

NRI MARRIAGES: ISSUES AND RAMIFICATIONS

AMRIT PAL KAUR

Abstract: 'NRI marriages', as generally understood, is between an Indian woman from India and an Indian man residing in another country. In many of the Indian states and regions marriage of a son or a daughter abroad is taken to be a status symbol. Sometimes such marriages are taken as an easy way out to enter a foreign country for a comfortable life and lucrative future. But as it is said, all that glitters is not gold. Sometimes these foreign dreams come at a cost of innocent lives and the future of the spouses who travel to a foreign land along with these NRIs. In some cases they do not even have to travel abroad to get harassed as their dreams get shattered while they are still in India. In the eagerness of not to let go of such lucrative marriage offer, the families totally ignore even the common cautions that are observed in traditional matchmaking. A number of problems are emerging with the NRI marriages and women are the worst affected. The problem is not just due to opportunistic NRIs, but also because of the parents who trust someone whom they hardly know.

There is a growing trend for Indian women or men to get married to NRIs. The desire to settle in a foreign country for better quality of life inspires Indians to tie knots with NRI brides and grooms. The statistics show that 225 women from metros get married to NRIs every year, and out of this almost 25 are either deserted by husbands or want to end their marriage due to reasons of deception or hiding facts. In light of this it is very important for Indians who get married to NRIs to keep an idea of laws related to NRI divorce. Most of the Indian females are crazy about getting married to NRIs. Their parents also want to marry off their daughters to foreign based Indians who can provide a better quality of life and home. The parents are ready to churn out any amount of cash for foreign based grooms. They spend huge money in wedding as well as giving dowry to the boy's family. The trend of marrying NRIs is very much prevalent in the state of Punjab. National Commission for Women says there are 15,000 women deserted by NRIs in Punjab alone. There are lots of Punjabis settled abroad. The parents of these Punjabi boys and girls insist their children on getting their spouses from India so that a cultural continuity is maintained. In fact the parents of the boys who are settled outside India ask a lot of dowry from the girl's family, and the family manages to pay any amount for marrying their daughters to NRIs. However, many of such marriages end in divorce. Indian women are facing kind of mental and physical trauma especially in the states of Punjab, Gujarat and Haryana where incidences of fraudulent NRI marriages are on the rise. Every month hundreds of cases are being reported in the media. The National Commission for Women (NCW) receives several complaints from desperate women abroad for being duped by their NRI husbands. There are various issues involved in NRI marriages-legal and non-legal issues. This paper will examine all the issues related to these marriages, their ramifications and will give suggestions to protect the victims of such marriages.

Key words: NRI's, Marriage, Fraud, Indian Women, Victims

Introduction: *Law and order exist for the purpose of establishing Justice and when they fail in this purpose they become the dangerously structured dams that block the flow of social progress. - Martin Luther King, Jr.*

The trend of marrying Non-Resident Indian (NRIs) is very much prevalent in the state of Punjab. In the eagerness not to let go of such lucrative marriage offer, the families totally ignore even the common cautions that are observed in traditional matchmaking. They also ignore that in case of things going wrong in an NRI marriage, the woman's recourse to justice is greatly constrained and complex. The aggravated risk in such marriage is the woman being 'isolated' far away from home in an alien land, facing language constraints, communication problems, lack of proper information about the local criminal justice, police and legal system. The situation is worsened by lack of support network of friends, family and monetary constraints which leaves the deserted wife completely helpless and stranded.

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boys and girls insist their children on getting their spouses from India so that a cultural continuity is maintained. In fact the parents of the boys who are settled outside India ask a lot of dowry from the girl's family and the family manages to pay any amount for marrying their daughters to NRIs. However, many of such marriages end in divorce. Some common situations that lead to divorce are:

- The NRI spouse already has another spouse and in some cases children also. In most of the cases the groom does not take the bride with him leaving her behind with parents. But when the reality is disclosed the girl's family seeks divorce for their daughter.
- The NRI spouses exaggerate about their possessions in the foreign country. They boast that they have home, vehicle, high paying job, but actually might not be in a position to support a family after marriage.
- The lifestyle of the NRI spouse is too much advanced for the Indian spouse to keep pace with him or her. The NRI spouse feels that he or she is not suitable as a partner and seeks divorce on the grounds of incompatibility. Whatever may be the reason for

divorce, a person who has married an NRI should be aware of the basic laws related to NRI divorce.

- If both the spouses are Indians and have been married under Hindu marriage Act of 1955 they can seek divorce with mutual consent under section 13-B that provides for divorce by mutual consent.
- If both the spouses are residing in USA or any other foreign country, then they can seek divorce by mutual consent under the country's divorce laws related to foreign marriages. The Indian legal system will recognize the divorce only if it is with the consent of both the parties.

There are not many laws that protect the interest of Indians married to NRIs. However, due to rise in the number of troubled marriages among Indians and NRIs, the government is initiating non government organizations in India and

abroad. These organizations give advice to Indian men and women who are married to NRIs and residing in abroad. They offer counseling, legal advice and moral support in event of divorce and separation. Even if the divorce is taking place in abroad it would be good to appoint an attorney who is proficient in dealing with Indian divorce laws related to NRIs.

Of a population of over one billion Indians, nine million Punjabi NRIs constitute the biggest community from any Indian State to contribute to the total of twenty five million NRIs living worldwide. Times have changed but family law legislations enacted by the Indian Parliament in 1955 and 1956 have left Indians where they were. The result is an influx of family law problems arising out of NRI marriages with no practical solutions in the legislative enactments as they exist today. To compound the problem, registration of marriages, which is optional under Hindu Family laws, has not been made compulsory in most states including Punjab. Consequently there are multiple marriages by the NRI's which is often without a previous divorce and it is invariably by duping the previous spouse, providing no maintenance to the abandoned wife and the unfortunate child of such union (if any). Legal recourse is difficult, time consuming, expensive and complicated. Despite a Family Courts Act 1984, Punjab has none despite 22 years having elapsed since this law was made. The end result is that about thirty thousand abandoned women in Punjab fend for themselves in an uphill legal system which provides no solutions or answers. These figures have been compiled by the National Commission for Women and the Ministry of Women and Child Development as reported in the article "Runaway NRI grooms now risk losing their passports." As a matter of fact, fifteen thousand abandoned NRI wives are from Punjab's Doaba region.

The problem is especially related to Indian women who get trapped in deceptive matrimony with overseas Indians. They also ignore that in case of things going wrong in an NRI marriage, the woman's recourse to justice is greatly constrained and complex. The aggravated risk in such marriage is the woman is being

'isolated' far away from home in an alien land, facing language constraints, communication problems, lack of proper information about the local criminal justice, police and legal system. The problem is manifold and it incorporates issues like dowry and various other types of harassment of married women in foreign countries, marriages of convenience, concealment of earlier existing marriage by the husband before marrying an Indian woman. Another very important issue which needs attention is lack of social security faced by an Indian woman in a foreign country when the marriage is not working. The situation is worsened by lack of support network of friends and family and monetary constraints which leaves the deserted wife completely helpless and stranded.

Indian women are facing kind of mental and physical trauma especially in the states of Punjab, Gujarat and Haryana where incidences of fraudulent NRI marriages are on the rise. Every month hundreds of cases are being reported in the media. The National Commission for Women (NCW) receives several complaints from desperate women abroad for being duped by their NRI husbands.

Ministry of Women and Child Development (WCD) is quoting a startling figure of 15000 abandoned brides from Doaba region alone, which is about 50% of the total alleged cases (30,000). Punjab therefore leads the pack of all states wherefrom cases of abandoned brides are being allegedly reported. This certainly calls for a deeper probe to gain a better insight into the issues which are working as triggers to orchestrate such high figures of abandonment. Understanding socio-cultural, economic and political factors prevalent in Doaba is crucial to devising appropriate remedy for the issue of abandonment. Hyderabad allegedly ranks second to the Doaba region of Punjab in the number of NRI abandoned brides. The common thread binding these two evidently diverse geographical and cultural regions is the irrepressible urge to leave Indian shores or to become an NRI. While the traffic from the Doaba is more of the nature of unskilled labour largely opting for resettlement in the UK or Canada, most applicants from the IT hub of India are the highly skilled IT professionals hankering for the promising US shores. This distinction however does not affect their willingness to commit visa fraud in order to gain means to their end.

Illegitimate System, illegitimate Product: In Punjab, incidents of such exploitation are on the rise at an alarming rate, especially in districts like Ludhiana, NawanSahar, Jalandhar, Hoshiarpur, Kapurthala and Moga, from where very large numbers of Punjabis are settled in foreign countries. Not only that, if such cases were earlier heard about the grooms living in the USA, Canada, UK and other European countries, similar frauds are now being perpetrated by those working in the Gulf countries and other Arabian countries. Districts of Ludhiana, NawanSahar, Hoshiarpur and Jalandhar are now on the top in respects of such heinous incidents.

The main reasons for this social tragedy are the socio-

economic conditions of the peasantry in Punjab, the ever-rising level of unemployment and the westernization of social relations, which together provide a fertile ground for such incidents. Besides the lack of a strong law and of awareness among the young girls, which makes it all the easier for the NRIs to perpetrate the fraud, such cases are also kept hidden from others for fear of being stigmatized.

But, as we all know our legal process is extremely corrupt and time consuming. Many a time the culprits go scot-free due to the lack of an effective law. Though the phenomenon is an illegitimate offspring of the illegitimate system of capitalism, the deteriorating condition of our peasantry is making it flourish. Unemployment is another reason behind such tragic happenings.

Common Issues in NRI Marriages:

Following are some of the typical instances of the issues that could arise in NRI marriages:

- Woman married to an NRI is abandoned even before being taken by her husband to the foreign country of his residence.
- Woman brutally battered, assaulted, abused both mentally and physically, malnourished, confined and ill treated and forced to flee or was forcibly sent back. A quick engagement, followed by a massive wedding, a huge dowry and a honeymoon, after which the NRI husband flies out of India while the wife waits for her visa. The menace of 'honeymoon brides' is a big problem to deal with as over 20,000 brides have not seen their husbands after their honeymoon. In some cases, the children were abducted or forcibly taken away from the woman.
- Woman who reached the foreign country of her husband's residence and waited at the international airport there only to find that her husband would not turn up at all.
- Abandoned in the foreign country with absolutely no support or means of sustenance or escape and without even the legal permission to stay on in that country.
- NRI husband are already married in the other country to another woman
- Husband had given false information on any or all of the following such as his job, immigration status, earning, property, marital status and other material particulars, to contact her into the marriage.
- Husband, taking advantage of more lenient divorce grounds in other legal systems, obtained ex-parte decree of divorce in the foreign country through fraudulent representations and/or behind her back, without her knowledge
- Woman was denied maintenance in India on the pretext that the marriage had already been dissolved by the court in another country.
- Woman who approached the court, either in India or in the other country, for maintenance or divorce but repeatedly encountered technical legal obstacles

related to jurisdiction of courts, service of notices or orders or enforcement of orders or learnt of the husband commencing simultaneous retaliatory legal proceeding in the other country.

Legal Issues involved in NRI Marriages:

Conflict of laws: On the issue of the validity of the marriage, the choice of law of marriage and divorce i.e. whether the Indian law would apply or the law of the husband's country of habitual residence would apply in dissolving the marriage.

Issue of Jurisdiction: Whether the Courts in India or the Courts of the country of the husband's residence have the jurisdiction to deal with the matrimonial dispute, issues relating to maintenance and other ancillary matters of child custody.

Maintenance and Custody Laws: Whether the Indian law on these issues will apply or the law of the husband's country of habitual residence will apply to them.

Validity of foreign court orders: Situations are abound when a non resident Indian invokes the jurisdiction of the foreign Court where he is resident and convinces the overseas Court to pass favourable orders in such matters which are thereafter sought to be executed in the Indian jurisdiction through the Courts of law in India. Another very important question, which comes up at the end relates to enforcement and execution of foreign judgments when they are sought to be implemented in India. The Indian Courts do not accept foreign Court Judgments, which violate Sections 13 and 44 of the Indian Code of Civil Procedure, 1908.

Power of the Indian Courts: Whether the Indian Courts has the power to restrain legal proceedings in the foreign courts and/or pass contrary judgments/orders. The foreign courts mostly do not accept Indian Court Orders.

Property rights and other ancillary issues: Does the abandoned wife and her children out of the broken wedlock have property rights in the ancestral or the property of her in-laws in India. Indian Courts mostly decline any such rights.

Other legal remedies available: Whether the abandoned wife can avail other remedies like extradition, impounding of passport, cancellation of citizenship, attachment of property, look out orders, suit for damages, injunction, declaration or invoking the Writ of Habeas Corpus. Experience shows that foreign missions and embassies in India of the respective foreign countries offer little or no help. For the abandoned spouse to reach the foreign country is expensive, difficult and cumbersome, if in the first place the spouse manages to obtain a visa at all.

Do's and Don'ts:

It is urgently required to check the NRI groom's personal information particulars such as:

- a. Marital status: if he is single, divorced, separated as well as his employment details such as qualification and post, salary, address of office, employer and their credentials. His immigration status, type of visa,

eligibility to take spouse to the other country must also be ascertained.

- b. Financial status, properties said to be owned by him in India, residence address, family background, Visa, passport. Voter or alien registration card, Social security number etc.
- c. Have regular and meaningful communication with the man and his family over a period. Insist on a registered marriage along with the religious marriage to be solemnized in India with adequate proof like photographs etc.
- d. Insist on keeping in touch with the bride even after the marriage on phone and e-mail and through local friends and relatives and get alert if at any point there is any reluctance or difficulty in this.
- e. The women are to be equipped with the knowledge of the laws of the foreign country and the rights she enjoys there, especially against any form of abuse or neglect, including domestic violence and if she can get residence permit and other protections as a victim of domestic violence or abuse.
- f. Have a bank account in your exclusive name near your residence that you can use in case of any emergency.
- g. Leave photocopies of all important documents including your passport, visa, bank and property documents, marriage certificate and other essential papers and phone numbers with parents or other trustworthy people in India or abroad. In case they are lost/forcibly taken away/mutilated/destroyed by or at the instance of spouse or in-laws, the copies will come in handy. If possible, keep a scanned soft copy with you and any person you trust so that the same can be retrieved if necessary.
- h. Try to keep a photocopy of husband's personal details including passport, visa, property details, license number, social security number, voter or alien registration card, among others.

Don'ts:

- a. Do not forge/fabricate papers or legal documents for somehow going abroad and do not become a party to illegal acts under pressure, allurements or instigation from anyone.
- b. Do not be forced into participating in legal action in country of husband's residence. You can file a case in India and cannot be forced to defend a case filed against you by husband abroad especially divorce. India has more women-friendly laws than many other countries.
- c. Do not panic if your husband obtains divorce in the other country with or without your knowledge is not valid in India.
- d. Do not defame husband and/or in-laws without evidence as they may slap a defamation case against you. Speak only the facts at the right fora before police/lawyer/social worker/court etc.
- e. Do not be vindictive and take law in your hands. Never resort to violence or any illegal act to settle scores with deserter husband and/or in-laws.

Approach government authorities in case of any problem in the marriage. Do not file false/frivolous complaint.

Suggestive measures: Simplification of procedure for quick issuance of visa by foreign Missions in India to deserted women to enable them to contest the proceedings filed by NRI / PIO husband in a foreign land is needed. The grant of *ex-parte* divorce by foreign courts is to be barred in the case of marriages solemnized in India as per Indian law. Procedural delay/low priority to issue LOC/RCN against accused NRI/PIO husband in cases of marital discord needs to be addressed. Cases of domestic discord are to be included in the scope of extradition treaties. Need to develop mechanisms to enable quick tracking of NRIs/PIOs in case of desertion. Funds may also need to be allocated for location of such persons through agencies available for the purposes. Recognition of NCW as an authorized body to directly make applications before foreign courts and foreign missions on behalf of aggrieved women if so required. Designating nodal officers/department for dealing with NRI issues. The most important is the sensitization of police and authorities for registration of FIR and other NRI issues. A special cell of the police force must be there to effectively provide justice to the aggrieved family. An FIR must be registered in the police cell especially created for such cases involving NRIs. The police must be made to act speedily in such cases. A public awareness drive must be initiated against such social evils and the deceivers must be exposed. Indian embassies in foreign countries must be made more cooperative in these cases so that culprits can be prosecuted immediately in India. The role of State Governments is to build awareness, to designate nodal officers/department for dealing with NRI issues and sensitization of police and authorities for registration of FIR and other NRI issues.

India should sign the Hague Conventions. The decision of ministry of Overseas Affairs to appoint volunteers in countries with a high density of NRIs and PIOs to carry out check of the grooms abroad has remained just on paper. With globalization the number of NRI-Indian marriages is on the rise. It is sometimes impossible for the bride's parents in India to verify the credentials of the NRI grooms. What is required is some institutional mechanism in order to get some authentic information before these so called NRI marriages are finalized. Indian missions should help out with the task in conjunction with local NGOs and even come to the rescue of victims of these fraudulent marriages. Police and law enforcing agencies in India need to be more sympathetic in dealing with them. FIR reporting should be made possible for the victims. The government needs to bring in a comprehensive regulation to ensure that all the protection accorded by the law to all Indian women with regard to marriage, divorce, maintenance, inheritance and custody of children are applicable to victims of fraudulent NRI marriages as well.

Men often blame that women are keen to get themselves

hooked onto a NRI with the greenbacks and good lifestyle in eye rather than a nurturing relationship with a human being involved. However, while blaming women, they fail to accept why they are so keen for an Indian bride. If they are so keen about their partner being an Indian, why not pick a local born person of Indian origin. Why an Indian girl born and brought up here? The true reason is that they want an obedient maid servant at home while they can continue earning dollars. Subservience is never going to work anywhere and it's high time men start living that.

Punjab Government introduced new laws i.e. Compulsory Registration of Marriage Act and the Punjab Prevention of Human Smuggling Act. NRI Affairs Minister Bikram Singh Majithia said. Majithia said the law to prevent human smuggling was aimed at saving state youth "from the illegal network of unauthorized travel agents."

In Kerala state government had formed a separate Department, namely Non-Resident Keralites Affairs Department (NORKA) considering the large number of expatriates from this State and to actively deliver device to their needs. A facilitative role is being played encompassing nearly all issues pertaining to Non-

Resident Keralites. A number of Representations were received in this Department concerning the issue of distress faced by Non- Resident Indian wives. A major problem pertains to desertion of wives. The poor women often face utter financial penury, hardships in carrying entire responsibilities of the family by themselves often indifferent and callous attitude from in-laws etc. Their health and children's education also are at risk.

To sum up, the Punjab Government in the year 2010 enacted the Punjab Prevention of Human Smuggling Act, 2010 which is currently awaiting the assent of the President of India. Likewise, the Central Government as well the Punjab Government must consider seriously enacting on the issue of the NRI abandoned legislation. In the view of the author, the above changes can be made either by providing a new composite legislation for NRIs or suitable changes can be made in existing legislations for streamlining the laws and procedures. It is suggested that a Core Committee of specialists in the field of Private International Law should be constituted at the earliest to prepare a comprehensive draft to suggest the changes in legislation in the best possible way.

References:

1. Problems relating to NRI Marriages, Dos and Dents, National Commission for women "Marriages to Overseas Indians" published by Ministry of Overseas Indian Affairs, Government of India New Delhi
2. <http://www.indidivorce.com/nri-divorce.html> (accessed on 8th September, 2013)
3. *Supra* note 2
4. Indian Express, Chandigarh Edition, 5 February 2011
5. Anil Malhotra and Ranjit Malhotra, "NRI Marriages – the Punjab perspective" available at http://pd.cpim.org/2006/0730/07302006_problem%2orelating%2oto%2onri%2omarriage.htm accessed on 9th September, 2013
6. *Supra* note 1
7. Marrying an NRI: Think again? Available at <http://www.merineews.com/article/marrying-an-nri-think-again/131906.shtml> accessed on 8th September, 2013
8. *Infra* note 12
9. *Infra* note 12
10. Rajinder Kaur Chohka, "NRI Marriages: Problems, Causes & Remedial Measures" available at http://pd.cpim.org/2006/0730/07302006_problem%2orelating%2oto%2onri%2omarriage.htm (accessed on 9th September, 2013)
11. *Ibid*
12. *Ibid*
13. *Supra* note 5
14. *Supra* note 1
15. *Supra* note 13
16. *Supra* note 5
17. "NRI marriages made in hell" available at <http://awomaninindia.wordpress.com/2010/07/20/nri-marriages-made-in-hell/> accessed on 8th September, 2013
18. Punjab to introduce measures against human smuggling, fraud marriages, Vancouver Desi, 6th December, 2012
19. *Supra* note 14
20. *Supra* note 5

Assistant Professor, Panjab University, Chandigarh, India