be drawn in the language of Requesting Party and shall be accompanied by a translation into that of the Requested Party.	No specific requirement.
40.	*United States of America MLAT-2005	Office of International Affairs Criminal Division United States Department of Justice 1301 New York Avenue, N.W. Washington, D.C. 20005 Telephone: +1 202 514 0000; Facsimile: +1 202 514 0080	The request shall be in English	No specific requirement.
41.	Uzbekistan Republic of Uzbekistan MLAT-2001	Prosecutor's Office of the Republic of Uzbekistan 66 Yahyo Gulyamov Street, Tashkent 142000, Uzbekistan Phone: +998 71 232 10 07	The Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in the English language.	No specific requirement.
42.	Vietnam Republic of Vietnam MLAT-2008	International Cooperation and Mutual Legal Assistance in Criminal Matters Department, Mutual Legal Assistance in Criminal Matters Division, Supreme People's Procuracy, 44 Ly Thuong Kiet street Hoan Kiem district, VIET NAM Telephone: +84 4 38 255 058 ext. 103 or 105; Facsimile: +84 4 39 361 637 Email: tttp_mla@vks.gov.v	A request, any supporting documentation and any communications shall be in the language of the Requesting Party and be accompanied by a translation into the language of the Requested Party or in the English language	No specific requirement.

*The MLAT has been signed but yet to come in force.

Part IV: Service of Summons, Notices and Judicial Processes

A. Request for Service of Summons/Notices/ Judicial Processes on Persons Residing Abroad

4.1 In India, Section 105[14] and Chapter VII A of CrPC, Section 57[15] and Section 61[16] of PMLA, Section 10 FEOA[17], etc., provides for the reciprocal arrangements made by the Central Government of India with the foreign countries with regard to the service of summons, notices or any other judicial documents/processes.

4.2 The request for service of summons/notices/ judicial processes should be addressed to "**Under Secretary (Legal Cell), Internal Security-II Division, Ministry of Home Affairs, 2nd Floor, Major Dhyan Chand National Stadium, New Delhi-110001**" and forwarded through post/dasti along with a covering letter from the Registrar/Court official or Investigating Agency.

4.3 The request for service of summons/notices/ judicial processes on persons residing abroad should include:

- Complete name and address of the individual/organization on whom the documents are to be served;
- Status of the person (witness/accused) against whom the summons or notice has been issued;
- Next date of hearing of the case or other deadlines to be followed;
- Material facts of the case including purpose of the request, the nature of the assistance sought;
- The link between alleged offence(s) and assistance requested (in case of service of summons/notices/

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[14] CrPC- Sec 105. Reciprocal arrangements regarding processes.—(1) Where a Court in the territories to which this Code extends (hereafter in this section referred to as the said territories) desires that—
(a) a summons to an accused person, or
(b) a warrant for the arrest of an accused person, or
(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or
(d) a search-warrant,
issued by it shall be served or executed at any place,—
(i) within the local jurisdiction of a Court in any State or area in India outside the said territories, it may send such summons or warrant in duplicate by post or otherwise, to the presiding officer of that Court to be served or executed; and where any summons referred to in clause (a) or clause (c) has been so served, the provisions of section 68 shall apply in relation to such summons as if the presiding officer of the Court to whom it is sent were a Magistrate in the said territories;
(ii) in any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and send to such authority for transmission, as the Central Government may, by notification, specify in this behalf.
(2) Where a Court in the said territories has received for service or execution—
(a) a summons to an accused person, or
(b) a warrant for the arrest of an accused person, or
(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or
(d) a search-warrant,
issued by— (I) a Court in any State or area in India outside the said territories;
(II) a Court, Judge or Magistrate in a contracting State, it shall cause the same to be served or executed) as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where—
(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 80 and 81,
(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by section 101;
Provided that in a case where a summons or search-warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search-warrant through such authority as the Central Government may, by notification, specify in this behalf.

[15] Ibid., Page 10

[16] Ibid., Page 10

[17] FEOA-Section 10. Notice.—..(4) A notice under sub-section (1) shall be forwarded to such authority, as the Central Government may notify, for effecting service in a contracting State.
(5) The authority referred to in sub-section (4) shall make efforts to serve the notice within a period of two weeks in such manner as may be prescribed..

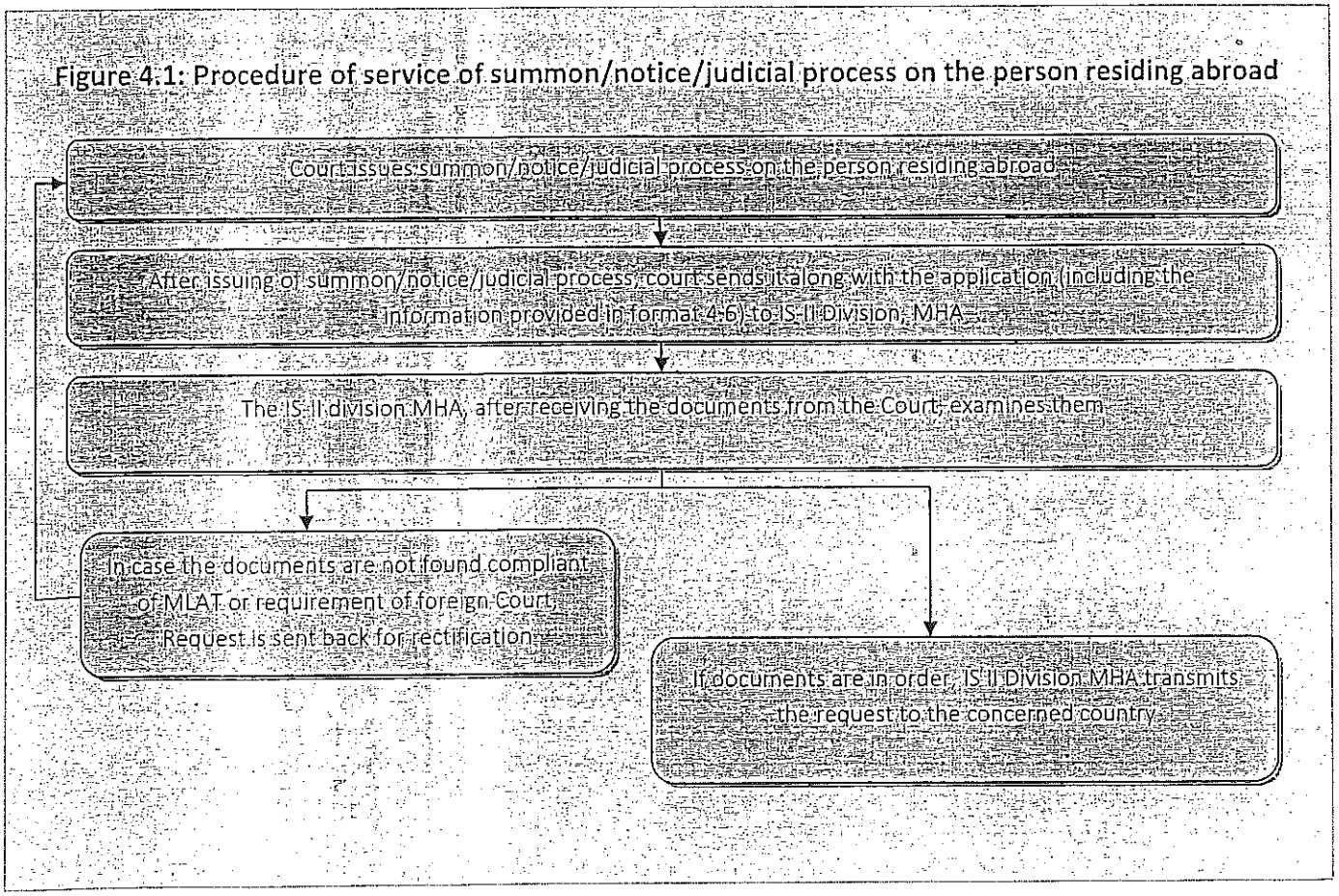
judicial processes is to be made on suspects);

- Specific instructions, if any, as to how the document has to be served in a foreign country;
- Confirmation from the Court/Agency that:
  - ✓ the case is criminal in nature
  - ✓ Court will bear any expenditure if charged by foreign government/agency for service of summons/notices/ judicial processes.
- Complete address of the issuing Authority to which the judicial papers/service reports may be returned;
- Details of any allowances and expenses to which the summoned person is entitled.

4.4 In case, the option of recording of evidence through audio-visual means is provided by the Court, the following information shall also be included in the request:

- Copy of Order providing the option of recording of evidence through audio-visual means;
- Tentative date and time range (considering the time difference between the countries) for recording of statements;
- Link for conducting video conferencing;
- Details of the technical requirements for establishing the link;
- Contact details of the person (coordinator at the Court) who could be contacted for technical assistance and testing of the links during recording of evidence through audio-visual means (Name, designation, phone number, email, etc.)

Figure 4.1: Procedure of service of summon/notice/judicial process on the person residing abroad



B. Important Points to be noted for making a Request for Service of Summons/Notices/Judicial Processes

1) It is to be noted that foreign Courts or authorities require at least a period of 10 weeks for transmission of request and service of summons/notices/judicial processes upon the person concerned. The next date of hearing/appearance for the case may be decided accordingly.

2) In the case of countries referred to in Figure 4.4 and other non-English speaking countries, the summons/notices/judicial documents should be accompanied with the certified/authenticated translation (in duplicate) in the official language of the country where such document is proposed to be served.

3) The documents are served by the Requested Country as per their domestic laws and procedure.

4) For the purpose of Figure 4.6 the issuing Authority shall be the Authority issuing summon/notice/judicial processes.

5) The execution of non-bailable warrants of arrest amounts to extradition. Hence, they do not come under the ambit of service of judicial documents. However, only the service and not the execution of Non-Bailable warrants can be done by IS-II Division, MHA.

6) The IS-II Division, MHA shall make endeavours to transmit summons/notices/judicial processes in cases relating to serious crimes against women and children to the Requested Country preferably within a period of ten working days. It is however clarified that the MHA cannot quantify the time period taken by the Requested Country to serve such summons/notices/judicial processes on the witness.

C. Service of Summons in Foreign Country for Recording of Statement or Collection of Evidence through Audio-Visual Means

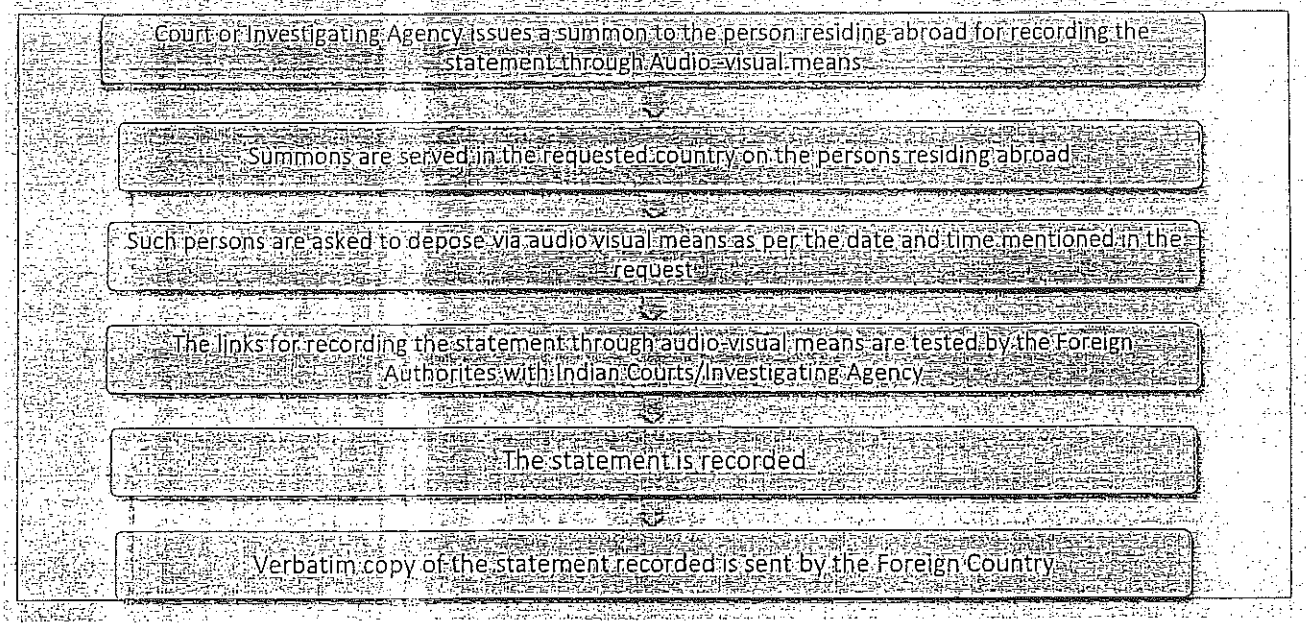
4.5 For taking statements or evidence through audio-visual means in a foreign country, a summon has to be issued by the Indian Court or Investigation Agency and forwarded along with the request to Central Authority of India for further transmission to the foreign country. After the summon is duly served upon the person residing abroad through the Competent Authority in the foreign country, such a person has to appear on the date, time and place agreed upon by Court, Central Authority of India and Central Authority of the Requested Country.

4.6 The request for recording of statement through audio-visual means should also include details of the people who should be present in the room while recording the statement. The details of the links provided in the request are tested by the Indian Courts as well as the foreign Authorities.

4.7 After recording the testimony of the person through audio-visual means, the foreign country sends back the verbatim copy of the statement recorded to India.

Procedure for Recording of Statement through Audio-Visual Means

Figure 4.2: Procedure of recording statement through Audio-Visual means



4.8 Recording of statement through audio-visual means shall be conducted as per the provisions of the Information Technology Act, 2000, the Indian Evidence Act, 1872 and Code of Criminal Procedure, 1973. A Court may either *suo moto* or on application by the Investigating Officer/Agency direct any person residing abroad to appear before it or give evidence or make submissions through the use of audio-visual means.

4.9 The coordinators are to be appointed for recording of statement by audio-visual means by the Central Authority/Court in India as well as the Competent Authority in Requested Country. For the Requested Country the coordinator may be the Central Authority of Requested Country or if the law of Requested Country permits the official of Consulate/Embassy of India

4.10 Recording the statement through audio–visual means shall ordinarily take place at the mutually agreed time between the Court in India and the Requested Country keeping in view the time difference, if any, between India and Requested Country.

4.11 The identity of the person to be examined shall be confirmed by the Court with the assistance of the co-coordinator at the time of recording of the evidence. For examination of prosecution witness or Court witness, the prosecution and where person to be examined is a defence witness, the defence counsel will confirm to the Court his location, willingness to be examined by audio-visual means, place and facility of such recording of statement through audio-visual means. In case the person to be examined is an accused, prosecution will confirm his location.

4.12 Establishment and disconnection of links between the Court in India and the point at Requested Country would be regulated by orders of the Court in India. The Court shall satisfy itself that the person to be examined at the Requested Country can be seen and heard clearly and similarly that the person to be examined at the Requested Country can clearly see and hear the Court. The Court shall at all times have the ability to control the camera view in the Requested Country so that there is an unobstructed view of all the persons present in the room. The Court shall have a clear image of each deponent to the extent possible so that the demeanor of such person may be observed.

4.13 The Court may, at the request of a person to be examined, or on its own motion, taking into account the best interests of the person to be examined, direct appropriate measures to protect his privacy keeping in

mind his age, gender and physical condition.

4.14 Where a party or a lawyer requests that in the course of recording of statement through audio-visual means some privileged communication may have to take place, Court will pass appropriate directions in that regard.

4.15 In case any party or his/her authorized person is desirous of being physically present at the Requested Country at the time of recording of the evidence, it shall be open for such party to make arrangements at its own costs including for appearance/representation at the Requested Country subject to orders to the contrary by the Court.

4.16 Third parties may be allowed to be present during recording of statement through audio-visual mode subject to orders to the contrary, if any, by the Court. Where, for any reason, a person unconnected with the case is present at the requested country, then that person shall be identified by the coordinator of the Requested Country at the start of the proceedings and the purpose for his being present explained to the Court.

4.17 The issues related to the cost incurred on recording of statement by audio-visual means shall be governed by MLAT and in case of non-treaty countries with mutual consent of the Central Authorities.

Technological and coordination Requirements of recording of statement through Audio-Visual means

4.18 The respective co-ordinators shall conduct a test between both the countries well in advance, to resolve any technical problem so that the proceedings are conducted without interruption.

4.19 The equipment including hardware and software required for recording of statements by audio-visual means are:

(a) A computer resource, desktop or laptop with internet connectivity and printer;
(b) Device ensuring uninterrupted power supply;
(c) Video Camera;
(d) Microphones and speakers;
(e) Display unit;
(f) Document visualizer;
(g) Comfortable sitting arrangements ensuring privacy;
(h) Adequate lighting;
(i) Insulations as far as possible/proper acoustics;
(j) Digital signatures from licensed certifying authorities for the co-ordinators at the Court point and the remote point.

4.20 The coordinator on both sides shall provide:

i) a translator in case the person to be examined is not conversant with the language of the Court;
ii) an expert in sign language in case the person to be examined is speech and/or hearing impaired;
iii) an assistance, for reading of documents in case the person to be examined is visually challenged;
iv) an interpreter or special educator, as the case may be, in case the person to be examined is temporarily or permanently mentally or physically disabled.

4.21 It should be ensured by the coordinators that:

i) person to be examined or heard is available and ready at the room earmarked for the recording of statement through audio-visual means at mutually agreed time.
ii) no other recording device is permitted in the room except the one installed for recording of statement

through audio-visual means;

iii) entry into the video conference room is regulated;

iv) coordinator at the Court should ensure that the co-coordinator at the Requested Country has certified copies or soft copies of all or any part of the Court record in a sealed cover directed by the Court sufficiently in advance of the, scheduled recording of statement.

4.22 If in the course of examination of a person at a Requested Country, it is necessary to put a document to him, the Court may permit the document to be put in the following manner:

i) if the document is at the Court in India, by transmitting a copy of it to the Requested Country electronically including through a document visualizer and the copy so transmitted being then put to the person;

ii) if the document is at the Requested Country, by putting it to the person and transmitting a copy of it to the Court electronically including through a document visualizer. The hard copy would also be sent subsequently to the Court by courier/mail.

4.23 The matters with respect to which no express provision has been made in these guidelines shall be decided by the Court in consultation with the Requested Country.

E. Execution of Request for Service of Summons/Notices/Judicial Processes Issued by the Foreign Courts/Authorities

4.24 The request for service of summons/notices/judicial processes from a Contracting State or foreign country are received by IS-II Division, Ministry of Home Affairs (Central Authority of India) through diplomatic channels/MEA or directly from the Central Authority of Contracting State or foreign country.

4.25 After receipt of the request, the Central Authority of India shall examine the documents and having found them fit for service should-

(i) forward the same to the Chief Metropolitan Magistrate or Chief Judicial Magistrate or such Metropolitan Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced, or

(ii) send the document to any police officer for investigation, who shall thereupon investigate into the offence in the same manner, as if the offence had been committed within India.

4.26 The IS-II Division, MHA shall ensure that summons/notices/judicial processes received from the Contracting States or foreign country are compliant to the provisions of the Bilateral Treaty/Agreements, Multilateral Treaty/Agreements or International Convention under which they have been sent for service and the translated copy of such documents are enclosed in the language specified in Treaty. For the non-treaty countries, the Central Authority should ensure that the documents are translated into English (refer to Figure 4.5 of these Guidelines).

4.27 The concerned Authorities after service of these documents upon the person shall prepare a report of service of such documents and forward the report along with proof of service in original as per the domestic law and procedure of India or in the manner mentioned in the Request. The proof of service along with connecting documents shall be forwarded to IS-II Division, MHA. The Central Authority of India shall further forward the proof of service along with the connecting documents to the Requesting Country through diplomatic channels or through the same channel through which the request for service was

received.

4.28 The Competent Authorities assigned the task of service shall endeavor to serve the documents promptly and expeditiously, preferably within two weeks.

4.29 If the service of the documents cannot be effected upon, the reasons thereof shall be communicated within 7 days to the IS-II Division, Ministry of Home Affairs through the ILO concerned.

Figure 4.3: Check List of the Documents to be sent to Central Authority for Service of Summons/Notices/Judicial Processes

All the documents are to be sent to "Under Secretary (Legal Cell), Internal Security II Division, Ministry of Home Affairs, 2nd Floor, Major Dhyan Chand National Stadium, New Delhi-110001"

- ☐ Covering Letter by Registrar/Court Official or Investigating Agency addressed to the above mentioned Authority
- ☐ Duly filled, signed and stamped Application containing brief facts of the case for the request for service of summons/ notices/ judicial processes (Refer to figure 4.6)
- ☐ Original summon (in duplicate)/notice/judicial process signed and stamped by Court (Refer to Figure 4.7 and 4.8)
- ☐ Translated copy of Application and summon/notice/judicial document if required by the Requested Country
- ☐ Certified copy of Order of Court providing for recording of statement through audio-visual means (in case the option of recording of evidence through audio-visual means is provided by the Court)
- ☐ Copy/extract of applicable sections under which accused/defendant is being proceeded against

Figure 4.4: Requirements of Countries having MLAT/Bilateral Agreements with India for Execution of Request for Service of Summons/Notices/Judicial Processes

S.No	Countries	Requirements for making a request
1.	Australia	Australian Authorities levy charges for service of documents. Indian Court/Authority has to give an undertaking stating that whatever charges are levied by the Australian Authorities will be paid by the Court or Agency concerned.
2.	Azerbaijan	No specific requirement. Request has to be made in English.
3.	Bahrain	No specific requirement. Request has to be made in English.
4.	Bangladesh	No specific requirement. Request has to be made in English.
5.	Belarus	No specific requirement. Request has to be made in English.
6.	Bosnia & Herzegovina	No specific requirement. Request has to be made in English.
7.	Bulgaria	No specific requirement. Request has to be made in English.

8.	Cambodia*	No specific requirement. Request has to be made in English.
9.	Canada	No specific requirement. Request has to be made in English or French as per the requirement.
10.	Egypt	No specific requirement. Request has to be made in English.
11.	France	French translation of judicial document and supporting documents is required.
12.	Hong Kong	Request has to be made in English or Chinese. Mandatory assurances are required to be furnished (Refer to figure 3.6 of these guidelines).
13.	Iran	No specific requirement. Request has to be made in English.
14.	Indonesia	Request has to be made in English with Indonesian (Basha Indonesia) translation.
15.	Israel	No specific requirement. Request has to be made in English.
16.	Kazakhstan	Kazakh or Russian translation of judicial and supporting documents is required for making a request.
17.	Kyrgyzstan	No specific requirement. Request has to be made in English.
18.	Kuwait	No specific requirement. Request has to be made in English.
19.	Malaysia	No specific requirement. Request has to be made in English.
20.	Maldives*	No specific requirement. Request has to be made in English.
21.	Mauritius	No specific requirement. Request has to be made in English.
22.	Mexico	No specific requirement. Request has to be made in English.
23.	Mongolia	No specific requirement. Request has to be made in English.
24.	Morocco*	Arabic translation of judicial document and supporting documents is required.
25.	Myanmar	No specific requirement. Request has to be made in English.
26.	Russia	Request has to be made in English.
27.	Singapore	For claim of sovereign immunity certificate and Mandatory assurances are required (Refer to figure 3.6 of these guidelines). Request has to be made in English.
28.	South Africa	No specific requirement. Request has to be made in English.
29.	South Korea	Korean translation of judicial and supporting documents is required.
30.	Spain	No specific requirement. Request has to be made in English.
31.	Sri Lanka	No specific requirement. Request has to be made in English.
32.	Switzerland	French or German or Italian translation of judicial and supporting documents is required.
33.	Sultanate of Oman	No specific requirement. Request has to be made in English.
34.	Tajikistan	No specific requirement. Request has to be made in English.
35.	Thailand	No specific requirement. Request has to be made in English.
36.	Turkey	No specific requirement. Request has to be made in English.
37.	Ukraine	No specific requirement. Request has to be made in English.
38.	United Arab Emirates	Arabic translation of judicial document and supporting documents is required.

39.	United Kingdom	No specific requirement. Request has to be made in English
40.	United States of America	No specific requirement. Request has to be made in English
41.	Uzbekistan	No specific requirement. Request has to be made in English.
42.	Vietnam	No specific requirement. Request has to be made in English.

*The MLAT has been signed but yet to come in force

Note: For the countries which are not covered by any Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention, the summons/notices, judicial processes would be served on the basis of Assurance of Reciprocity (issued by MHA).

Based on the experience and communication held with such countries it is observed that they required the documents to be translated in their respective national languages.

Figure 4.5: Requirements of Non- MLAT Countries for Execution of Request for Service of Summons/Notices/Judicial Processes as per practice

S.No	Countries	Requirements for making a request
1.	Afghanistan	Dari or Pashto translation of request and supporting documents is required.
2.	Brazil	Portuguese translation of request and supporting documents is required.
3.	China	Chinese translation of request and supporting documents is required.
4.	Germany	German translation of request and supporting documents is required.
5.	Ireland	If personal service of judicial documents is required, a copy of relevant laws stating that that why personal service is required has to be provided.
6.	Italy	Italian translation of request and supporting documents is required.
7.	Japan	Japanese translation of request and supporting documents is required.
8.	Nepal	Nepali translation of request and supporting documents is required.
9.	Netherlands	Dutch translation of request and supporting documents is required.
10.	Poland	Polish translation of request and supporting documents is required.
11.	Portugal	Portuguese translation of request and supporting documents is required.
12.	Saudi Arabia	Arabic translation of request and supporting documents is required.
13.	Sweden	Swedish translation of request and supporting documents is required.

Figure 4.6: Format of the Request for Service of Summons/Notices/Judicial Processes

1)	Purpose for making request	Service of summon/notice/judicial documents			
2)	Nature of request				
3)	Name of Requested Country				
4)	Basis of request	☐	MLAT	☐	UNTOC
		☐	SAARC Convention	☐	UNCAC
		☐	Haque Convention	☐	Harare Scheme
		☐	Vienna Convention, 1988 (NDPS)		
		☐	Any other Bilateral Treaties/Agreements, Multilateral Treaties/Agreements _____ (Specify)		
		☐	Any other International Convention/Resolution _____ (Specify)		
		☐	Assurance of Reciprocity		
5)	Complete Name and Address of the person to be served	Name: Address: Telephone /Mobile Number: Email:			
6)	Issuing Authority	Name: Address: Pin Code: Details of the person at Issuing Authority: Designation: Phone/Mobile Number: Email:			
7)	Contact details of person/officer who could be contacted for clarifications about the document	Name: Designation: Phone No: Fax Email ID:			
8)	Case details	FIR No./ Case Number: Section under which FIR / Case Number has been registered:			
9)	Brief summary of the case	Brief fact of the case:			
		Applicable laws and maximum penalties for the offence in India:			
10)	Status of the person to be served abroad (Witness/accused)				
11)	Details of allowances and expenses payable to the person if any				
12)	Confirmation to pay any expenditure, if charged by foreign government/agency for service of documents				
13)	Any specific manner in which a service has to be made				
14)	Date by which the document is expected to be served abroad				
15)	Next date of hearing				
16)	Confidentiality requirement with reasons (if any)				

Option for recording evidence through audio - visual mean

17)	Mode of recording evidence	Audio/videoconferencing/any other mode

18)	Link for conducting video conferencing	
19)	Details of the technical requirements for establishing the link	
20)	Detail of the person who would provide technical assistance to Requested Country	Name Designation Phone number Email

Date: (to be signed and stamped by the Issuing Authority)

Figure 4.7: Format for summons to witness as provided in CrPC

FORM No. 33
SUMMONS TO WITNESS

To _____ of _____

WHEREAS complaint has been made before me that _____ (name of the accused) of _____ (address) has (or is suspected to have) committed the offence of _____(state the offence concisely with time and place), and it appears to me that you are likely to give material evidence or to produce any document or other thing for the prosecution;

You are hereby summoned to appear before this Court on the_____ day of _____next at _____ in the forenoon, to produce such document or thing or to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Dated, this _____day of , 20___

(Signature)

(Seal of the Court)

Figure 4.8: Format for summons to accused as provided in CrPC

FORM No. 1
SUMMONS TO AN ACCUSED PERSON

To (name of accused) of (address)

WHEREAS your attendance is necessary to answer to a charge of_____ (state shortly the offence charged), you are hereby required to appear in person (or by pleader, as the case may be) before the (Magistrate) of _____, on the_____ day . Herein fail not.

Dated, this _____day of___ 20___

(Signature)

(Seal of the Court)

Part V: Miscellaneous Provisions relating to Reciprocal Arrangements

A. Request for Recording of Statement and Taking Evidence from the Person Residing Abroad

5.1 The statement of the persons residing abroad can be recorded in the following ways:

i) Recording of the statement by the Competent Authority of the Requested Country

ii) Obtaining statement through Commission Issued by India Court

iii) Making available persons in India for recording of statement (including person in custody)

iv) Obtaining statement through Audio-Visual Means in foreign country

i) Recording of the statement by the Competent Authority of the Requested Country

5.1.1 Section 166A and Section 105K of CrPC, Section 57 and Section 61 of PMLA, Section 12 of FEOA, etc., provides that the request for assistance for obtaining evidence in foreign country can be initiated by an Investigating Officer who has a reasonable ground to believe that evidence may be available in such foreign country. On such a request of the Investigating Officer, the Criminal Court in India may issue a letter of request for taking of testimony of any person including a person in custody and produce documents, records, articles or objects in the foreign country. It may be noted that a person required to give evidence as a witness in the territory of foreign country may decline to give evidence if the domestic law of the foreign country so permits.

ii) Obtaining statement through Commission Issued by Indian Court

5.1.2 For recording of the statement of the person residing abroad, a Court in India may issue a commission under Section 285 of CrPC[18], subject to the domestic laws of the foreign country.

Figure 5.1: Format for Issue of Commission

IN THE COURT OF

Commission to examine witness outside India (Sec 285 (3) of the Code of Criminal Procedure, 1973)

To

Through the _____(Name of Ministry), Government of India, New Delhi

Whereas it appears to me that the evidence of ..... is necessary for the ends of justice in case No.....vs..... in the Court of ..... and that such witness residing within the local limits of your jurisdiction and his attendance cannot be procured without an amount of unreasonable delay, expense or inconvenience, I ..... have the honour to request and do hereby request that for the reasons aforesaid and for the assistance of the said Court you will be pleased to summon the said witness to attend at such time and place as you shall appoint and that you will cause such witness to be examined upon the interrogatories which accompany this commission (for viva voce).

Any party to the proceeding may appear before you by pleader, or, if not in custody, in person, and may examine, cross-examine or re-examine (as the case may be) the said witness.

And I further have the honour to request that you will be pleased to cause the answers of the said witness to be reduced into writing and all books, letters, papers and documents produced upon such examination to be duly marked for identification and that you will be further pleased to authenticate such examination by your official seal (if any) and by your

[18] Section 285. Commission to whom to be issued.—(1) If the witness is within the territories to which this Code extends, the commission shall be directed to the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be, within whose local jurisdiction the witness is to be found.
(2) If the witness is in India, but in a State or an area to which this Code does not extend, the commission shall be directed to such Court or officer as the Central Government may, by notification, specify in this behalf.
(3) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such Court or officer, and sent to such authority for transmission as the Central Government may, by notification, prescribed in this behalf.

signature and to return the same together with this commission to the undersigned through _____(Name of Ministry), Government of India, New Delhi.

Given under my hand and the seal of the Court on this____day of _____20_____.

Judge

Judicial Magistrate

Metropolitan Magistrate

iii) Making available persons in India for recording of statement

5.1.3 For making available persons (including person in custody) in India for recording of statement the provisions of Bilateral Treaty/Agreements, Multilateral Treaty/Agreements or International Convention shall be followed.

iv) Obtaining statement through Audio-Visual Means

5.1.4 Section 161 CrPC provides that the examination of witness may also be done by audio-visual electronic means. Further, the Hon'ble Supreme Court has held *in "State of Maharashtra vs Praful Desai"*[19] that the recording of evidence by way of video conferencing might be done in cases where the attendance of the witness cannot be ensured without delay, expense and inconvenience.

5.1.5 Where a Court or other Authority or agency or an officer having jurisdiction, in the course of investigation or prosecution, finds it necessary that evidence may be recorded by audio-visual means to avoid amount of delay and expenses, it may forward an application to the IS-II Division, MHA (Central Authority of India) for the said purposes. Audio-visual means may be used for:

i) facilitating examination of a witness or an expert in foreign country;

ii) identification of persons or object, or

iii) any other purposes related to investigation and prosecution of a criminal matter.

5.1.6 For recording of statement through audio-visual means, Part IV of the Guidelines may be referred.

B. Visit of Investigating Officers Abroad for Assisting in Execution of Request and Joint Investigation

1) Visit of Investigating Officers Abroad for Assisting in Execution of Request

5.2 Sometimes, it may become necessary to send Police Officer(s) from India to a foreign country for assisting foreign country in execution of LRs or MLA Request or for collecting information or leads during the course of investigation of a case keeping in view the importance of the case and the complicated nature of offences under investigation. As any Investigating Officer of India does not enjoy Police powers/investigative powers in a foreign country, such visit by an Investigating Officer without the express consent of any country may be considered interference in the sovereignty of that country unless some required formalities are observed.

5.3 When it is considered necessary to send a team of Officers abroad, the Investigating Agency or State Government/UT may send a proposal to IS-II Division, MHA (Central Authority of India) for obtaining the approval for the proposed visit, whenever necessary.

5.4 Subject to the law of foreign country such police officers may participate in taking of the

[19] (2003 4 SCC 601)

evidence and may also pose questions to the person examined. He may also make a verbatim transcript of the proceeding.

5.5 The visit will not commence before the required permission is received. The visiting Investigating Officers must get in touch with the Indian Mission on their arrival. In case, the country does not have a mission, the accredited mission for India may be kept informed with regard to the visit of the Investigating Officers.

5.6 The following information needs to be sent to the IS-II Division, MHA (Central Authority of India) for taking up the matter with the country to which such team is proposed to be sent:

- A brief note detailing the reasons for sending the team, nature of enquiries required to be made in the Requested Country. This is to enable the authorities to assess whether the request is justified.
- All available particulars about identity or particulars of the person to be contacted or documents to be scrutinized, etc. This would help the Requested Country to make all necessary preparations.
- Information about the penal offence to which mission relates.
- Whether Article 3 of the ICPO (Interpol) Constitution or some other legal provision restricting international cooperation is attracted.
- Exact date and duration of the mission and information about the police officers such as their name, ranks, contact details, etc.,
- Any other information which may be relevant in processing such a request.

2) Visit of Investigating Officers of Foreign Country for Assisting in Execution of Request in India

5.7 The request for the visit of the Investigating Officer of the Contracting State intending to visit India in relation to execution of LR/ MLA Request or for capacity building in mutual legal assistance shall be made to the IS-II Division, MHA (Central Authority of India) for remaining present or assisting in the execution of request. The tentative travel itinerary of the persons visiting should also be provided to Central Authority of India well in advance.

5.8 If the IS-II Division, MHA (Central Authority of India) agrees for allowing the presence of officers of a foreign country, the dates of the visit should be finalized with mutual consent after ensuring the availability of witnesses.

5.9 It should be ensured that any foreign Police Personnel/ Legal Attaches at the embassy/High Commission of foreign countries or foreign officials who are present in the embassy or visiting India for investigative purposes are not permitted to establish any direct contact with the police personnel at the State Level unless specifically authorized by IS-II Division, MHA (Central Authority of India). Any attempt by such foreign police /legal personnel to establish direct contact with the State Police Authorities should immediately be brought to the notice of IS-II Division, MHA (Central Authority of India).

3) Joint Investigation

5.10 A Joint Investigation Team is a team set up for a set period, based on mutually agreed terms between the Contracting States for a specific purpose in relation to the investigations, prosecution or proceedings. The procedures under which the joint investigation team has to operate in Contracting

States should be mutually agreed upon such as its composition, duration, location, organization, functions, purpose and terms of participation of team members.

C. Protection and Preservation of Data

5.11 **Data Retention/Preservation:** Data preservation is the key step in investigation of offences of cyber crimes and offences involving digital evidence. Accessing the internet through an Internet Service Provider (ISP) creates important records and other information such as customer records, connection information and stored data. This is very important evidence to prove the guilt intention of the accused. Since this type of evidence can disappear quickly, it is of paramount importance to get the data preserved expeditiously through appropriate channels. The G-8 24/7 Network for data preservation is one such channel.

5.12 The request for data protection/preservation may be sent using official ID's directly to the service provider or through the Assistant Director (NCB), Central Bureau of Investigation, 5-B, 6th Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, New Delhi-110003 ((email: adipol@cbi.gov.in and Telefax:011-24364070), who would in turn get the data preserved through Cyber Crime Investigation Cell (EOU-IX) of CBI which is being the contact point in respect of India G-8 24/7 Network. It allows Law Enforcement Agencies of India making urgent preservation requests of the digital data before it perishes. CBI will keep the Central Authority of India informed of making such preservation requests. Generally, the data is preserved for an initial period of 90 days from the receipt of Request. During this period, the investigation Agencies including State Law Enforcement Agencies should send a proposal to IS-II Division, MHA for issue of LR or MLA Request for obtaining the data from concerned service provider. If the investigation is continuing, then after every 60 days the request for preservation of data shall be served to the country concerned.

5.13 **Obtaining Subscriber Information:** In order to obtain subscriber information, the Investigation Agency need only establish that the evidence sought is relevant and related to the criminal investigation. It is not enough to show that the accused had an email account; the account must have something to do with the crime being investigated. This is the lowest legal standard required of all investigative processes.

5.14 **Obtaining Transactional Information:** In order to obtain the transactional information, the Investigation Agency must provide specific facts detailing how the records or other information sought are relevant and material to criminal investigation. This is because the law in many foreign countries requires prosecutors to provide the Court with a factual summary of the Investigation and how the records requested will advance that investigation.

5.15 **Obtaining Contents:** In order to obtain the content in most cases, the Investigation Agency must provide information in the formal request that satisfies two legal standards. i.e., (1) probable cause and (2) that the facts supporting the request are correct.

Safeguards for Protection and Preservation of Data

5.16 While seeking the assistance of protection and preservation of data, the following safeguards should be ensured:

a) Data including personal data must be obtained and processed fairly and lawfully and must be appropriate, relevant and not excessive with regard to the purposes for which it is sought and transferred.

b) The Requested Country has to be informed about the time period for which the data is required. Such period shall be consented by the Requested Country.

c) The transferred data shall be kept for no longer than the period required for the purpose for which it has been received and shall be returned to the Requested Country or deleted at the end of the period specified.

d) The Requested Country shall be informed in advance in case the data has to be kept for a longer period in India.

e) The Competent Authorities of the Contracting States shall take all reasonable measures to prevent the transfer of inaccurate, incomplete or out-of-date data. If it is established that inaccurate or non-transferable data has been transferred, it shall be immediately informed to the Requested Country and provide correct or accurate data. Any inaccurate data so received should be deleted or returned to the Requested Country.

f) The data should not be transferred to a third country, a private individual or an international body without the consent of the Requested Country.

g) The data transferred should be protected from accidental or unauthorized destruction, accidental loss, and unauthorized access, modification or dissemination.

h) A record of the data transferred and its destruction should be maintained.

D. Identification of Bank Information

5.17 Where a Court or Authority or Agency or Officer having jurisdiction in this regards for investigation into a criminal offence desires to obtain financial information of a person who is in any place in a foreign country, it may forward a request to IS-II Division, MHA (Central Authority of India) for ascertaining in the foreign country that:

i) if the banks located in the Contracting State have any information related to the bank account held by the person suspected or charged with a criminal offence in India; or

ii) any other financial detail thereof

5.18 The request for identification of bank information should also include:

- name of the Bank; name of the account holder; bank account number;
- address and branch code of the bank where the account is held ;
- grounds for believing that banks in the foreign Country hold account(s) ;
- time period over which the information is sought ;
- any other documents required (e.g. account opening information, bank statements, etc.) and its relevance to the investigation

E. Interception of Postal Items

5.19 For preservation and suppression of crime, a request for interception of a postal item during the course of its carriage by a postal service may be made, where there are reasonable grounds to believe that such interception would prevent or be relevant in the commission of offence in India or foreign country concerned or such interception is required for the purpose of any investigation or proceeding in criminal matter.

5.20 The request for interception of postal item should include:

- date of dispatch of the postal item;
- sufficient information to identify the item;
- the course of transit, anticipated delivery time;
- details of courier (if applicable) and
- explanation of how the item relates to the criminal investigation in the Requesting Country.

Figure 5.2: Do's and Don'ts for the Investigating Officer or Agency

Do's

- ✓ While making a request or preparing execution report, the following precautions may be taken by the Investigating Agencies:
  - Any documents, photographs and objects, if enclosed with the request/execution report, should be clearly marked and referred to in the body of Request.
  - All the photocopied papers/ documents enclosed must be legible and if required must be translated in the language mentioned in the Treaty/Agreement or International Convention. The translated copies should be duly signed by a translator and authenticated by the Investigating Agency.
  - The request /execution report should be neatly bound and page numbered.
- ✓ At least, four copies of the request should be prepared including the original.
- ✓ A soft copy of the request should be made and forwarded to IS-II Division, MHA.
- ✓ In case of service of documents, clear and complete address of the person on whom the service needs to be effected should be mentioned.
- ✓ The request for assistance, its contents and its supporting documents should be kept confidential. In case the request cannot be executed without breaching confidentiality, the foreign country should be so informed.
- ✓ Investigating Agencies should ensure that any foreign Police Personnel/ Legal Attaches at the Embassy/High Commission of foreign countries or foreign officials who are present in the Indian Embassy or visiting India for investigative purposes are not permitted to establish any direct contact with the police personnel at the State Level unless specifically authorized by Central Authority. Any attempt by such foreign police /legal personnel to establish direct contact with the State Police Authorities should immediately be brought to the notice of the Central Authority of India.

Don'ts

- X The request made should not be vague. Fishing inquiries should be avoided.
- X Requests which are civil or commercial in nature should not be made to the Ministry of Home Affairs. Such request should be made to the Ministry of Law and Justice.
- X Information which is not relevant for the investigation and prosecution of the criminal case should not be asked in the request.
- X The request for execution of the non-bailable warrants should not be made under MLAT or Letters Rogatory.
- X Requests which are trivial or *de minimums* in nature should be avoided.
- X Authorities should not disclose the contents of a request without the consent of the foreign Country.
- X Without the consent of the foreign country, any information or evidence provided by the foreign country for investigations or proceedings should not be used or transferred for any other purpose than those stated in the request.

Part VI: Informal Requests

A. Introduction

6.1 India is a member of INTERPOL and Central Bureau of Investigation has been designated as the National Central Bureau of India for routing the requests for making informal inquiries with the NCBs of other countries. Informal request is a request made in the cases where the Investigating Agency needs information or leads or material in a faster way to form the basis of the case, or where during a formal investigation, such information is considered to be necessary. In such cases, the information may be collected by sending an informal request through INTERPOL, which is the world's largest International Police Organization. INTERPOL facilitates police-to police assistance and cooperation even where diplomatic relations do not exist between particular countries. Police-to-police assistance is often used in the investigation stage of a law enforcement operation, or to obtain general intelligence or information that would not require the exercise of coercive powers. Police-to-police assistance can be an effective way to determine what material is held by a foreign country prior to making a mutual legal assistance request. Mutual legal assistance and police-to-police assistance are separate forms of cooperation that complement one another.

6.2 The request for collection of information for the purpose of starting an investigation or for collecting leads to ascertain facts before launching formal investigation or for issuance of various INTERPOL notices such as Red Notice, Blue Notice, Green Notice, Yellow Notice, Black Notice, Orange Notice, Purple Notice, Interpol-United Nations Security Council Special Notice are routed for inquiries and assistance through NCB India (CBI). Other informal inquiries made with NCB of other countries or INTERPOL Headquarters are also made through NCB India.

B. Mode and form of making an Informal Request

6.3 Where it is found to be necessary to gather information through INTERPOL or diplomatic channels, the Investigation Agency is required to send a self-contained request, along with necessary details, to the Assistant Director (NCB), Central Bureau of Investigation, 5-B, 6th Floor, CGO Complex, Lodhi Road, Jawahar Lal Nehru Stadium Marg, New Delhi-110003 (email: adipol@cbi.gov.in and Telefax:011-24364070).

6.4 Generally the following assistance is provided through informal channel:

a) ascertaining the location of witnesses/accused;

b) verifying the availability of a certain company at a particular address;

c) for ascertaining the availability of a bank account in the name of a particular person in a certain bank;

d) willingness of a person to give evidence;

e) verifying the passport details;

f) verifying the availability of a property in the name of certain entity/person;

g) request for preservation of cyber data;

h) analogous laws to determine dual Criminality.

C. Contents of Informal Request

6.5 The informal request must incorporate the following details:

- FIR number along with name(s) of the accused and sections of law under which case has been registered;
- gist of the allegations made in the FIR/ preliminary inquiry or any other investigation process;
- details of the information sought.

6.6 For an informal request, it is necessary that material being furnished should be carefully examined and scrutinized at an appropriate level especially with regard to accuracy of facts and figures.

Part VII: Extradition Requests

A. Introduction

7.1 Extradition is the surrender by one State to another of a person desired to be dealt with for crimes for which he has been accused or convicted and which are justifiable in the Courts of the other States. The extradition of fugitives is done as per the provisions of the Extradition Act, 1962 and as per Extradition Treaty or other Extradition Arrangement or International Conventions signed by India with the country concerned. The Ministry of External Affairs (MEA) is the Central Authority for the requests of extradition. A request for extradition has to be made as per the provisions of the Extradition Act, 1962 and the Treaty with the Contracting State.

Figure 7.1: List of Countries having Extradition Treaty with India

1.	Azerbaijan (2013)	12.	Egypt (2008)	23.	Nepal (1953)	34.	Tajikistan(2003)
2.	Australia (2008)	13.	France (2003)	24.	Netherlands (1889)	35.	Thailand (2013)
3.	Bahrain (2004)	14.	Germany (2001)	25.	Oman (2004)	36.	Tunisia (2000)
4.	Bangladesh (2013)	15.	Hong Kong (1997)	26.	Poland (2003)	37.	Turkey (2001)
5.	Belarus (2007)	16.	Indonesia (2011)	27.	Philippines 2004)	38.	UAE (1999)
6.	Belgium (1901)	17.	Iran (2008)	28.	Russia (1998)	39.	UK (1992)
7.	Bhutan (1996)	18.	Kuwait (2004)	29.	Saudi Arabia (2010)	40.	Ukraine (2002)
8.	Brazil (2008)	19.	Malaysia (2010)	30.	South Africa (2003)	41.	USA (1997)
9.	Bulgaria (2003)	20.	Mauritius(2003)	31.	South Korea (2004)	42.	Uzbekistan (2000)
10.	Canada (1987)	21.	Mexico (2007)	32.	Spain (2002)	43.	Vietnam (2011)
11.	Chile (1897)	22.	Mongolia (2001)	33.	Switzerland (1996)		

Figure 7.2: List of Countries with which India has an Extradition Arrangement

1.	Antigua & Barbuda (2001)	4.	Fiji (1979)	7.	Peru (2011)	10.	Sweden (1963)
2.	Armenia (2019)	5.	Italy*(2003)	8.	Singapore (1972)	11.	Tanzania (1966)
3.	Croatia* (2011)	6.	Papua New Guinea (1978)	9.	Sri Lanka (1978)		

* The Extradition Arrangements with Italy and Croatia confine to Crimes related to Illicit Traffic in Narcotic Drugs and Psychotropic Substances owing to the fact that India, Italy and Croatia are parties to the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

B. Procedure for making an Extradition Request

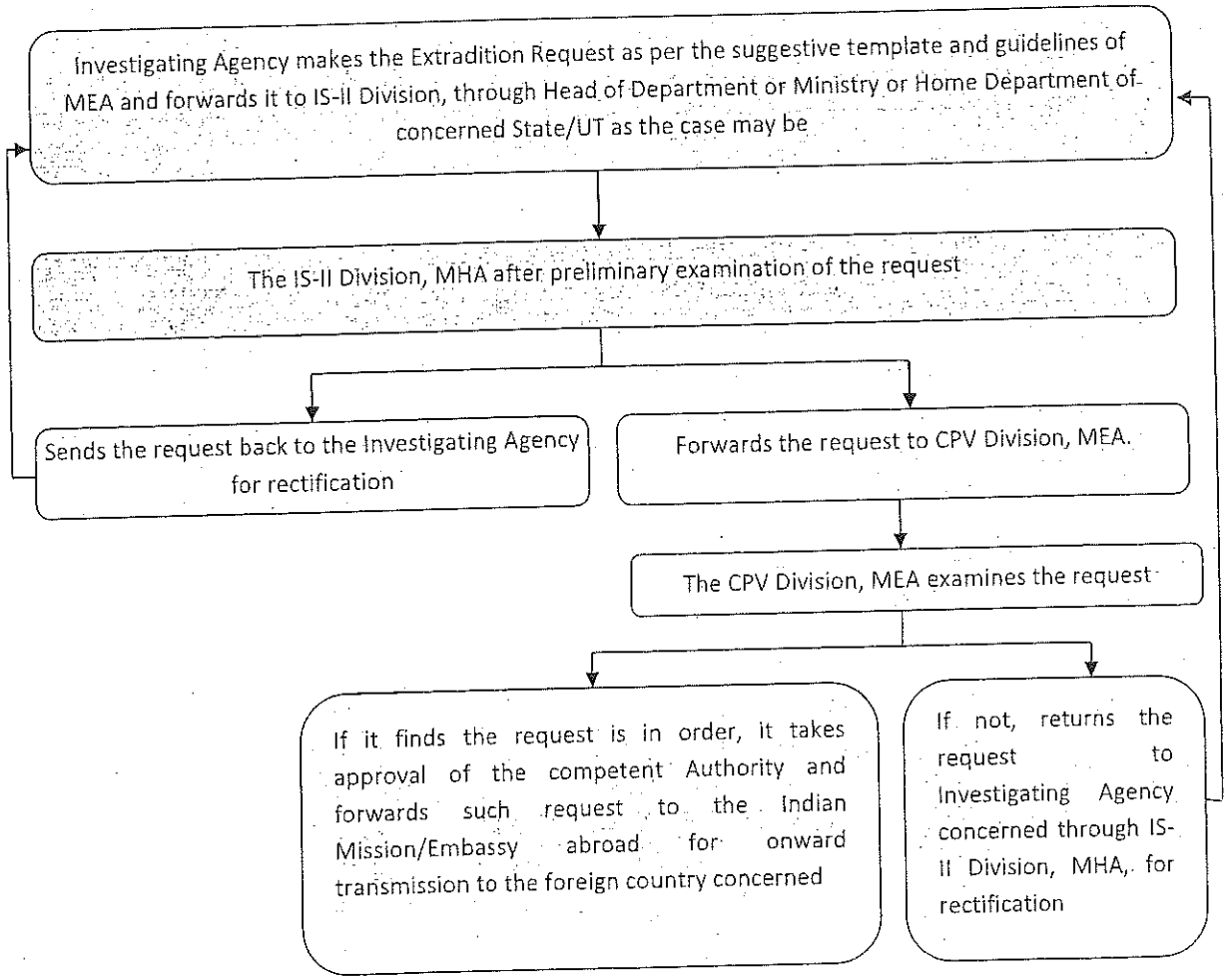
7.2 The procedure for making an extradition request is as follows:

i) The Investigating Agency or Court makes the Extradition Request as per the suggestive template and guidelines of MEA available on https://www.mea.gov.in/extraditionguidelinesabroad.htm and forwards it through Head of Department or Ministry or Home Department of concerned State/UT to IS-II Division, MHA which examines the request and coordinates with MEA and other Investigating Agencies.

ii) The IS-II Division, MHA after preliminary examination of the request may send it back to the concerned Investigating Agency for rectification, or if the request is generally in order, it then forward the same to CPV Division, MEA.

iii) The CPV Division, MEA after examining the request may send it back to the Investigating Agency concerned, through IS-II Division, MHA, for rectification of deficiencies, or if prima facie finds it to be in order, takes necessary approval of the Competent Authority and forwards such request to the Indian Mission or Embassy of India abroad for onward transmission to the foreign country concerned.

Figure 7.3: Procedure for making an Extradition Request



C. Important Points to be considered while making an Extradition Request

7.3 The important points to be considered while making Extradition Request are as follows:

i) Extraditablity of offences as per the Extradition Act, 1962/Treaty/Arrangement/International Convention if any;

ii) Dual Criminality;

iii) Assurances (death penalty, prison conditions, term of sentence, etc.)

iv) The offences are not barred by the clause of limitation (e.g. Section 468[20] CrPC)

D. Grounds for Refusal of Extradition Request

7.4 The grounds for refusal are invariably contained in the relevant extradition treaty. Generally, these grounds are:

i) where a person's extradition is sought for an offence of a political character. However, the Extradition Act, 1962 in general and the extradition treaties, in particular, also list out many offences which shall not be considered as an offence of a political character;

ii) the offence of which a person is accused or convicted for a military offence;

iii) if the person whose extradition is sought has, according to the law of the Requesting Country becomes immune from prosecution or punishment by reason of lapse of time;

iv) the person has been tried and acquitted/pardoned/ undergone punishment with respect to the offence for which his extradition is sought;

v) if the Requested Country has substantial grounds to believe that the person's extradition is sought for the purpose of prosecuting or punishing the person on account of his/her sex, race, religion, nationality, or political opinions, or that the person's position may be prejudiced for any of those reasons.

***

Disclaimer: This document is a guiding reference to law enforcement agencies and cannot be used in Court of law for any purposes.

[20] Ibid., Page 11

Glossary

1. Assurance of Reciprocity: It is a promise that the Requesting Country will provide the Requested Country the same type of assistance in the future, should the Requested Country ever be asked to do so. This principle is a useful tool in a situation in which there is no treaty, as it can be viewed as a stand-alone promise that one country will do the same for another country in future should the need arise.
2. **Attachment:** It means prohibition of transfer, conversion, disposition or movement of property by an order.
3. **Contracting States:** Any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise
4. **Data:** Data means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalized manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer.
5. **International Criminal Police Organization (INTERPOL):** INTERPOL is the world's largest international police organization, with 194 member countries. Its role is to enable police around the world to work together to make the world a safer place and ensure public safety. In the extradition and mutual legal assistance field, the communications network and other services of INTERPOL provide highly effective assistance in furtherance of these actions.
6. **Personal Data:** Personal Data means data about or relating to a natural or legal person who is directly or indirectly identifiable, having regard to any characteristic, trait, attribute or any other feature of the identity of such natural person or legal, or any combination of such features, or any combination of such features with any other information.
7. **Preservation of Computer Data:** It means protection of computer data which already exists in a stored form from modification or deletion, or from anything that would cause its current quality or condition to change or deteriorate.
8. **Proceeds and Instrumentalities of Crime:** It means any property derived or obtained directly or indirectly, by any person as a result of criminal activity (including crime involving currency transfers) or the value of any such property.
9. **Property:** It means property and assets of every description whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets derived or used in the commission of an offence and includes property obtained through proceeds and instrumentalities of crime.
10. **Requested Country:** Any country to which a request for mutual legal assistance has been made.
11. **Requesting Country:** Any country which is making a request for mutual legal assistance.
12. **Tracing:** Tracing means determining the nature, source, disposition, movement, title or ownership of property.

अनुबंध-(iii)

D-3A

D/o Dashi

Date Bound case for :

HIGH COURT OF DELHI AT NEW DELHI

No. 30300 /Crl.

Dated 16/7/18

From:

The Registrar General,
High Court of Delhi,
New Delhi.

To,

(1) The Ld. Comm
Dwarka Courts, Or Successor
New Delhi. Court
(Pending before Court
Concerned)

(2) The SHO / IO / ATO
P.S. CAW Cell
Nanak Pura,
New Delhi.

CRL.M.C.No. 5071/2017 CRL.M.A. No.

Rajneesh Kaul & ors. Petitioner

VERSUS

State & Anr. Respondent

Petition under Section 482 Cr. P.C. for quashing of FIR U/s 34/406/498A IPC Regd. at

PoliceStation CAW Cell, Nanak Pura FIR No. 118/2012

Sir/Madam,

In continuation of this Court's letter no. dt.

I am directed to forward herewith immediate compliance/necessary action a copy of judgement/order dt. 10-7-18 Passed in the above case by Hon'ble Mr. Justice A.K. Pathak of this Court. Other necessary directions are contained in the enclosed copy of order.

The Court while issuing notice /adjourning the case

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BEFORE THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI
(EXTRA ORDINARY CRIMINAL JURISDICTION)
CRL. M.C. NO. 507 OF 2016

IN THE MATTER OF:

RAJNESH KAUL & ORS ....PETTIONERS

VERSUS

STATE & ANR .... RESPONDENT

MEMO OF PARTIES

1) RAJNESH KAUL
s/o Bal Kishan Kaul,
aged about 36 years
Residing At
No. 5, Nield Street, Ropes Crossing,
New South Wales 2760
Through Constituted Attorney
Shri Bal Kishan Kaul

2) SANTOSH KUMARI KAUL
W/o Bal Kishan Kaul,
Aged about 67 years,
Residing at
No. 20, Kahyap Rishi Vihar,
Dondhaherra, Ghaziabad

3) BAL KISHAN KAUL
Son of Lata Daya Kishan Kaul,
Aged about 69 years
Residing at
No. 20, Kahyap Rishi Vihar,
Dondhaherra, Ghaziabad .... PETTIONERS

VERSUS

1) STATE (GOVT OF NCT)
Represented by
Sub – Inspector of Police,
CWC, Nanakpura Police Station,
New Delhi

2) PARUL KAUL,
D/o Tej Kishan Kaul
No. 3158/D3, Vasant Kunj,
New Delhi .... RESPONDENT

(53)

$~39

* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ CRL.M.C. 5071/2017

RAJNESH KAUL & ORS ..... Petitioners
Through Ms. Shalini Kaul, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondents
Through Mr. Izhar Ahmad, APP with ASI Balwant, P.S. CAW Cell, Nanakpura
Mr. Tej Kishan Kaul, Attorney/father of respondent no. 2 in person

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

% ORDER
10.07.2018

Petitioner no. 1 and respondent no. 2 were married on 23rd February, 2008, as per the Hindu rites and ceremonies at Delhi. Thereafter, they moved to Australia. On account of marital discord, they started living separately. Their marriage has already been dissolved by a decree of divorce dated 12th August, 2014 passed by the Federal Circuit Court in Australia (Annexure P-2). Petitioner no. 1 has been represented through his father Sh. Bal Kishan Kaul, who is petitioner no. 3 and also holds a Power

her father and Attorney Mr. Tej Kishan Kaul. Photocopy of the Power of Attorney executed by respondent no. 2 in favour of her father has been placed on record. Learned counsel for the petitioners and Attorney of respondent no. 2 submit that consent order dated 17th October, 2017 has been passed by the Federal Circuit Court of Australia containing certain terms regarding closure of all cases and distribution of properties. One of the terms, as contained in the order, is with regard to the quashing of present FIR. Mr. Tej Kishan Kaul submits that he has instructions from the respondent no. 2 to convey this court that she has no objection in case FIR no. 118/2012 under Sections 498-A/406/34 IPC registered at police station CAW Cell, Nanakpura and the consequent proceedings emanating therefrom are quashed.

Learned APP submits that petitioner no. 1 has been declared P.O. and a supplementary challan has been filed. Learned counsel for the petitioners submits that since parties have settled the matter, FIR can be quashed, despite the petitioner no. 1 having been declared P.O.

Keeping in mind the fact that present FIR is outcome of a matrimonial disputes between the petitioner no. 1 and respondent no. 2, which stands settled, inasmuch as petitioner no. 1 and respondent no. 2 have parted ways

and have even settled all their other financial aspects, in my view, no fruitful purpose would be served to keep the present criminal proceedings pending. Accordingly, in the interest of justice, aforesaid FIR and the consequent proceedings emanating therefrom are quashed.

Petition is disposed of in the above terms. Dasti.

A.K. PATHAK, J.

JULY 10, 2018
r.bararia

परिशिष्ठ

याचिका समिति की आठवीं बैठक का कार्यवाही सारांश

याचिका समिति (सत्रहवीं लोकसभा) की आठवीं बैठक बुधवार, 16 सितंबर, 2020 को दोपहर 1100 बजे से 1200 बजे तक, कमरा संख्या 117, बी ब्लॉक, सभापति कक्ष, संसदीय सौध विस्तार, नई दिल्ली में हुई।

उपस्थित

डॉ. वीरेंद्र कुमार - अध्यक्ष

सदस्य

2. श्री हरीश द्विवेदी
3. श्री पी. रविंद्रनाथ कुमार
4. श्री पी. के. कुन्हालीकुट्टी
5. डॉ. भारती प्रवीण पवार
6. श्री बृजेन्द्र सिंह
7. श्री प्रभुभाई नागरभाई वसावा
8. श्री राजन बाबूराव विचारे

सचिवालय

1. श्री टी. जी. चन्द्रशेखर - संयुक्त सचिव
2. श्री राजू श्रीवास्तव - निदेशक
3. श्री जी. सी. डोभाल - अपर निदेशक

2. प्रारंभ में माननीय अध्यक्ष ने समिति के सदस्यों का बैठक में स्वागत किया।

3. इसके बाद समिति ने निम्नलिखित प्रारूप प्रतिवेदनों पर विचार किया :-

(i) *** *** *** ***

(ii) सुश्री पारुल कौल के पति, श्री रजनीश कौल द्वारा अपनी पत्नी के प्रति क्रूरता, आपराधिक विश्वास भंग, सामान्य इरादे को बढ़ावा देने के संबंध में किए गए कृत्यों को लेकर उनके प्रत्यापर्ण में असाधारण विलंब के बारे में सुश्री पारुल कौल के पिता श्री टी. के. कौल से प्राप्त अभ्यावेदन पर याचिका समिति (सोलहवीं लोकसभा) द्वारा उनके बावनवें प्रतिवेदन में की गई सिफारिशों पर सरकार द्वारा की गई कार्रवाई पर प्रतिवेदन।

(iii) *** *** *** ***

(iv) *** *** *** ***

4. उपर्युक्त चारों प्रारूप प्रतिवेदनों पर विस्तार से चर्चा करने के बाद समिति ने बिना किसी संशोधन के चारों प्रतिवेदनों को स्वीकृत किया। समिति ने अध्यक्ष को चारों प्रारूप प्रतिवेदनों को अंतिम रूप देने और इसे सदन में प्रस्तुत करने के लिए भी प्राधिकृत किया।

तत्पश्चात समिति की बैठक स्थगित हुई ।

*** इस प्रतिवेदन से सम्बंधित नहीं है ।