

FROM DREAM TO BROKEN
RELATIONSHIP – FRAUDULENT NON -
RESIDENT INDIAN (NRI) MARRIAGES
IN INDIA: A CRITICAL STUDY

—*Sangita Laha**

*In the West, relationship is through the girls. They say,
“Son is a son till he gets a wife. The daughter is a
daughter all her life”*

—*Swami Vivekananda*

***A**bstract — Life is not always a glorious sunshine. Sometimes it can be very harsh and can show us some unwanted and unimaginable parts of our lives. The ever-increasing number of fraud and desertion in NRI marriages is one such turmoil in any marriage resulting in broken relationship and divorce. Sometimes these dreams of getting married to an NRI, cost innocent lives and the future of the spouses who travel to a foreign land. Far away from her parents, relatives and any support structure, she finds that the man who has married her have only used her for domestic drudge who may even have a partner tucked away in some other parts of the city.*

In some other cases, they do not even have to travel abroad to get harassed as their dreams get shattered while they are abandoned in India. The bride and her family keep waiting for VISA which never arrives only realising later that it was a sham with the only intention of the NRI bridegroom was to extract money from the bride family.

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Till date, there is no special Indian legislation to combat such remedies. The numbers of Indians on foreign lands have increased multi fold. The multiple issues and challenges which bring them back to India are still left to be settled and resolved by the conventional Indian legislation.

The objective of this paper is to understand the problems of abandoned women by NRI husbands, causes and effect, and to identify the areas of policy interventions that could help alleviate the problems of deserted married women. The paper also argues that due to numerous complaints received from Indian nationals' women deserted or harassed by their Non-Resident Indian Spouses, there is urgent necessity the need to consider legislative safeguards for interests of such women and the necessity of passing of the Registration of Non Resident Bill, 2019 which is pending for long.

Keywords: Abandoned Women, Fraudulent, Dowry, NRI Marriages

I. INTRODUCTION

Understanding the Indian Diaspora: Indian Diaspora is a common term. Generally used for addressing people who have migrated from the territories of India. It comprises NRIs (Non-resident Indians) and PIOs (Persons of Indian origins). It is estimated that the Indian Diaspora is to be over 30 million, spreading across more than 200 countries.¹As per the release report of the Economic Times (English edition- E paper) dated 18th September 2019, the Indian Diaspora is estimated to be the second largest in the world with diversified global presence. PIOs are estimated to be another 15 million people. The old Diaspora consists of these people. They make a substantial part of the local population in countries like Mauritius, Fiji, Trinidad and Tobago, Guyana, Suriname, Reunion Island, and to a much lesser extent in South Africa, Kenya and Uganda. NRIs and PIOs make up the Indian Diaspora of around 30 million people, with United States hosting the largest stock. Additionally, Mexico is the most important Diaspora destination after United States.²

¹ <<https://archive.india.gov.in/overseas/diaspora/nri.php>>.

² Chinmay Tumble, "The Rise of the NRI, the Influential Non-Voter", *Livemint*, 28th Feb 2019, <<https://www.livemint.com/politics/news/the-rise-of-the-nri-the-influential-non-voter>>.

Other than United States and Mexico, the Indian Diaspora is also concentrated in the region of Middle East, Canada, Singapore, Hong Kong, Malaysia, and South Africa. The released report of the Department of Economic and Social Affairs of United Nations on 28th November 2019 estimated India to be a leading country of origin of international migrants having 17.5 million strong Diaspora.³ As per the International organisation of Migration report the numbers of migrants globally reached to 272 million. The country hosted 5.1 million international migrants in 2019. According to statistical report, one can infer, that the share of population of international migrants of India have increased at 0.4 per cent from 2010 to 2019.⁴

Globally, the Overseas Indians have tasted economic independence and have reached some social and cultural prominence. Some of the Overseas Indians have been picked by foreign countries either for higher studies or for work. While many of them are born from Indian parents who have migrated and are for two or three decades have settled afar. For example, the state of Punjab itself contributes a bulk of 25million NRI population settled in many parts of the world. The matrimonial ties with Overseas Indians have witnessed a remarkable growth in the past few years.

- a. In this background, the paper is devoted to probe the problems of abandonment and destitute women married to Non-resident Indians, deserted by some of them in various states in India.
- b. To identify the various rehabilitation needs in terms of psychological counselling, economic support, legal aid, social support system etc.
- c. To suggest suitable strategies to provide justice and equity to such women in need.
- d. Suggest measures to control the fake or deceit motives in NRI marriages.
- e. To build safeguards for such innocent and unaware women.
- f. Finally, the necessity for passing of the NRI Marriage Registration Bill pending since 2019

Some primary questions that arises:

- a. To identify the different types of fraudulent NRI marriages

³ United Nations Department of Economic and Social Affairs | Population Division, 2019, <https://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/InternationalMigration2019_Report.pdf>.

⁴ “At 17.5 Million, Indian Diaspora Largest in the World : UN Report”, <https://economictimes.indiatimes.com/nri/nris-in-news/at-17-5-million-indian-diaspora-largest-in-the-world-un-report/articleshow/71179163.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst>.

- b. To identify the factors leading to the abandonment and divorce of married women by NRI husbands.
- c. What Preventive measures can be undertaken by the parents and partners seeking NRI marriage?
- d. Is the *Registration of Marriage of Non-Resident Indian Bill, 2019* sufficient to mitigate the problem?

Various literatures, suggestions and reports on 'Problems relating to NRI Marriages' of the National Commission for women and the Standing Committee on the Empowerment of Women (2007) have been consulted. The report on 'Need for Family Law Legislations for Non-resident Indians' of the 18th Law Commission of India (2009, Report No. 219) and important cases have been referred to. Some articles from journals and data taken from electronic sources like the Statesman, Deccan Herald, Indian Express, and Hindu have been referred to in the study. The paper has been divided into three parts: the introductory parts deals with the general meaning and types of NRI marriages. The second part deals with the problems and complaints. While the third part deals with the proposed legislation which is pending since long.

II. UNDERSTANDING NON-RESIDENT INDIAN (NRI) & NRI MARRIAGES

The term 'Non-Resident Indian' is a new coinage that came up during the post-independence era. In the past, Indians who have migrated to foreign country for various reasons have acquired citizenship of the country of their domicile. These 'Persons of Indian Origin-PIOs' are now known as 'Overseas Citizens of India (OCI)' as defined under *Citizenship (Amendment) Act, 2005*.⁵ The word NRI was not defined anywhere in Indian laws directly, but it was explained by other ways in income tax act and *FEMA Act*.⁶ In normal parlance, Non Resident Indian is a citizen of India who stays abroad for employment or carrying on business or stays abroad for uncertain period under certain circumstance. The status of an NRI has been revised by the union government of India in 2019. Non Resident Indian marriages may be solemnised with

- a) A Non-resident woman and an Indian male under different situation.
- b) It may be with Indian spouses migrated to a foreign land either together or separately.
- c) Non-resident Indian spouses either marry under Indian marriage laws in India or in a foreign country and lived abroad. Or,

⁵ <https://shodhganga.inflibnet.ac.in/bitstream/10603/26528/10/10_chapter%203.pdf>.

⁶ M. Suneel Kumar, NRI Marriages – Issues and Challenges with Special Reference to Custody of Children.

- d) An Indian spouse, male or female, marrying a foreign spouse either under Indian marriage laws in India or in a foreign country.

Mode of NRI Marriages may be-

- Either through Family sources or caste based social links in India or abroad.
- Or, by Matrimonial advertisements well strategized in the newspapers.
- By Internet mode with broadband facilitated direct meeting session through interviews or exchange of personal particulars.
- Personal or professional contact/friendship etc.⁷

III. CATEGORY OF FRAUDULENT NRI MARRIAGES & ISSUES

Violence against women is manifested in different forms such as harassment by NRIs to their wives, social violence against widows in the form of psychological and physical violence by alcoholic/addict husbands to their wives, rape, sexual abuse, sexual harassment at workplace, dowry death, suicide, female foeticide and female infanticide etc. The list is endless and exhaustive.

As per an estimate, India has more than 50,000 registered cases against NRI husbands Out of which, many of these deserted brides are not even aware how to initiate action against their NRI husbands.⁸ Fraudulent NRI marriages are broadly categorised into several categories. The most common one is when the NRI groom comes for bride-hunting to India with the hidden aim is to make money. In the first instance, the prospective overseas groom holds out the lure for a better quality of life and enhanced social prestige to the bride's family. The NRI bridegroom marries an Indian girl, takes a certain amount of money as dowry, and ultimately flies away abroad leaving behind his wife in India. Such NRI husbands have a tendency to hide their foreign spouse and later abandoned the Indian wife.

As per the report of 2019, at least 36 cases with regard to disputes in NRI marriages were reported in one year's time to the Commission in Telangana. In fact, the State ranks 5th worst in country -- after Uttar Pradesh, Delhi, Maharashtra, and Haryana -- when it comes to women's security in NRI marriages.⁹ Most of these NRI from the states have a high demand in the marriage

⁷ Concept of Non-Resident Indian Marriages & Legal Issues – A Detailed Study, <https://shodhganga.inflibnet.ac.in/bitstream/10603/26528/10/10_chapter%203.pdf>.

⁸ “Legislation Seeks to Bring Absconding NRI Husbands to Book”, <<https://www.livemint.com/politics/policy/legislation-seeks-to-bring-absconding-nri-husbands-to-book->>.

⁹ “Out of Sight, Out of Mind? Women at Risk in NRI Marriages”, *The Indian Express*, published on 22nd April 2019, Hyderabad, <<https://www.newindianexpress.com/states/>

market and these marriages are arranged through marriage brokers through advertisements in the press and electronic media. Most of these marriages take place within a short period of time. Hence, bride's parents may not be able to collect full information about the groom's status abroad and are likely to be duped.¹⁰

Being keen not to let go of such a match, the parents of such brides do not undertake the slightest caution that needs to be observed in arranged marriages. They do not even contemplate that if things go awry in an NRI marriage, the woman will not be able to recourse to justice. Absence of knowledge of the complications of legal system, the woman would be constrained by the reasons that such marriages are not only governed by the legal system of her country, but a more complex conflict of law involved in the legal system of the foreign country where she would-be residing with her spouse. Adding to the ignorance of law, the parents even ignore the simple fact that logistically for a woman to negotiate her way to justice across thousands of miles away would be an exasperating experience and herculean task. The aggravated risks in such marriages fall on the woman. Added to this are the social stigma and the isolation faced in the society.

Secluded and being far away from home, in an unfamiliar country, she inevitably faces the constraints and challenges of regular life. The term very often used in US is 'Resident Alien' for her. She might face culture shock, language barriers, lack of knowledge of local legal justice system like police etc. Nor does she have any support network of friends and family.

With the increase in Indian Diaspora, the numbers of NRI marriages have escalated by thousands every year. Simultaneously, the number of matrimonial related disputes has escalated proportionately. In many places, it has blown more than proportion.¹¹

In the second type, both the husband and the wife being Indian are married abroad. After their marriage, they develop problems such as extra-marital love affair of any of either of the spouses in the marriage. They also face ill-treatment, harassment within the marriage. As a result, either the husband or the wife travels back to India and files a suit in an Indian court. Often, it is found that parallel matrimonial petitions, one in the foreign country where the couple is residing, and another in India are filed by the parties. This is very common in NRI marriages.

telangana/2019/apr/22/out-of-sight-out-of-mind-women-at-risk-in-nri-marriages->

¹⁰ "A Study of Desertion of Married Women by Non-Resident in Punjab and Andhra Pradesh", National Institute of Public Cooperation and Child Development, New Delhi, <<http://www.nipccd-earchive.wcd.nic.in/sites/default/files/PDF/A>>

¹¹ "Issues related to NRI marriages", <http://ncwapps.nic.in/pdfReports/Background_Note_Seminar_Issues_Relating_to_NRI_Marriages.pdf>.

The third category is where an NRI marriage is used as a way to get a visa for the partner residing in India. Emigration is attractive to developed countries from less developed countries. It is usually seen as a great leveller of high quality of life. Marriage provides the surest way of settling abroad and a legitimate escape route. What is seen is that, the Indian families get trapped and is ever ready to spend enormous amounts of money to sponsor the wedding and other dowry demands of the groom and his family. Such marriages are taken as a convenient way out to enter into a foreign country for a comfortable life and lucrative future. This type of marriage secures a safe passage of bringing the entire loved ones overseas. It first starts with the bride and later her rolls down to her relatives.

For decades, the Doaba region of the Punjab has been known for offering its daughters in marriage to ‘non-resident Indians’ or ‘NRIs’ working in Canada, the UK and the US. Fraud and deceit are as common as love in these arranged unions. The problem is very serious in this state of Punjab where the population is around of two billion Indians. Of which nine million Punjabi NRIs constitute the biggest community from any State of India to contribute to the total of twenty-five million NRIs living worldwide. The desire of migrating to western nations has traditionally been strong. Apparently, the problem of marriage and migration are more crucial in Punjab than any other State in India. Lot of Punjabi women have fallen prey in such type of fraudulent and fake marriages. The society in Punjab has a widespread craze for international marriages. Getting married beyond the international boundary and engaging in migration for the women in Punjab, the motivation essentially seems to be status up gradation and profit making. Often, triggered by the reasons of “push” and “pull” factors in the State, community and family.

The fourth category is when the woman defrauds the NRI via matrimony fraud. The cybercrime police of Hyderabad have observed that in the recent past several women, mostly divorced or widowed, and NRI men, were falling victims to matrimony fraud. At least 16 such cases were reported in the city in 2019.¹²

IV. PUSH AND PULL FACTORS

Some of the “push” factors include

- a. Lack of decent job with a good pay package,
- b. Challenges of getting into professional courses which are expensive,
- c. Effect of successful emigration,

¹² “Women, NRI Men Fall Victim to Matrimony Fraud, 16 Cases this Year”, *Times of India*, Hyderabad, 9th Aug 2019, <<https://timesofindia.indiatimes.com/city/hyderabad/women-nri-men-fall-victim-to-matrimony-fraud-16-cases-this-yr>>.

- d. Look upon high to western education in the Indian job market, and
- e. A powerful lobby of emigration promoters.

A vast network of immigration consultancy services has sprung up to facilitate and broker the deals, some genuine, others fraudulent. These matrimonial advertisements many a times exaggerate the achievements of boy as well as of his family. They even suppress the vital aspects which are disadvantageous in matchmaking. Many lie about the jobs, earnings, citizenship, family background and even current marital status to get a good match. Most of the times, Parties do not get enough time to cross check the credentials made by boys living abroad. The usual premarital verification of the background of the family and the boy is quite difficult in such cases. These are valid reasons why crooked Travel Agents and Marriage Bureaus with ulterior motives deceive innocent people and are flourishing by leaps and bounds. Added to, is the temptations of a good standard of living, better future for children, social security and the power of remittances are some of the few common “pull” factors. Generally, the underlying current for such type of a marriage is to migrate to a foreign country in search of greener pastures. With the characteristic of Indian’s preference to migrate to foreign countries, such alliances are seen as the most coveted ones in Indian society. Since it promises greener pastures for not just the woman but for her entire family.¹³ However, the problem has become multi-dimensional.¹⁴

V. COMPLAINTS

There is no official record of total number of NRI marriages having taken place within the country during a year. But the testimony to the prevailing crisis lies in the ever-increasing number of NRI Marriage complaints. The Ministry of External Affairs has been receiving applications from tormented Indian women about fraud cases of NRI marriages. In the year 2017, it received 1022 applications compared to 1510 in 2016 & 796 in 2015. Of 3328 complaints received during the last three years (January 2015 to November 2017) the Ministry for External Affairs has addressed 3268 complaints. It has provided counselling, guidance and knowledge about procedures, mechanisms for serving judicial summons on the overseas Indian husband, filing a case in India etc. It has also issued LookOut Circulars; getting legal assistance from lawyers and NGOs empanelled with Indian Missions etc.¹⁵

¹³ “Issues Relating to NRI Marriages”, <http://ncwapps.nic.in/pdfReports/Background_Note_Seminar_Issues_Relating_to_NRI_Marriages.pdf>.

¹⁴ *Ibid.*

¹⁵ Diganth Raj Sehgal, “The NRI Laws of India: Marriage Related Problems and the Law”, 27th June 2020, <<https://blog.ipleaders.in/nri-laws-india-marriage-related-problems-law/>>.

VI. CONFLICT OF LAWS/CHALLENGES

Non-Resident Indian's are governed not only by Indian laws but also by the laws of other countries -- in some, where domestic laws are not as stringent as in our country. A question would arise about the validity of the divorce obtained from foreign countries, when the marriage was performed on Indian soil and as per the provisions of Hindu Marriage Act. In several cases, the husband would apply for a divorce in foreign courts, where proceedings are much more lenient, and divorce is easily granted. The court abroad may send out a notice to the wife by furnishing on a false address given by the husband. When the reply is not received, the husband may go ahead with the divorce proceedings as marital laws are more flexible in other countries. This would not only leave the women devastated but also without even having an opportunity to argue her position. Even if the woman gets to know that she is getting divorced, it would not be feasible to hire an attorney in a foreign State, let alone travel to another country for the same.

Indian Courts in principle do not recognize foreign matrimonial judgments dissolving marriage by such breakdown. For e.g., in *Veena Kalia v. Jatinder Nath Kalia*,¹⁶ the NRI husband had obtained ex parte divorce decree in Canada. This ground is not available to him in India. The High Court at Delhi held that “the divorce decree does not bar to file a divorce petition by the wife in India nor could it act as Res judicata. It also did not bar applications for maintenance filed by the wife in her divorce petition.....” The Court examined into the situation in which the wife did not contest the husband's divorce petition in Canada. Realising that she had no means to contest the proceedings there and the ex parte decree of divorce was passed on the pretext as she was unable to appear and contest the proceedings. The exorbitant cost of going the Canada and other circumstances disabled her and her husband took full advantage of that handicap. The only ground on which the husband prayed for divorce was that there had been a permanent breakdown of the marriage - a ground of divorce which was not recognised under the Indian law. “

In another case *Balasubramaniam Guhan v. T. Hemapriya*,¹⁷ the wife had filed a suit for declaration to declare the decree of divorce passed by the Court at Scotland for divorce as ultra vires, unsustainable, illegal, unenforceable and without jurisdiction. She further claimed for an injunction restraining the petitioner from enforcing the petitioner from seeking to take a second wife as it was an ex parte decree. Further stating that the Court which passed the decree was held to have no jurisdiction as the decree was passed when the wife was in India.¹⁸”There are several cases.

¹⁶ 1995 SCC OnLine Del 350 : AIR 1996 Del 54.

¹⁷ 2005 SCC OnLine Mad 162.

¹⁸ Prof. V. Rajyalakshmi, “NRI Marriages – Issues with Special Reference to Child Custody”, <<http://www.aphrdi.ap.gov.in/documents/Trainings@APHRDI/Regional%20Centers/>

VII. PRIVATE INTERNATIONAL LAW

“In *Dipak Banerjee v. Sudipta Banerjee* the husband questioned the jurisdiction of Indian court to entertain and try proceedings initiated by wife under Section 125CrPC for maintenance. His contention was that no Court in India had jurisdiction in international sense to try such proceeding. He further contended and claimed to be a citizen of United States of America and his wife’s domicile also followed his domicile.

The Court held that where there is conflict of laws every case must be decided in accordance with Indian Law and the rules of private international law applied in other countries may not be adopted mechanically by Indian courts. Therefore, when there was conflict of laws the Indian laws prevail over foreign laws”.¹⁹

VIII. LEGISLATIVE ACTION REQUIRED

Registration of Marriage of Non-Resident Indian Bill, 2019 is the need of the hour to provide for registration of marriage of Non-Resident Indian and further to amend the Passports Act, 1967 and the Code of Criminal Procedure, 1973 and for matters connected therewith or incidental thereto. This proposed bill may be called the *Registration of Marriage of Non-Resident Indian Act, 2019*.

Irretrievable breakdown of marriage alone is not a ground for dissolving the marriage under Indian Personal law. In principle, Indian Courts do not recognise foreign matrimonial judgments dissolving marriage by such breakdown theory. It is still to get recognition in India. Leaving a helpless, distraught and deserted Indian spouse on Indian shores confronted with a matrimonial litigation of a foreign court which she neither has the means nor the ability to contest often results in despair, frustration and disgust. Similarly, enforcement of an order of a foreign court is violation of a genuine case of a child custody of the family from where she has been removed and brought to India. This brings a parent to India desperately seeking for a legal remedy.

The list of problems is myriad, but the solutions are few or non-existent. Undoubtedly there has been rising cases of NRI husbands abandoning their wives leading to filing of several complaints in the National Commission for women. With the growing demands from affected women for bringing a suitable legislation for addressing their grievances, the government introduced *The Registration of Marriage of Non-Resident Indian Bill, 2019* last year. The Registration of Marriage of Non-Resident Indian Bill, 2019 was introduced in

Visakhapatnam>.

¹⁹ 1987 SCC OnLine Cal 157 : AIR 1987 Cal 491.

Rajya Sabha on February 11, 2019. It was referred to the Parliament's Standing Committee on External Affairs and the Committee approved the Registration of Marriage of Non-Resident Indian Bill, 2019 with inclusions of recommendations made by its members.²⁰

IX. OBJECTIVES & REASONS

As there has been fraudulent marriages with Non-Resident India, the proposed legislation provides for compulsory registration of marriage for better enforcement of rights of the deserted/abandoned spouses.

Registration of marriage: Any NRI who marries a citizen of India or another NRI must get his marriage registered within a period of 30 days. If the marriage is solemnised outside India, it must be registered with a Marriage Officer, who will be appointed from among the diplomatic officers in a foreign country.

Seizure of the Passport: One of the difficult tasks that encounter in prosecuting legal remedies available to brides are securing the presence of NRI. The best possible way is using sub clause (3) and (h) section 10 of Passport Act, the passport can be impounded, then the NRIs has no option except attending the courts in India. Section 10. Variation, "impounding and revocation of passports and travel documents

The proposed legislation seeks for amendment in the Passport Act, 1967 to impound or cause to be impounded or revoke a passport or travel document of Non-Resident Indian. It states that in case an NRI fails to register the marriage within 30 days, the passport authority may have the power to seize or cancel his/her passport.

Issuance of summons and warrants: It seeks proposed amendment in the Code of Criminal Procedure. The process of issuance of summons and warrants is provided in the Code of Criminal Procedure, 1973. Regardless to other provisions in the CrPC, the Bill suggests adding a section to the CrPC. If a court is satisfied that summons could not be served to the NRI husband for plethora of reasons, it may upload the summons on the designated website of the Ministry of External Affairs. This would serve as an evidence of the summons being served against the NRI husband. If the husband on being called for his presence before the court does not appear, it may issue and upload a warrant for arrest on the website. If the husband does not appear before the court after this, the court may pronounce him as a proclaimed offender, and upload a declaration to that effect on the website of the Ministry of External affairs.

²⁰ "Parliamentary Standing Committee Approves Bill on Compulsory Registration of NRI Marriages" *Livemint*, 13th March 2020, <<https://www.livemint.com/politics/policy/parliamentary-standing-committee-approves-bill-on-compulsory-registration-of-nri-marriages>>.

If an individual does not appear after a proclamation has been uploaded, the court may issue a written statement that the proclamation has been uploaded. This statement will be conclusive evidence that the warrant has been issued and served. Further, the court may order for attachment of the property of the proclaimed offender.”

X. CONCLUSION

The cultural transgression finds itself damaging through failed NRI marriages. Thus, the proposed legislation is a step forward to protect and safeguard the woman from such monsters. The Indian legislature must now delay and seriously come out with a composite legislation for non-resident Indians in family law matters. Until this is done, judgements of foreign court in domestic matters will continue to rise. Complexities will increase. Now, it depends on the government to decide whether it will proceed with the same bill or bring further amendments. Whatever may be the reasons of delay, the legislation is the need of the hour.

Government at centre as well of the state intervention and social awareness is required. Special cell of NRI to be set up in the state to tackle the problems and complaints. Special cells to be set up in embassies also especially where the Non-Residents reside in huge congregations. The embassies to be in liaison with the government on regular basis. Online access to information on the laws and procedures and supporting services be made, in English and in Indian State Languages. This should be made aware to the Indian brides landing in foreign soils. Parameters to be laid for carrying out verifications of the personal information of N.R.I. grooms. The legal system of the host country to be made aware including the issues regarding NRI marriages. If only these steps are taken then we can save the hapless Indian NRI brides from desperation, starvation, emotional and psychological sufferings.