



## ABANDONED WIVES : VICTIMS OF NRI MARRIAGES- THE QUANDARY OF INDIAN WOMEN DESERTED BY NRI HUSBANDS

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“The toddler craves independence, but he fears desertion”

-Dorothy Corkville Briggs

Stability, control, flexibility and adaptation are the qualities one acquires by cohabiting. This is the reason that marriage is given so much of importance. In India, Marriage is just not restricted within caste, state, or even country. Thus, the percentage of women marrying NRI husbands has increased. But when marriage is taken for a ride, its quintessence is made fun of, when objective behind it is to earn money or just the fulfillment of sexual desires, it is then when the other partner is deceived, ill-treated and humiliated. On the satisfaction of their needs, the other spouse is deserted and left helpless. Statistically, usually a wife is deserted by their NRI husband. They are treated as puppets that are controlled by their husbands. A society where a woman is considered a liability with a low social status, adding to this a deserted woman is considered a double burden on the family. The plight of the growing number of women subjected to this abandonment needs to be given attention. This paper highlights the reasons behind this problem, major issues involved in such cases and the possible solutions to this evolving social malaise.

But from the beginning of creation, ‘God made them male and female.’ ‘Therefore a man shall leave his father and mother and hold fast to his wife, and the two shall become one flesh.’ So they are no longer two but one flesh. What therefore God has joined together let not man separate.”

- THE BIBLE

### I. Introduction

Marriage also known as wedlock or matrimony is a socially and ritually recognised union between two people. It is a sacred, eternal and a permanent union. Marriage is an institution especially in a country like India has a lot of significance attached to it. It is an integral part of a person’s life in the sense that it is essential for everyone to be a part of it. A human life sans marriage is not considered a plenary life. Such a tie or a bond confers a status of ‘husband’ and ‘wife’ to the parties involved, establishes rights and obligations between the parties, accords the status of legitimacy upon the children born out of such a wedlock. Marriage is considered everlasting, timeless and immortal. It is because of this paramount reason that a divorce is considered a taboo in India. It is now that people have started getting used to the idea of divorce; otherwise it was socially unexpected in our country.

It is not necessary that every union will turn out to be a perfect union and so there are certain instances when partners cannot live with each other and the marriage turns out to be a bad bargain for them. In these cases, it is in the interest of both the parties and the society, to dissolve this union as it has broken down beyond all possible repairs.



But considering an exemplar where one partner deserts the other without any reasonable cause and consent of the other party. Here, marriage as a holy union is taken for a ride and is made fun of. The deserted party feels distressed, dejected and helpless. Such an act is a total disrespect towards the other spouse and towards the entire institution of marriage for that matter. This issue is then no longer confined to the four-walls of the matrimonial home, in fact it crosses them and becomes a matter of concern as it now affects not only the deserted spouse but also their families.

The persisting division of 'public' versus 'private' spaces which views the entry of law in homes as "bull in the china shop" is largely responsible for keeping the homes significantly insulated from the legal system and control, notwithstanding the fact that some of the grossest rights' violations happen within the 'sacrosanct' four-walls of the homes<sup>1</sup>. This dilemma, coupled with the delicate and sensitive nature of matrimonial relationships per se, are largely responsible for making the entire gamut of matrimonial disputes one of the most complex and challenging areas for legal intervention within any system. Making it further more difficult, particularly in context of India is the existence of individual personal laws for each community unlike a Uniform Civil Law. These personal laws are different from each other, thus making the matrimonial disputes especially inter-religious marriages even more difficult to deal with.

<sup>1</sup> Anonymous, Introduction to NRI Cell of Commission, National Commission for Women (November 9, 2017, 11:38 pm), <http://new.nic.in/firmNRIIntroduction.aspx>.

The problem gets multiplied when marriage is taken to a different level and it crosses the boundary of the country and scope of country's legal system. Such marriages are Cross-Border Marriages. Looking to the trend in India, majorly an Indian women marries an Indian man residing in a foreign country- NRI (Non-Resident Indian), either as an Indian citizen (then legally as NRI) or as a citizen of another country- PIO (Person of Indian Origin). These marriages then enter the domain often called 'maze' of the private international law which deals with the interplay and conflict amongst the laws of various countries.

With the kind of social status attached to the word 'abroad', these marriages seem to be greener pastures for the entire family and not just the women.

## **II. Meaning**

Even though this is a gender neutral term, typically the 'NRI Marriages' are between an Indian woman from India and an Indian man residing in another country (thus NRI – Non Resident Indian), either as Indian citizen (when he would legally be an 'NRI') or as citizen of that other country (when he would legally be a PIO – Person of Indian Origin).<sup>2</sup>

## **III. Desertion**

In family law, the five elements of spousal desertion are (1) a cessation of cohabitation, (2) the lapse of a statutory period, (3) an intention to abandon, (4) a lack of consent from the abandoned spouse, and (5) a lack of spousal misconduct that might justify the

<sup>2</sup> Ibid, at 462.



abandonment.<sup>3</sup> It is the permanent forsaking or abandonment of one spouse by the other without reasonable cause and consent of the other. It is the withdrawal not only from a place, but from also a state of things. Cohabitation is a pre-requisite condition for desertion.

#### IV. Current Scenario

The problems of women abandoned by NRI bridegrooms are not really new. Earlier, it was mostly bigamous marriage entered into by men under family duress to marry within community. The husband tended to hide their foreign spouse and later abandoned the Indian wife. However, with burgeoning Indian NRI population drawn from different economic and social strata spreading across the globe the problem has become dynamic and multi-dimensional. Now the cases of women being subjected to cruelty of false marriage, dowry extortion, cheating, and mental harassment have increased. There is an increasing evidence that as the number of NRI marriages is proliferating by thousand every year, the number of matrimonial disputes in the NRI marriages has also risen proportionately. At most places, the results are as nearly two in every ten NRI marriages are fake or end up in desertion or in divorce.<sup>4</sup>

#### V. Family Laws in India

The legislations relating to family law enacted by the Indian Parliament in 1955 and 1956 have left Indians where they were. This has resulted into an influx of family

law problems, which have arisen from NRI marriages with no practical solution in the legislative enactments as they exist today. NRI's being the Indian citizen diaspora are subject to Indian Marriage and Divorce laws. But the Indian legal system is not yet designed and amended for resolving these new age issues. With the increasing number of such incidents of NRI marriages the outdated legislation serves no purpose. It is time to amend the existing laws accordingly with the need of the changing time. Especially in the family law arena, limping NRI marriages, abandoned spouses, abducted children, overseas adoption, etc. need statutory solutions.<sup>5</sup>

The absence of uniform civil laws in India and the abundance of personal laws of different religious communities make matrimonial disputes extremely difficult to deal with. NRI bridegrooms walk out of marriages without fearing the law and there is absence of proper laws in India to protect the right of woman married abroad. There is lack of authentic, effective and efficient family laws to deal with matrimonial disputes occurring between spouses where both are citizens of India and married in India as per Indian laws, but are outside the jurisdiction of the courts of India. Legal recourse is difficult, time consuming, expensive and complicated. Despite the Family Court Act, 1984 most state governments did not bother to frame the rules and setup family courts. The most conspicuous disturbing trend, however, appears to be the easy dissolution of NRI marriages by the foreign courts even though the solemnization of the marriage took place

<sup>3</sup> Black's Law Dictionary 478 (8<sup>th</sup> ed. 2004).

<sup>4</sup> Dr. D. P. Verma and Dr. Kalpana Sharma, Desertion Of Married Women By NRI's in India: New form of Domestic Violence, 1 I.J.I.R.D. 460,461 (2012).

<sup>5</sup> Ibid, at 463-464.



in India as per Indian laws. The NRI husband usually manages to get divorce from the courts in abroad without the knowledge and consent of his defenceless spouse by presenting fake documents and false information. In many cases wives are even deprived of maintenance allowances from their husband. The marriages are not governed any more by only the Indian legal system but by the far more complex private international laws involving the laws and legal system of the other country too, which makes the situation of these deserted women even more miserable. Issues like inter-parental child abduction, inter-country child adoption etc are involved. But practically there is no law on the subject which lessens the miseries of females whose kids are kept by the husbands in some of the cases. Some time, women are even denied maintenance in India on the pretext that the marriage had already been dissolved by the court in some other country (Provision of Section 19 of the Hindu Adoption and Maintenance Act, 1956 could also be looked into in order to make it applicable in case of deserted daughter-in-laws). Thus, there is a need to address the flaws in law to resolve the problems of deserted NRI married women.<sup>6</sup>

**VI. Statistics**

The Hon'ble Minister of Overseas Indian Affairs, Shri Vayalar Ravi provided a state-wise breakup of complaints relating to these marriages in a written reply in the Rajya Sabha on 30 June 2012, specifically on the question on harassment and desertion by husbands of their wives.

The National Commission for Women, received far more complaints than the

Ministry of Overseas Indian Affairs. Until March 2012 they were:

Sl. No.	State	Total number of complaints
1	Delhi	135
2	Uttar Pradesh	68
3	Haryana	56
4	Punjab	53
5	Maharashtra	46
6	Gujarat	39
7	Andhra Pradesh	31
8	Karnataka	23
9	West Bengal	30
10	Tamil Nadu	30
11	Rajasthan	25
12	Madhya Pradesh	18
13	Uttrakhand	11
14	Bihar	10
15	Himachal Pradesh	04
16	Assam	03
17	Jharkhand	04
18	Chhattisgarh	02

<sup>6</sup> Ibid. at 464-465



19	Orissa	i.	The fault is not purely of the opportunist
09			NRI's but also of the parents and family
20	Kerala		members of the deserted wife, who got
07			trapped into the lucrative dreams of
21	Goa		going and settling abroad.
02		ii.	Getting married to an NRI is looked
22	Tripura		upon as nothing but an opportunity to
02			live abroad. Such a life seems to be very
23	Jammu and Kashmir		glamorous with a high standard of
04			living.
24	Others	iii.	Getting a daughter from the house
126			married to an NRI is a way for the
	Total		parents and other siblings to go abroad.
758		iv.	In some cases, a quick engagement,
			followed by a massive wedding, hardly
			leaves any time to check the veracity of
			the bridegroom. Also a desire to visit the
			foreign land and the social status
			attached to it leads to overlooking of this
			problem, after which the NRI husband
			flies out of India while the wife waits for
			her visa.
		v.	The greed for dowry is another reason
			behind a quick marriage. The husband's
			family may not want to give a
			reasonable time to the girl's family to
			verify his prospects.
		vi.	These women are led up to a garden path
			by the husband's family who project
			rosy and misleading pictures about the
			job, earnings, property, and other
			material particulars, to trap her into the
			marriage.
		vii.	As there is a social status attached to the
			institution of marriage, there is a social
			stigma attached in its dissolution as well.
			Moreover, the Indian women due to their
			upbringing are taught to respect this
			institution, thus they do everything to
			preserve it.

From the above Statistics, it is clear that the maximum numbers of complaints are from the Delhi, Uttar Pradesh, Haryana and Punjab follow Delhi with the number of complaints registered.<sup>7</sup>

**Efficiency of the Ministry**

Legal and financial assistance rendered by empanelled NGO's etc under MOIA's scheme (Ministry of Overseas Indian Affairs) to the Indian women deserted by their overseas Indian spouses

- Total number of beneficiaries= 24
- Total amount of assistance rendered= Rs46,96,373/- (2007-2012)<sup>8</sup>

**VII. Reasons Concerning the Emerging Problem**

<sup>7</sup> Supra 7.

<sup>8</sup>Anonymous, Data on Legal and Financial Assistance rendered by empanelled NGO's etc under MOIA's scheme to Indian women deserted by their overseas Indian spouses, Ministry of Overseas Indian Affairs(November 8, 2017, 10.47 PM), [http://moia.gov.in/writereaddata/pdf/Data\\_Legal\\_financial\\_assistance.pdf](http://moia.gov.in/writereaddata/pdf/Data_Legal_financial_assistance.pdf).



### **VIII. Major Issues Pertaining to desertion of Indian Women by NRI Husband**

#### **a) Divorce**

NRI marriages that fail, often the wives are either abandoned and deserted in India or are forced to return home. In her absence, a petition for divorce in abroad is filed by the husband. Since the wife is starved for money and resources, and is unable to go to the other country to contest the proceedings and prove her side, the husband easily procures an ex parte decree. The courts in India have held such divorces invalid, and are contrary to the Indian law if the ground under which the divorce was granted is not available under the personal law applicable to the parties in India. The Courts have even held that a decree obtained abroad would be invalid and void if it was obtained without a proper consent of the parties.<sup>9</sup> Section 13 of the Code of Civil Procedure, 1908 defines when a foreign judgment is not conclusive. Wife's face additional problems when they initiate proceedings in Indian courts. As the husband is in abroad, courts are unable to issue summons in timely and efficient manner. Thus the proceedings last longer.

#### **b) Maintenance**

Studies reveal that the victims don't receive maintenance from their husbands. Even if some do, they don't receive it regularly. So the wife faces a double burden, of not only trying to get an adequate maintenance order from court, but also enforcing it, sometimes

in a foreign court. This is difficult unless countries mutually agree to enforce orders.

Sections 44A of CPC deals with execution of decrees passed by Courts in reciprocating territories and section 45 of CPC provides for execution of decrees outside India respectively. Section 44A limits its operation to Reciprocating Territories only, that is, territories with which India has agreements to mutually enforce its decrees.<sup>10</sup>

#### **c) Custody**

In some cases, fathers forcibly take away the children abroad, and in other, mothers return with their children to India finding it difficult to live in a hostile foreign environment. If custody orders have not been previously granted, then often the father procures them ex parte in a foreign country in their own favour. The Supreme Court of India and the High Courts had upheld the interests and welfare of the child to be the guiding principle in custody matters, even when they involved children who had been brought to India. Therefore, even if a foreign court had already decided the issue of custody, Indian courts can take a re-look at the question through the angle of the best interests of the child if one of the parents filed for these proceedings in India.<sup>11</sup> Majorly, the decision is in favour of the mother.

#### **V. Ravichandran v. Union of India<sup>12</sup>**

The mother was continuously moving with her child in order to escape the legal proceedings initiated by her husband. As a

<sup>9</sup> Kirti Singh, Law Relating to NRI Marriages and Their Impact on Women, National Commission for Women(December 5,2017,10.17PM), [http://new.nic.in/ExpertCommitteePDFFiles/EC\\_NRI\\_Marriages.pdf](http://new.nic.in/ExpertCommitteePDFFiles/EC_NRI_Marriages.pdf).

<sup>10</sup> Ibid.

<sup>11</sup> Supra 7.

<sup>12</sup> V. Ravichandran v. Union of India,14 SCALE,27,(SC 2009).



result, the child could not develop a stable life in India and had to frequently switch schools. The court was greatly swayed by this fact and the Constitutional Bench of the Supreme Court of India ordered that the child must be sent back to the USA, since the child was a US national of 7 years. The Supreme Court blamed the mother for not asking for custody when she first arrived in India. In particular the honourable court said-

*“In a case such as the present one, we are satisfied that return of minor Adithya to United States of America, for the time being, from where he has been removed and brought here would be in the best interest of the child...”<sup>13</sup>*

Thus, the interest and welfare of the child is of paramount importance and the courts pass their orders keeping this principle in mind.

**d) Stridhan**

In India, dowry is paid at the time and even after marriage. Refusal to provide, leads to harassment of the wife. If she escapes from the matrimonial home, stridhan-legal entitlement is not returned by the husband. It is for the wife to claim her stridhan which becomes difficult as the NRI husband does not turn up for the legal proceedings. And if by chance, the decision is in favour of the wife it is challenging for her to claim it back.

**IX. Consequences**

- i. Married women are abandoned even before being taken by her husband to the foreign country of his residence.

- ii. When woman reaches the foreign country of her husband’s residence and waits at the international airport there, only to find out later, that her husband would not turn up.
- iii. The NRI husband is already married to another woman in other country.
- iv. Women are subjected to assault, mental and physical abuse, brutally battered, are malnourished, confined, ill treated and forced to flee or are forcibly sent back.
- v. When these women are abandoned by their husbands in a foreign country they are left with absolutely no means of resources, sustenance, support and even the legal permission to stay on in that country.
- vi. The menace of ‘honeymoon brides’ is a big problem to deal with because there are over 20,000 brides who have not seen their husbands after their honeymoon.
- vii. There are certain cases where the children are abducted and are forcibly or sometimes even cleverly taken away from the woman.
- viii. Woman when finally approaches the court, either in India or in the other country, for matrimonial reliefs such as, restitution of conjugal rights, maintenance or divorce, have to repeatedly encounter technical, legal obstacles related to jurisdiction of courts, service of notices, enforcement of orders or acquiring the knowledge that the husband has already commenced simultaneous retaliatory legal proceeding in the other country.
- ix. The husband is usually successful in getting an ex-parte decree of divorce in foreign country through fraudulent

<sup>13</sup> Ibid.



representations without the knowledge of his defenceless wife.

- x. When the women sought to use the criminal law or any other law in order to punish their husbands and in-laws for any matrimonial offence she finds out that trial can't proceed as the husband couldn't come to India to submit to the trials or respond to various summons in any way.

#### **X. Judgements**

#### **Y. Narsimha Rao and Ors Vs. Y. Venkata Lakshmi and Anr.<sup>14</sup>**

The marriage was solemnized in India under the Hindu Marriage Act. After which the husband went back to USA and obtained a decree of divorce from the State of Missouri. The husband alleged that he was resident of State of Missouri for 90 days preceding the institution of the petition. On the ground of "irretrievable break down of marriage" the husband obtained the divorce decree. The Supreme Court of India held that both - the ground on which the foreign decree was passed and the issue of jurisdiction were not in accordance with Hindu Marriage Act under which the marriage had taken place, therefore, the decree was not enforceable in India.

In this case the court laid down a golden rule:

*"... The jurisdiction assumed by the foreign court as well as the ground on which the relief is granted must be in accordance with the matrimonial law under which the parties are married. The only three exceptions to this rule were also laid down by the court:*

*where the matrimonial action is filed in the forum where the respondent is domiciled or habitually and permanently resides and the relief is granted on a ground available in the matrimonial law under which parties are married; where the respondent voluntarily and effectively submits to the jurisdiction of the forum as discussed above and contests the claim which is based on the ground available under the matrimonial law under which the parties are married; where the respondent consents to the grant of the relief although the jurisdiction of the forum is not in accordance with the provisions of the matrimonial law of the parties"*

#### **Smt. Neerja Saraph Vs. Shri Jayant V. Saraph<sup>15</sup>**

The Supreme Court held that with rise of marriages with NRI and change in social structure, the Union of India may consider enacting a law like the Foreign Judgements (Reciprocal Enforcement) Act, 1933 enacted by the British Parliament in pursuance of which the Government of United Kingdom issued Reciprocal Enforcement of Judgements (India) Order, 1958.

The court recommended that feasibility of a legislation safeguarding the interest of women may be examined by incorporating provisions like:

- No marriage between a NRI and an Indian woman which has taken place in India may be annulled by a foreign court.
- Provision may be made for granting adequate alimony to the wife in the

<sup>14</sup> Y. Narasimha Rao and Ors vs. Y. Venkata Lakshmi and Anr., 3 SCC,451,(SC 1991)

<sup>15</sup> Smt. Neerja Saraph Vs. Shri Jayant V. Saraph and Anr ,6 SCC 461(SC 1994) .



property of the husband both in India and abroad.

- The decree granted by Indian courts may be made executable in foreign courts by entering into reciprocal agreement. For instance, section 44A of the C.P.C. makes a foreign decree executable as it would have been a decree passed by that court.<sup>16</sup>
- Providing the right to approach court for injunction or interim order against the husband travelling abroad or taking the children abroad (including impounding of passport).<sup>17</sup>

#### **Harmeeta Singh v Rajat Taneja<sup>18</sup>**

Within 6 months of marriage the wife was deserted by her husband and she was forced and compelled to leave the matrimonial home within 3 months of joining her husband in the US. She filed a suit for maintenance under the Hindu Adoptions and Maintenance Act 1956 in India. The High Court disposed of the interim application in the suit by passing an order of restraint against the husband from continuing with the proceedings in the divorce petition filed by the husband in the US court there. The High Court also asked him to place a copy of the High court's order before the US court.

The Court made observations mainly that even if the husband succeeds in obtaining a divorce decree in US, that decree would not receive recognition in India as the Indian

court has jurisdiction in the matter and the jurisdiction of the US courts would have to be established under Section 13, CPC. The Court also cleared that till the US decree was recognized in India, the husband would be held guilty of committing bigamy in India and would be liable to face criminal action for that. The court also said that since the wife's stay in the US was very transient, and temporary, and she may not be financially capable of prosecuting the litigation in the US court, the Delhi courts would be the forum of convenience in the matter.<sup>19</sup>

#### **Smt. Seema Vs. Aswini Kumar<sup>20</sup>**

Supreme Court vide its judgement dated 14.02.2006 has issued the directions that the Central and State Governments shall take the following steps:

- Registration of marriages of all the persons who are citizens of Indian belonging to various religions should be made compulsory in their respective states.
- The respective states should notify the procedure for registration within 3 months.
- It is now mandatory for the states to provide for registration of marriages which needs to be implemented in case of NRI marriages taking place in India. The marriage certificates for NRI marriage should be issued in duplicate copies and it must carry social security number of the NRI spouse.<sup>21</sup>

### **XI. New Development**

<sup>19</sup> Ibid.

<sup>20</sup> Smt. Seema Vs. Aswini Kumar, 2 SCC, 578 (SC 2006)

<sup>21</sup> Supra 4, at 466-467

<sup>16</sup>Law Commission Report (219), Need for Family Law Legislations for Non-Resident Indians, (December 2, 2017, 23:39pm) <http://lawcommissionofindia.nic.in/reports/report219.pdf>.

<sup>17</sup> Ibid.

<sup>18</sup> Harmeeta Singh v Rajat Taneja, DLT, 822 (2003)



A high-level joint committee of officials drawn from the Ministries of Law and Women & Child Development, External Affairs is decided to be constituted by the government. This committee shall formulate standard operating procedures (SOPs) to deal with cases of NRI husbands abandoning their Indian wives. The decision follows a meeting between External Affairs Minister Sushma Swaraj and Women and Child Development Minister Maneka Gandhi. Once chalked out, the SOPs will be shared with various Indian diplomatic missions abroad. Meanwhile, officials of the Law Ministry brought an existing 47-year-old law in notice of a parliamentary panel highlighting that there is a ray of hope for the distressed wives. They pointed out that the Foreign Marriage Act, 1969, constituted provisions to deal with “such situations”. One of the panel members said, “We have been informed by the Law Ministry that the Foreign Marriage Act, 1969, has provisions to help women married to NRI husbands facing problems abroad. Most people are not aware of such a law.”<sup>22</sup> One of the most significant clauses of this Act was Section 14, which states that whenever a marriage is solemnised under the Foreign Marriage Act, “the marriage officer shall certify it in the Marriage Certificate Book”. It has to be followed by the signature of the couple and three witnesses. It is pertinent to note that the certificate is “deemed to be a conclusive evidence that marriage had been solemnised”, the member said. He also

<sup>22</sup> Mukesh Ranjan, Soon, Help for Wives Deserted by NRI's, The Tribune, July 11, 2016, (December 3, 2017, 00:26pm), <http://www.tribuneindia.com/news/nation/soon-help-for-wives-deserted-by-nris/264205.html>.

mentioned that the law also provides for “matrimonial relief” for the spouse.<sup>23</sup>

### **Suggestions and Recommendations**

#### **A. Governmental interventions**

- i. National Commission for Women has been nominated as the coordinating agency at the national level for dealing with issues relating to NRI marriages vide ministry of Overseas Indian Affairs order dated 28<sup>th</sup> April 2008.

Based on the recommendations of the Parliamentary Committee on Empowerment of Women (14<sup>th</sup> Lok Sabha) on the subject ‘Plight of Indian Women deserted by NRI husband’ which was discussed and deliberated upon the Inter Ministerial Committee meeting held on 7<sup>th</sup> July, 2008.<sup>24</sup> The National Commission for Women at the central level is the coordinating agency to receive and process the complaints relating to issues of wives deserted by NRI husbands. These figures relating to the disputes in NRI marriages reflect just the tip of the iceberg. About 1300 cases were registered with the NRI cell of the National Commission for Women and with the Ministry of Overseas Indian Affairs from 2005 to 2012. These are the only number of complaints that have reached the concerned authorities appointed by the State to deal with this matter. Many more actual cases go unreported. With such a significant role to play, it is imperative that National Commission for Women starts playing a more active role so that the picture of this social malaise is much clearer.

<sup>23</sup> Ibid.

<sup>24</sup> Supra 1.



Thus, it is recommended that National Commission for Women must be recognized as an authorised body which can directly make applications before the foreign courts on behalf of deserted and aggrieved women.

- ii. The government should take steps through bilateral or multilateral treaties whereby foreign courts be barred from passing ex-parte divorce decree in cases of marriage being solemnized as per Indian law.
- iii. The extradition treaties of India with other countries should also include within its scope and ambit cases of domestic discord. The Law Commission of India had already recommended this in their 219th Report in 2009.
- iv. Treaties should also be signed with countries with a sizable Indian population with respect to enforcement of maintenance orders and service of summons.

**B. Preventive Measures**

**i. Not to rush into the marriage**

There is no need to rush into marriage. Extensive interaction and communication between the bride and the groom must take place. The couple should interact with each other freely and frankly, before the marriage. This will provide enough time to the girl’s family for gathering the relevant information. Also during this time the couple can themselves decide if they even want to enter in the matrimonial tie with each other.

**ii. Free consent**

It must be made sure that the both the parties have accepted to tie the knot with their own free and voluntary consent. It must be ascertained that there is no kind of parental/social pressure. It might be a possibility that the groom already has a girlfriend/wife in the foreign country, but his parents are compelling him to get married to the Indian girl.

**iii. Verification of the antecedents of the groom’s family**

The background of the prospective groom and his family should be verified. It includes his age, marital status, employment details, property claims, and citizenship status .The groom can be asked to get an affidavit proving his employment and residential status. Following are the facts that should be checked and verified.

- ✓ Citizenship and immigration status should be proved by stating an affidavit, supported by attested copies of passport, voter card and documents which show the social security number.
- ✓ Verifying the marital status, whether he is single, divorced or separated.
- ✓ Immigration status includes type of visa and the eligibility to take the spouse to other country.
- ✓ Employment details like salary, post supported by a certificate from the employer.
- ✓ Verification of the financial claims including properties owned by him in India, supported by relevant documents.
- ✓ An affidavit stating that no criminal/civil case is going on against him in the country of his residence.

**iv. No reliance on Marriage Brokers**



Information furnished by the marriage bureaus, middlemen and matrimonial sites should not be relied on blindly. It is possible that they are just trying to earn money by withholding the relevant information. An affidavit should be taken from the bridegroom stating his present marital status.

#### v. Financially and Socially Independent

It is always advisable to be financially and socially independent. The woman must have an independent account in the concerned foreign country in order to withdraw money in cases of emergencies. Also she should be educationally or vocationally qualified so that she need not remain dependent on her husband.

Being socially active will be beneficial for her, as she will always have people backing her up. She must also have the contact details of the woman help line number, police friend and Indian Embassy.

#### vi. Speak out against violence

It is very important on the part of the woman, to speak out against any sort of injustice or violence against her. The more she keeps quiet, tolerating injustice, the more suppressed she would be. So, she must inform people if she is being oppressed and tortured by her husband or her in-laws.

#### vii. Knowledge of her Legal rights

The bride must be well aware of her legal rights and entitlements in both the domestic and foreign country. This will help her in taking legal action in time and would not get trapped in the games played by the bridegroom.

#### viii. Copies of Important Documents

The woman herself, her family in India or her close friend should keep copies of all important documents such as visa, marriage certificate, passport, bank details and other essential papers. In case the husband or his family forcibly take these documents away or destroy them, these copies will prove to be very beneficial and will help the woman to take the course of legal action and fight for her rights.

#### C. Role of an Embassy

Indian Embassy located abroad has a very important and active role to play in cases of NRI marriages, when Indian wife is being subject to ill treatment in the foreign country. Welfare officers must be appointed in countries with large Indian population to provide support services and assistance. When wives of NRI marriages are in the midst of a crisis, these welfare officers can help them avail residence and prompt visas for defending herself in legal proceedings initiated by her NRI husband in other country.

#### D. Law based Solutions

1. There is a dire need to enact a new law addressing this mushrooming issue and at the same time make amendments in existing laws. A new, comprehensive legislature is the need of the hour otherwise numerous lives will get destroyed.
2. An enactment of a special law, providing for a provision of speedy hearing and redressal will help the victims to have a faster access to justice and so will finally be in a position to move ahead with their life and probably remarry.



3. Registration of marriage involving NRI's under Hindu Marriage Act with other respective Marriage Act should be made compulsory. This will help check bigamy and make the parties entitled to legal recourse. The government should set up a separate agency dealing registration of cross-border marriages.
  4. The Ex-parte decrees on divorce taken by NRI's from foreign courts should not be recognized or considered binding in India. Indian court falling under the respective jurisdiction should try the case. This way both the parties especially the wife will have an equal chance in comparison to the husband to substantiate her sides.
  5. Enacting proper NRI laws, making corresponding procedural rules to implement and establishing proper competent agencies and department to execute them will prove to be really effective.
  6. Establishing more NRI Commissions and NRI cells because of the growing scope of this problem is the need of the hour.
  7. It is high time that strict legal methods are taken against the deserting party in case of desertion or the offender in case of any type of abuse in these cross-border marriages regardless whether it is the husband or the wife.
  8. The Indian government should enter into bilateral treaties with other countries especially those with high percentage of Indian diaspora and make agreements on the procedure to be followed while dealing with the legal proceedings of cross-border marriages like issues of maintenance, custody of children, divorce etc.
  9. This will help take action against the offenders on the basis of the principle of reciprocity.
  10. The feasibility of section 20 of the Extradition Act, 1962 should be examined, by virtue of which any person accused of or convicted for an extradition offence, from foreign country to India.
- E. Other solutions**
1. The girl should be aware about the law of other country and the various matrimonial rights enjoyed by her especially against any sort of abuse, neglect, domestic violence and desertion.
  2. Proper training should be given to people to deal with this problem and should be able to empathise with the victim.
  3. Regular and periodic awareness campaigns should be conducted with special focus on villages to aware and warn people of this lifestyle in disguise of a dreadful trap.
  4. Media can play a very significant role in this regard, where it can help in highlighting the adverse effect of marrying NRI's in a hurry and the preventive steps that should be taken to avoid social and economic poverty with the social stigma attached to it.
  5. Police and judiciary needs to be sensitized on this growing issue of matrimonial offences by NRI husbands. This helps in providing support, assistance and humanitarian treatment towards the victims of such offences. As a result, this will help in speedy redressal of these cases of violence against women.
  6. "Irretrievable breakdown of Marriage" should be made a ground for divorce subject to its safeguard.
- XII. Conclusion**
- "House and wealth are inherited from fathers, but a prudent wife is from the Lord."



Analysing the plight and the condition of these deserted wives there is an instant need to implement the solutions mentioned above. Visibly, the problem may seem to look insignificant as the common belief is that the percentage of these victims may be less but this this problem is mushrooming at a very fast pace and so is the percentage of victims associated with them. This problem if not addressed urgently and with considerable amount of sensitivity will definitely lead to hindering the normal pace of the society with the question being raised on marriage as an institution and will in turn tarnish the respect this institution holds.

Social status and marriages in India are closely knit with each other. Because of this, the Indian families prefer getting their daughters married to a man residing in a foreign country. Coping with a new environment away from home creates a scenario where the wife is dependent on her husband for her sustenance and well being. When the marriage takes an ugly turn, the wife is desolated and has no access to justice.

Looking at the gradual increase of the helplessness of the women there should be proper laws implemented that help in resolving these issues and empower the women. The current situation either grants her a remedy where she lacks access or if she ever gets proper access there is a lack of remedy. It is rare that a wife's complaints are redressed. Returning to India not just debars her from the marital abuse but also the legal rights and entitlements. So, in order to overcome this situation of helplessness, we propose an overhaul of the legal structure governing NRI marriages.

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