

AGENDA NOTE

In the last few decades globalization through the advancement in the technologies has resulted in the worldwide transformations economical, social, political and cultural spheres the world over. The changes wrought by globalization have had major impact on Indian society. This can be illustrated from the impact that globalization has had on that most sacred institution of Indian Society - Marriage. With increasing number of Indians traversing the world in search of a better life, marriage norms have changed. A new form of marriage termed as NRI marriage has emerged, where one party is a resident/citizen of another country or where both parties are Indian, but are living on foreign soil.

Unfortunately, it seems the more things change, the more they remain the same. Marital crimes such as dowry harassment, domestic violence, cruelty, desertion etc are flourishing even in these NRI marriages; the only difference is that due to multiplicity of laws, and lack of support system on foreign shores access to justice for the economically weaker party primarily the wife) has now become even more difficult. India is seeing an emergence of cases where the husband in an NRI marriage, deserts his wife in India and files for divorce in the foreign courts, taking advantage of the relaxed divorce norms in those countries. When a case for divorce is filed on foreign shores, the wife, in effect is losing all the rights that the Indian laws bestow on her. Further, lack of understanding of Indian Society and its unique problems (especially with respect to dowry) have also led to foreign courts passing judgements and decrees inherently unfavourable and unjust to the Indian Women.

Moreover, the Indian wife, in an NRI marriage faces a herculean task to even get her husband to appear before the Indian authorities to investigate the allegations levelled by her. Even when the matter finally reaches the Courts, lack of knowledge regarding the procedure to be followed leads to further delays. Thus, it is the complainant who is further harassed in the fight to protect her rights.

The National Commission for Women has been designated as the Coordinating Agency at the National level for dealing with issues pertaining NRI marriages vide Ministry of Overseas Indian Affairs (now Division of ministry of External Affairs) order dated 28th April 2008.

Recognizing the complexity of issues that arise from marital disputes in NRI marriages the Ministry of Women and Child Development instituted an Inter-Ministerial Committee consisting of representatives from Ministry of External Affairs, Ministry of Home Affairs and Ministry of Law and Justice. The Commission also participated in the meeting as a special invitee. The Committee was constituted to discuss issues and develop guidelines to streamline the procedures related to NRI matrimonial disputes. The Committee has created Draft Standard Operating Procedures for the assistance of these women facing trouble in NRI marriages and has sought comments of the Commission on the same. The Commission on examination of the Draft SOP felt that a consensus of all the stakeholders should be taken before finalising the Draft.

It is with this purpose that the Commission proposes to hold a Consultation with the stakeholders, to discuss in depth the steps that can be taken by a woman who is facing problems in her marriage to an NRI spouse.

The Commission proposes to have an in-depth discussion on the following avenues:

- Whether the Civil remedies incorporated in the draft SOP are exhaustive or some other possibilities can also be included.
- Whether the Criminal Remedies detailed in the draft SOP can be expanded further to include more avenues for the distressed women.
- What modifications to draft SOP could make it more user-friendly and more approachable for an ordinary person to understand?
- The modus-operandi of Ministry of Home Affairs in service of summons/warrants in cases of criminal law.
- The modus-operandi of Ministry of Law and Justice in service of summons/warrants in cases of civil law.
- The modus-operandi of Ministry of External Affairs in providing legal and financial assistance to distressed Indian Women facing divorce proceedings abroad.
- The modus-operandi of impounding of passport under Passport Act and effects thereof.