



Gender Watch

Monthly, Vol. 1 Issue 4

September 2017

TABLE OF CONTENTS

COVER STORY	3-8
EQUALITY	9
DEMOCRATIC PARTICIPATION	10
VIOLENCE AND SAFETY	11-12
GOVERNANCE	13
LEGAL DEVELOPMENTS	14
OPINIONS	15
CONTACT	16

COVER STORY

NRI marriages and its impact on women

Introduction

The last few decades have witnessed a phenomenal increase in the number of Indians migrating abroad. In 2015, India had the largest diaspora and the upward trend of migration naturally resulted in a significant increase in NRI marriages.¹ However a large number of these marriages give rise to complications for women which India is currently not equipped to address, with many alleging fraud, abuse and abandonment after marriage. The Government of India's recent policy initiative to open a portal exclusively for women deserted by NRI men has once again brought to light the plight of many women married to NRI men, who either abuse and divorce the wife within a short time or abandon her immediately after marriage under various pretexts. The large number of complaints by women received by the Ministry of Overseas Affairs clearly reveals that NRI men have been taking advantage of these legal loopholes to abuse and abandon their Indian wives. NRI marriages, although gender neutral, are commonly understood to be marriages between an Indian woman and an Indian man residing in another country either as an Indian citizens or as citizen of that country. Such marriages are complex arrangements because there is no special law or jurisdiction to govern them and in the event of marital disputes, an elaborate and complicated process has to be adopted. In such cases, women are left vulnerable due to an absence of a uniform matrimonial law or a comprehensive policy that deals with cross border marriages. It has resulted in high rates of abuse and fraud with no access to remedy. An increasing number of women have been victims of such so called 'holiday marriages' and are left with no recourse if the husband disappears after their marriage, abandons her after taking her to the foreign country, ill-treats her there or if she finds herself in a bigamous marriage. Furthermore, she may find herself divorced arbitrarily without having custodial rights over her children or maintenance from her husband, leaving her without any financial, social or legal support. With a rapid escalation in the Indian diaspora and an almost proportionate rise in fraudulent NRI marriages as substantiated by the number of complaints received by the NRI cell each year, there is an urgent need to address this issue and provide safeguards to women trapped in such a situation.

Issues arising from NRI marriages

NRI marriages continue to be viewed as coveted alliances in society. This is one of the primary reasons why families are reluctant to refuse a groom even if he does not provide sufficient or credible information about himself. The characteristic penchant of Indians for migration to foreign countries, especially in certain north Indian states like Punjab, have led to ignoring of essential information about the groom's background, job, residential and marital status in his country of residence. Such ignorance often results in girls getting lured into NRI marriages without adequate knowledge about the prospective groom's professional or personal life. The problems in such a scenario are manifold ranging from torture, harassment for dowry, abandonment, concealment of material facts, separation from children, ex party divorce decrees and denial of maintenance etc. This is further complicated by the fact that a woman mostly has no legal recourse in foreign soil under such circumstances especially since there is no special law to regulate marriage and divorce internationally. Further difficulties arise when custody of children is involved in this dispute. The struggle for justice is a long and exasperating one which more often than not, fails to give any constructive help to the victim or punish the perpetrator. A woman abandoned by her husband and forced to return home cannot criminally prosecute her husband for torture or desertion either because the husband is not physically present in India or because the jurisdiction of Indian courts does not extend to foreign countries which are governed by their own laws. In many cases, women face the trauma of a failed marriage as it leads to economic, social and psychological problems and failure to seek justice aggravates it.

¹http://ncw.nic.in/WriteReadData/EventDocuments/5_6_ye7xjEUpwW2fcvJ34T9A.pdf

Data reveals that 2 out of 10 NRI marriages have been reported to be violent or fraudulent² and that Delhi, Punjab, Haryana and Gujarat have the maximum number of victims but there is no evidence to suggest that only girls of a particular social community or economic class are victims to this form of marriage. Complaints have come from wide ranging quarters including highly educated women from the well-off sections of society as well as the lesser educated ones from rural areas looking for a better life abroad. The following data shows the number of complaints state wise regarding desertion and abuse by NRI husband received by the National Commission for Women in 2012 and in 2013-2014.

Table 1: State wise distribution of complaints till 31st December 2012

State	Total No. of complaints
Delhi	61
Uttar Pradesh	31
Haryana	27
Punjab	32
Maharashtra	21
Gujarat	20
Andhra Pradesh	34
Tamil Nadu	20
Rajasthan	15
Madhya Pradesh	09
Uttarakhand	02
Kerala	07
Bihar	09
Orissa	04
Karnataka	14
West Bengal	04
Jharkhand	01
J&K	05
Himachal Pradesh	01
Arunachal Pradesh	01
Chattisgarh	02
Chandigarh	01
Anonymous	01
Total	342

Source: Annual Report 2012-2013, Ministry of Women and Child Development

²<http://www.hindustantimes.com/india-news/govt-to-set-up-portal-to-help-women-abandoned-by-nri-husbands/story-XkGllw9vJnFjRYZdCK5IHL.html>

Table 2: State wise distribution of complaints in 2013-2014

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	51
8	Karnataka	23
9	West Bengal	30
10	Tamil Nadu	30
11	Rajasthan	25
12	Madhya Pradesh	18
13	Uttarakhand	11
14	Bihar	10
15	Himachal Pradesh	04
16	Assam	03
17	Jharkhand	04
18	Chhattisgarh	02
19	Orissa	09
20	Kerala	07
21	Goa	02
22	Tripura	02
23	Jammu and Kashmir	04
	Others*	126
	Total	758

http://ncw.nic.in/pdfReports/NRI_Marriage_Laws_and_their_impact_on_Women.pdf

Policy initiatives taken by the government

Ever since the issue of fraudulent NRI marriages emerged as a major social menace, steps have been taken sporadically by the governments to remedy it though not much has been done to regulate it. The erstwhile Ministry of Overseas Affairs coordinated complaints and redressals of women married to NRIs and the disputes arising out of it. In 2008, the National Commission for Woman was nominated as the coordinating agency at the National level for dealing with issues pertaining NRI marriages by Government of India through an order of the Ministry of Overseas Indian Affairs based on the recommendation of the Parliamentary Committee on Empowerment of Woman. Owing to large number of complaints received from both wives abandoned in India as well as from families of victims trapped in foreign countries, the NCW took the initiative of establishing an NRI cell in 2009 to handle complaints related to marital disputes transnationally. In its first year of inception, according to the NCW chairperson, as many as 331 complaints were filed by women against their Non Resident Indian (NRI) husbands with the highest number of 87 reported from Punjab followed by 59 from Delhi and 32 from Andhra Pradesh.³ But this is not an accurate depiction of the number of since most of the complaints go unreported due to lack of awareness or societal norms. According to an article in The Indian Express dated 15 June 2017, 12000 abandoned wives are currently living in Gujarat while 25000 have been deserted in Punjab after marriage. In view of this, the government has recently announced its decision to launch a web portal containing information that might be needed by these women as well as a repository of lawyers and NGOs who could possibly support their cases. The portal will address issues like divorce, maintenance and custody of children. A committee set up jointly by the ministries of women and child development, external affairs and home have also stressed on the need for a single point redressal system though the current lack of laws or ad hoc policies have been a barrier in its implementation.

Gaps in policy discourse

Marriages in India are conducted and regulated by personal laws. There is no uniform law that applies to all the marriages in the country and matrimonial disputes are resolved according to the applicable personal laws. This coupled with the sensitive nature of matrimonial disputes is responsible for making the gamut of matrimonial laws challenging for legal intervention. In such an ambiguous scenario, legal complexities multiply when the marriage steps beyond the borders of the country where it was solemnised and enters the jurisdiction of private international law where laws of different countries can be applied to resolve marital disputes or dissolve the marriage altogether.

Although India does have a law (The Foreign Marriage Act, 1969) to govern marriages abroad, it is clearly not enough to deal with the complexities of disputes as can be seen in the rising number of complaints filed. The administrative set up also lacks the humane touch as it makes parents of the victim or the victim herself go through an elaborate, emotionally and mentally draining procedure to get their complaints filed. The major areas where policy changes and interventions are required are highlighted below:

Legal framework:

The distinction between private and public spaces which has always resulted in keeping domestic abuses outside the purview of the legal system has perpetuated the vulnerability of women by denying them access to justice when their rights are violated by their husbands. The problem with this distinction is even more acute in NRI marriages when most often Indian courts do not have the jurisdiction to restore the woman's rights since the perpetrator, i.e., the husband or his in-laws reside outside the country. The fact that there are no concrete laws in India apart from the Foreign Marriage Act of 1969 governing such marriages often make it easier for the husband to obtain a divorce fraudulently or to dupe the wife off her money and legal documents by relying on foreign laws. The Foreign Marriage Act does not provide any remedies of its own but refers to the Special Marriage Act on this aspect which is subservient to foreign jurisdiction. Many NRI men take advantage of lenient divorce laws of the foreign country they are based in to obtain an ex parte divorce against their wives and then abandon them and sometimes even seize their visa, leaving them without any logistic or legal support. This arbitrary procedure of dissolution of marriage and deciding custody of children is in violation of a

³<http://www.sify.com/news/331-complaints-by-women-against-nri-husbands-news-national-kbvtkifhgeisi.html>

woman's rights. But since there is no law in India that can intervene to protect her rights, the woman is often left helpless.

Lack of assistance available to women:

For women involved in fraudulent marriage, the road to justice is a long and challenging and very few can financially and emotionally afford it. Living in alien surroundings mostly without any external support system, the wife is completely dependent on her husband for her survival. This becomes even more problematic when the marriage turns abusive. She has no access to the courts that can grant her remedy and the courts she has access to cannot grant her remedy.⁴ The woman in most cases also does not possess sufficient knowledge about the laws of the country she is living in which leaves her at the mercy of her husband or in-laws. Wives abandoned in India do not have to suffer physical violence but are mentally traumatised by the husband's long term absence or sudden divorce notice obtained without her knowledge. Like in foreign countries, recourse to legal remedy is limited in India because of difficulty in prosecuting an NRI or implementing foreign decrees. Although the National Commission for Women have been receiving complaints from these women and assisting them, NRI cells exclusively for dealing with NRI marriages have been set up only in Punjab and its reach and impact is limited. Also, since Indian laws or policies do not provide for remedies in such marriages, the role of the National Commission for Women is largely constrained. Due to severity of the problem and its ramifications on women, several NGOs have been established in countries with a large South Asian population for assisting these women. Many of the NGOs like ASHA (Asian Women's Self –help Association) and NARIKA based in USA are empanelled with the Indian Mission.

Conclusion

The current legal framework in India compels the women married to NRI men to endure and suffer the abuse since she is crippled by the lack of laws in her favour. Remedying this would require a complete overhaul of the legal structure regulating NRI marriages in India including existing laws like the Foreign Marriages Act, Guardians and Wards Act and the Civil Procedure Code. But more importantly, it is necessary to address the root of this problem, which lies in the countering the mindset of the society which prepares its girls only for marriage. Many families admitted to marrying their girls to NRIs they see it as a means of sending other members of the family abroad. Marriage to an NRI is viewed as an easy route to a better life abroad and better social standing in society. The NCW recommends that empowering these women and making them aware of the laws is an essential step towards ending this dangerous and violent trend in NRI marriages. Their vulnerability arises from the fact that they are economically and financially dependent on their husbands for survival and are mostly unaware of their rights in the country they are residing in. It also recommends not getting lured by an NRI groom and the prospect of settling abroad without having adequate knowledge about the prospective groom's basic details about job, resident and job status in the foreign country. The only way to safeguard the bride's future is by verifying the details to the greatest extent possible. Finally, social evils like domestic violence can best be countered by educating the woman so that she does not have to rely on her husband for survival. For better handling of such cases, the government can take the following measures:

- The police personnel need to be sensitised and trained to handle such cases. NRI cells as well as women cells in the police are often under-staffed and under equipped and such crimes are considered low in priority and hence not much attention is paid to it.
- The basic data with regards to every NRI should be easily available on the ministries / RPOs website to check the authenticity of the passport, his residential status in that country and other important details
- The government needs to start the process of rehabilitation of such deserted women by giving them training and psychological counselling.
- Passports of husbands accused of domestic violence should be impounded and methods of extradition should be simplified

⁴[http://ncw.nic.in/pdfReports/NRI Marriage Laws and their impact on Women.pdf](http://ncw.nic.in/pdfReports/NRI%20Marriage%20Laws%20and%20their%20impact%20on%20Women.pdf)

References:

Anu Jain Rohatgi, Holiday marriages ruining lives of many young girls, Issue 16, Vol 14, The Tehelka, 22 August 2017

National Commission for Women, Problems relating to NRI marriages, <http://ncw.nic.in/pdffiles/nridodont.pdf>

National Commission for Women, Ministry of Overseas Indian Affairs, Issues relating to NRI marriages, February 2011, http://ncw.nic.in/pdfReports/Background_Note_Seminar_Issues_Relating_to_NRI_Marriages.pdf

Dr Kavita Sharma, Limping Marriages and Holiday Wives, <http://www.drkavitasharma.org/pdf/Limping%20Marriages%20and%20Holiday%20Wives.pdf>

Kirti Singh, Pam Rajput, Laws relating to NRI marriages and their impact on women, http://ncw.nic.in/pdfReports/NRI_Marriage_Laws_and_their_impact_on_Women.pdf

Moushumi Das Gupta, Jayanth Jacob, Government to set up portal to help women abandoned by NRI husbands, The Hindustan Times, 15 June 2017, <http://www.hindustantimes.com/india-news/govt-to-set-up-portal-to-help-women-abandoned-by-nri-husbands/story-XkGIw9vJnFjRYZdCK5IHL.html>

Govt to launch web portal to assist women deserted by NRI husbands, The Indian Express, 15 June 2017,

<http://indianexpress.com/article/india/govt-to-launch-web-portal-to-assist-women-deserted-by-nri-husbands-4705848/>

Annual Reports of 2012-2013 and 2013-2014, Ministry of Women and Child Development

EQUALITY

Saudi Arabia lifting the driving ban on women has little to do with empowerment

Talmiz Ahmed, The Wire

The recent decree in Saudi Arabia permitting women to drive has to be seen in the specific political context in which the decision has been taken. It has been termed by observers as a move to project a progressive image of the Saudi King globally – more specifically, to transform the outlook of the West towards the kingdom as it prepares for its new global economic policy. The decree excludes any indication of a real change in gender equality or participative democracy. The lifting of the driving ban does little to address the onerous burden Saudi women carry on account of the *wilayaor* guardianship system, in terms of which every woman is subject to a legal male guardian, father, husband or son, whose permission is required for her to marry, get divorced, travel abroad, open a bank account, get employment, or undergo medical surgery.

Read more: <https://thewire.in/182892/saudi-arabia-driving-ban-women-empowerment/>

Date Accessed: 05.10.2017

Climate change, women's land rights inter-related: Speaker

Nusa Dua, PTI

Lok Sabha Speaker Sumitra Mahajan while addressing the World Parliamentary Forum on Sustainable Development on the theme 'Women Political Leaders: Climate Change, Women Land Rights and Sustainable Development' spoke how climate change, women's land rights and sustainable development are all inter-related and there is a need to address the issues and challenges associated with them and called upon the stakeholders to evolve a broader conceptualization of land rights and access to productive resources which is pro-poor, gender inclusive and responsive to human rights.

Read More:

<http://www.india.com/news/agencies/climate-change-womens-land-rights-inter-related-speaker-2456676/>

Date Accessed: 17.09.2017

DEMOCRATIC PARTICIPATION

India's first online transgender channel launched

Nikhila Henry, *The Hindu*

Identifying the lack of content on mainstream television channels about her own community, Hyderabad based transwoman activist Rachna Mudraboyina has launched an educational YouTube channel, both conceptualised and actualised by transgender individuals. The channel 'Transvision' aims at providing accurate and scientific socio-cultural, religious, economic and political information pertaining to transgenders people. It will be aired in three languages and will include shows by transgender people. The channel has already garnered over a thousand followers.

Read more: <http://www.thehindu.com/todays-paper/tp-miscellaneous/tp-others/indias-first-online-transgender-channel-launched/article19653800.ece>

Date Accessed: 05.10.2017



Source: <http://www.thehindu.com/todays-paper/tp-miscellaneous/tp-others/indias-first-online-transgender-channel-launched/article19653800.ece>

VIOLENCE AND SAFETY

Why has Delhi not used the Nirbhaya Fund to set up One Stop Centres to help women who face violence?

Abhishek Dey, Scroll.in

The Union government's decision to set up One Stop Centres in the aftermath of the Nirbhaya gangrape case to assist and support women victims of violence by providing them temporary shelter and medical and legal assistance has been defunct in Delhi. This is because the Delhi government has not sought money from the Fund for establishing these centres as per the Central government guidelines. While the Delhi Government insists that there are 11 centres already established in hospitals, the Delhi Commission for Women claims that none of them adhere to the guidelines. The facilities provided by the centres only cater to rape victims while the national guidelines clearly specify that it is meant to benefit all victims of gender based violence. They also do not provide legal support and shelter. There is also no nodal agency the NCW was supposed to be appointed. Activists have pointed out that the centres in the rest of the country are also not functioning as effectively as it should. Lack of efforts to generate awareness is also a major factor in these centres not being able to reach out to a larger section.

Read more: <https://scroll.in/article/851011/why-has-delhi-not-used-the-nirbhaya-fund-to-set-up-one-stop-centres-for-helping-women>

Date Accessed: 05.10.2017

Delhi: 1,562 rape-related FIRs filed in last 8.5 months

Ajay Kumar, Mail Today

According to data available, police have registered 1,562 FIRs related to rape in the last eight-and-a-half months - which means a rape every four hours in the national Capital. What is alarming is that after the Nirbhaya incident, it was assumed that crimes against women would go down, but data suggests that the opposite has happened. "Despite the punishment in rape cases being stringent, the accused are least bothered about it. It is the mindset of accused against women provoked them to commit heinous crime like rape and other offences coming under the categories of outraging the modesty of women," said a senior Delhi Police officer.

Read More: <http://indiatoday.intoday.in/story/delhi-police-rape-firs-nirbhaya-case/1/1058231.html>

Date Accessed: 30.09.2017

STATES WITH THE WORST RATES, NUMBERS OF INCIDENTS

State	Incidents	Per 1 lakh female population
Delhi	2,199	23.7
Chhattisgarh	1,560	12.2
Madhya Pradesh	4,391	11.9
Odisha	2,251	10.8
Rajasthan	3,644	10.5
Maharashtra	4,144	7.3
UTTAR PRADESH*	3,025	3.0

*Surprisingly low rate suggests widespread non-registration of rape cases

OVERALL CRIME AGAINST WOMEN

Delhi tops rate chart, UP has biggest national share

State	Cases	Per 1 lakh female population	%age contribution to all-India total
1 Delhi	17,104	184.3	52
2 Assam	23,258	148.2	7.1
3 Telangana	15,135	83.1	4.6
4 Odisha	17,144	81.9	5.2
5 Rajasthan	28,165	81.5	8.6
6 Haryana	9,446	75.7	2.9
7 West Bengal	33,218	73.4	10.1
8 Tripura*	1,267	68.2	0.4
9 Madhya Pradesh	24,135	65.5	7.4
10 Chandigarh*	463	64.8	0.1

*Fewer cases, but small populations raise the rate

Source: <http://images.indianexpress.com/2016/08/sate.jpg>

VIOLENCE AND SAFETY

Women and girls are the hardest hit Rohingya refugees

Paulo Lubrano, *The Wire*

As refugees continue to cross the border from Myanmar to India and Bangladesh, women refugees have suffered the most in this perilous journey. Women constitute more than half of these refugees and 10% of them are pregnant or lactating. While conditions in the refugee camps are volatile for everyone, it leaves the women refugees the most vulnerable. Most of them are at risk since they sleep in the open areas or next to forest sides with no protection. The lack of hygiene in the camps has also severely impacted them with many reports of fevers and other diseases emerging. The International Organisation for Migration identified 180 cases of sexual violence as of 25 September, 2017; but this is just the tip of the iceberg since majority of the cases have gone unreported. The forms of violence against women include rape, assault, and domestic violence. Oxfam has been advocating the need to build better camps with basic facilities as well as providing psycho-social support for all the victims of gender-based violence.

Read more: <https://thewire.in/184054/women-girls-hardest-hit-rohingya-refugees/>

Date Accessed: 05.10.2-17



GOVERNANCE



Source: <https://scroll.in/article/849800/india-takes-its-anganwadi-frontline-women-health-workers-for-granted-at-great-cost-to-itself>

India takes its anganwadi, frontline women health workers for granted – at great cost to itself

Dipa Sinha, Scroll.in

Anganwadi workers and accredited social health activists, commonly known as ASHAs who have been leading many strikes and demonstrations recently in Delhi, Uttar Pradesh and Nagaland demanding for better pay and work conditions. With the declining social sector budgets, especially following the recommendations of the 14th Finance Commission in 2015, the scheme workers have been hard hit. Despite their role in providing critical services, the government does not consider these women as workers. Instead, they are supposed to be honorary workers volunteering their time for the community. For the sake of the beneficiaries (mostly women and children) of the various government programmes they work for, and in response to their very genuine grievances, these workers (mostly women) deserve greater attention both from the media and the state and Central governments.

Read More: <https://scroll.in/article/849800/india-takes-its-anganwadi-frontline-women-health-workers-for-granted-at-great-cost-to-itself>

LEGAL DEVELOPMENTS



Source: <http://littleindia.com/wp-content/uploads/2017/10/lgbtq-flickr-2.jpg>

India votes against UN ban on death penalty for same sex relations

TNM Staff, The News Minute

The recently tabled UN resolution seeking to ban imposition of death penalty in an arbitrary and discriminatory manner – especially on the basis of racial, ethnic and sexual biases – was turned down by India along with 12 other countries. India, along with USA and China, refused to support the resolution. While Indian law criminalises same sex relationships, it does not impose death penalty on it unlike countries such as Yemen or Somalia. The reluctance, therefore, to sign the resolution has come as a surprise to many, with scholars declaring it as a contradiction to India's constitutional values.

Read more: <http://www.thenewsminute.com/article/india-votes-against-un-ban-death-penalty-same-sex-relations-69415>

Date Accessed: 05.10.2017

OPINIONS

Marital Rape, and Not Its Criminalisation, Debases Society

Samparna Tripathi, The Wire

According to the National Family Health Survey 2005-06, almost one in ten married women (aged 15-49 years) in India reported to have been forced to have sex by their husbands against their will. Out of 9% of the women who reported sexual assault, 94% suffered it at the hands of their husbands. Gender inequality backed by data on a low female labour participation rate, the socio economic dependence of women on their spouses, a “blame the victim” approach for exposing intimate relations, being ridiculed for not being able to perform the “wifely duty” of keeping the husband happy, poor sensitisation and the slow speed of the criminal justice system are just few of the reasons for gross under-reporting of such cases. The question is how long are we willing to wait to make everyone swallow the first bitter pill? Only when individual rights are not sacrificed at the altar of privacy and two partners are treated equally shall marriage as an institution continue to survive. Until then, one can never be sure of the “fairytale”.

Read More: <https://thewire.in/173906/marital-rape-and-not-its-criminalisation-debases-society/>

Date Accessed: 10.09.2017

Laws for women, not against Muslims

Noorjehan Safia Niaz and Zakia Soman, The Times Of India

The Bharitiya Muslim Mahila Andolan who fought for Triple Talaq, advocate against the absence of a comprehensive codified personal law in our country that has resulted in the Muslim woman suffering in matters of divorce, halala, polygamy, guardianship and custody of children, share in property, and so on. The lack of legal protection in these matters have left the Muslim women at the mercy of community justice mechanisms, which can be regressive and patriarchal. In this context, for the Muslims, a uniform civil code is a long way off, when they don't even have the privilege of a codified personal law.

Read More: <http://timesofindia.indiatimes.com/india/laws-for-women-not-against-muslims/articleshow/60433232.cms>

Date Accessed: 29.09.2017

COORDINATORS

Manas Raturi
Research Assistant to Legislators
Contact: manasraturi@rgics.org

Nancy D' Cruz:
Research Assistant to Legislators
Contact: nancydcruz@rgics.org

Aadrita Das
Research Assistant to Legislators
Contact: aadritadas@rgics.org

SUPERVISER

Dr. Sushree Panigrahi
Fellow
Contact: sushreepanigrahi@rgics.org

Connect with RGICS at: info@rgics.org; www.rgics.org   

**Disclaimer: This document has been prepared by the RGICS staff and in no way does it represent the views and opinions of the trustees.
To unsubscribe, please write to us at info@rgics.org**