

Standing Committee Report Summary

India and International Law

- The Standing Committee on External Affairs (Chair: Mr. P.P. Chaudhary) presented its report on ‘India and International Law including extradition treaties with foreign countries, asylum issues, international cyber-security and issues of financial crimes’ on September 10, 2021. Key observations and recommendations of the Committee include:
 - **Applying International Law:** The Committee noted that India follows the principle of dualism (that is, international law is not directly applicable domestically, and must be implemented through a law by Parliament). It observed that on certain occasions, the Supreme Court has digressed from this principle. To ensure coordination between different institutions of the State, the Committee recommended the Ministry of External Affairs to coordinate with the concerned Ministries regarding matters where there is a vacuum in domestic law. Further, it recommended setting up a Working Group in close coordination with concerned ministries to strengthen India’s capacity and expertise in International Law.
 - **Extradition treaties:** Extradition is a process for surrender, upon request, of a person who is alleged to have committed an offence and is wanted for trial in one country, and is found residing in another. India has signed extradition treaties with 50 countries and extradition arrangements with 11 countries. The Committee took note of the delays in extraditing offenders who take refuge in countries with which India already has an extradition treaty or arrangement. Further, it observed that offenders take advantage of the absence of such treaties with certain countries where they can get citizenship or residency through investment. The Committee recommended identifying such countries and signing extradition treaties with them on priority.
 - The Committee noted that India has signed Mutual Legal Assistance Treaties (MLATs) with 40 countries. Under MLATs, requests can be made for assistance in matters such as identifying and locating persons, taking evidence, and obtaining statements. The Committee observed that 845 such requests are pending with various countries. It recommended: (i) instituting a task force to identify the reasons and suggest solutions for the issue of pendency of such requests, and (ii) entering into more MLATs with other countries on a priority basis.
 - **Asylum issues:** An individual seeking international protection from persecution is called an asylum seeker.
 - A country may grant refugee status to an asylum seeker. The Committee observed that existing domestic laws regulating the entry, stay and exit of foreign nationals in normal circumstances are inadequate to deal with refugees. It recommended that, in the absence of a domestic law for refugees and asylum seekers, there should be a domestic protocol on their status, assigning specific responsibilities to specific agencies. This will ensure prompt response and enhance accountability.
 - India is not a signatory to the United Nations’ 1951 Convention on the status of refugees and the 1967 Protocol amending it. The Committee noted that India believes in the concept of shared responsibility of all countries in refugee crises, however, the Convention and the Protocol do not contain this concept. It recommended the Ministry to make a strong case for reviewing these instruments by advocating India’s stand on shared responsibility.
 - **Cyber security:** The Committee noted India’s diplomatic efforts to design a global architecture for cybersecurity. It recommended leveraging India’s IT resources to collaborate on cybersecurity with various regional instruments. Further, the Committee took note of India’s lack of control over root servers. Root servers allow countries to regulate, modify, or block internet traffic. The Committee noted that out of 13 root servers in the world currently, none are in India. It recommended: (i) strengthening domestic laws on cyber security in line with international norms, (ii) focusing on preventing and pre-empting cyber attacks, and (iii) leveraging our algorithm development capabilities to achieve data localisation.
 - **Financial crimes:** The Committee recommended having an international legal framework to tackle financial crimes, which are increasingly trans-border in nature. It also recommended increasing the network of countries with which India has MLATs in criminal matters (presently, there are 42 such countries). Further, it noted that under the Fugitive Economic Offenders Act, 2018 (seeks to confiscate properties of economic offenders who have left the country to avoid facing criminal prosecution or refuse to return to the country to face prosecution): (i) the judicial process for declaring a person a fugitive offender has been very slow, and (ii) for proceeding against offenders, the money involved should be at least Rs 100 crore. The Committee recommended reviewing this lower limit to enable proceeding against smaller offenders.

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