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Role of Diplomatic and Consular Authorities in Protecting Victims of NRI Marriages: An Indian Perspective

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ABSTRACT

The increasing number of transnational marriages involving Non-Resident Indians (NRIs) has created new legal and social challenges, particularly for Indian women who become victims of matrimonial fraud, desertion, domestic violence, economic abuse, and prolonged cross-border litigation. While globalization has expanded opportunities for international mobility and intercultural marriages, it has also exposed significant gaps in the legal and institutional mechanisms available to protect vulnerable spouses. In many instances, aggrieved women face practical difficulties in pursuing legal remedies because the offending spouse resides outside India, resulting in jurisdictional conflicts, delays in enforcement, and limited access to justice. Against this backdrop, diplomatic and consular authorities have emerged as important institutional actors in facilitating assistance to victims of NRI marriages. This paper critically examines the role of the Ministry of External Affairs, Indian Embassies and High Commissions, Consular Wings, and other governmental bodies in responding to complaints arising from cross-border matrimonial disputes. It evaluates the legal and policy framework governing consular intervention, including the limits imposed by principles of state sovereignty and international law. The study further analyses the coordination between diplomatic authorities, the National Commission for Women, law enforcement agencies, and judicial institutions in addressing issues such as matrimonial abandonment, maintenance, child custody, repatriation, and enforcement of legal rights. The paper argues that although India has introduced several administrative initiatives to support victims of NRI marriages, the absence of a comprehensive statutory framework and effective international enforcement mechanisms continues to undermine their effectiveness. It concludes by recommending stronger legislative reforms, enhanced bilateral cooperation, improved consular services, and institutional coordination to ensure timely protection and meaningful access to justice for victims of NRI marriages while strengthening India's commitment to safeguarding the rights and dignity of its citizens abroad.

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I. INTRODUCTION

The institution of marriage has changed dramatically because of globalization and the rise of international migration, resulting in a surge in marriages between Indian citizens and Non-Resident Indians (NRIs). For some families, such marriages are symbolic of economic security and social prestige. However, the expectation of favorable outcomes in these marriage does not always match actual life in foreign countries. Noteworthy, while transnational marriages offer numerous advantages, issues related to matrimonial fraud, abandonment, domestic violence, dowry-related harassment, and many other types of abuse against Indian women are becoming more and more visible. Some women are abandoned immediately after the wedding; others are left without financial resources and means to protect their rights abroad.

Conflict arising from NRI marriages involves several laws and jurisdictions, unlike regular matrimonial disputes. Issues related to the applicable law, enforcing maintenance orders, recognition of foreign divorce orders, child custody, and criminal proceedings against spouses living abroad rarely provide simple answers. In many cases, Indian courts have adopted a victim-centric approach towards protecting the interests of abandoned wives. However, even though judicial orders are passed in India, they don't work in practice when enforcement is dealt by authorities outside the territorial jurisdiction of the country. Because of this, many victims get stuck in enduring litigation, complicated procedures, and heavy financial and psychological burden before receiving real support.

Recognising these persistent difficulties, The Government of India has progressively set up institutional frameworks to support victims of non-resident Indian marriages. The Ministry of External Affairs (MEA) provides diplomatic services through Indian Embassies, High Commissions and Consulates where it may interact with foreign authorities, a fact that makes it easier for victims to undergo legal processes in the host jurisdiction and secure travel documents if needed, but also allows the MEA to liaise with relevant stakeholders in India. In addition to this institutional response to cross-border matrimonial disputes other measures have been put in place such as the launch of the MADAD portal, the eMigrate system or assistance by the National Commission for Women (NCW). However, it should be remembered that diplomatic and consular institutions are limited in their functioning because they are obliged to

operate in line with international law and are unable to decide on family matters or make foreign agencies fulfil Indian court orders.¹

In this context, the paper investigates how diplomatic and consular authorities safeguard victims of NRI marriages from an Indian perspective. It evaluates the legal and institutional environment of consular assistance, evaluates the effectiveness of the mechanisms currently available and spells out the difficulties experienced in practicing transnational marriage disputes. Whereas diplomacy has become an important source of support for women facing problems due to NRI marriages, it cannot settle all their legal problems. Sufficient assistance to victims of NRI marriages and their due protection can be obtained if there are unambiguous legal rules, effective worldwide cooperation and proper coordination of organizations.

A. Concept of NRI Marriages and Victimization of NRI Wives

The increasing phenomena of cross-border migration has brought an impact on many areas of family life such as marriage. It is to be noted that there is a growing trend of marrying Non-Resident Indians (NRIs) because NRI marriage is meant to indicate a marriage in which one spouse, predominantly the husband, stays, works, or settles in a foreign country. Marriage of an NRI is still considered to be prestigious and fulfilling promised revenues and better living standards. However, those expectations do not always come true in their entirety. Over the years, growing numbers of marriage-related conflicts reveal the ways in which Indian women finally become victims.

The concept of victimization can be seen to extend far beyond the usual instances of disagreement, and can include issues like spousal desertion, matrimonial fraud, domestic violence, economic abuse, dowry abuse, or even those issues which occur in combination with various forms of victimization. In some cases, women are abandoned in the early stages of marriage or are left stranded in foreign countries and deprived of the money, the documentation, and the means to claim any legal redress. In some cases husbands manage to conceal crucial information relating to the marital status, immigration status, occupational and financial situation, causing the women to enter marriage based on the fraud.²

Due to the cross-national nature of NRI marriages, these disputes become rather complicated to resolve. Jurisdiction, enforcement of maintenance orders, recognition of foreign divorce decrees, child custody, and criminal issues frequently involve the application of more than one law. Thus, victims may be caught between a number of legal systems. Access to justice thus can

¹ S.K. VERMA, *CONFLICT OF LAWS*, 2nd ed., Universal Law Publishing, New Delhi, 2019.

² Farhana Ibrahim, *Cross-Border Intimacies: Marriage, Migration, and Citizenship in Western India*, 52 MODERN ASIAN STUDIES 1664–1691 (2018).

be a long, expensive and stressful process, and enforcing the obtained relief from Indian courts is sometimes impossible.³

To deal with these issues, the Indian Government has set up different systems to help people who are affected by NRI marriages. The Foreign Ministry and the country's embassies along with the National Commission for Women give consular help, legal advice, and work together with the local authorities. These initiatives definitely helped people to access assistance better, but still, their effectiveness is limited by the lack of an all-encompassing law specifically regulating NRI marriages and by the limits of the applying of laws across states.

II. LEGAL FRAMEWORK GOVERNING NRI MARRIAGES IN INDIA

Currently, a well-rounded statute that deals with the issues surrounding marriage for Non-Resident Indians does not exist in India. Instead of a single statute dealing with such matrimonies, the legal disputes arising from such marriages are being resolved through an amalgamation of personal laws, criminal laws, principles of private international law, and administrative guidelines. The law applicable in particular cases mainly depends on the religion of the parties involved. The Hindu Marriage Act of 1955, the Special Marriage Act of 1954, the Indian Divorce Act of 1869, and Muslim Personal Law govern the issues related to marriage. Though these laws provide the general legal framework, they are drafted from the viewpoint of domestic marital disputes.

Those who have faced problems after marrying an NRI can obtain protection under various civil and criminal laws. Under the Bharatiya Nyaya Sanhita, 2023, there are solutions to complaints involving acts like cruelty by the husband and his relatives, dowry offences, cheating, breach of trust, and violence. In addition, the Protection of Women from Domestic Violence Act 2005 gives civil reliefs, such as protection order, right to accommodation, maintenance, monetary relief, and so on. The Dowry Prohibition Act 1961 also gives significant protection against dowry-related torture and harassment. In spite of all the possible legal measures, it has always been more difficult to obtain redress when the offending husband is overseas.

The issue of Jurisdiction poses one of the most significant difficulties in resolving NRI matrimonial disputes. Courts of law in India have ruled that foreign divorce decrees passed without assuming proper jurisdiction or contravening the principles of natural justice do not need to be recognized in India. Courts have also stated that a spouse from India should not be deprived of legal recourse merely because the other spouse resides in a foreign country.

³ Asha Bajpai, *On the Protection of Women in NRI Marriages: Legal and Institutional Issues*, 61 INDIAN JOURNAL OF INTERNATIONAL LAW 224–247 (2021).

However, implementing those legal principles into real legal assistance proves to be quite difficult. Enforcing maintenance orders, getting custody of children, or filing criminal cases against NRI spouses often becomes a complicated task due to the differences in laws in various countries and the lack of effective international enforcement tools.

Acknowledging the persistent challenges faced by the citizens of India the Indian government has undertaken several administrative initiatives through the Ministry of External Affairs that include consular aid, grievance redressal systems, and cooperation with Indian Missions abroad. The initiatives have improved systemic support to affected women but cannot compensate for the lack of a dedicated law for NRI marriages. It is crucial to create a more developed legislative system that would enable better international cooperation and clearer enforcement procedures to cope with the unique issues that arise in transnational matrimonial disputes and offer better protection to victims of NRI marriages.⁴

III. DIPLOMATIC AND CONSULAR PROTECTION UNDER INTERNATIONAL LAW

Diplomatic and consular protection occupies a vital role in international law because states gain the ability to protect their citizens living abroad, travelling abroad, and facing legal problems in foreign jurisdictions. Its relevance is especially clear in regard to the marriages involving NRIs since the Indian women might suffer from different issues such as abandonment, domestic violence, marital fraud, economic abuse, and family disputes in a foreign jurisdiction. When matrimonial disputes cross borders, they no longer remain a mere family law issue but incorporate the collection of distinct legal systems, national legal systems, and procedural rules. Under such circumstances, diplomatic and consular authorities often act as the first institutional link connecting a person in distress, state authorities and the Government of India.

The basis for these functions can be found in the Vienna Convention on Diplomatic Relations (1961) and the Vienna Convention on Consular Relations (1963). These conventions provide the rights and responsibilities of diplomatic missions and consular posts while establishing limits on their functions. According to these conventions, the diplomatic and consular bodies are required to ensure protection of the interests of the sending state and its citizens, maintain interaction with local authorities, issue travel papers, assist citizens in trouble and inform them of the legal remedies available to them. As a member of these conventions, India fulfills these duties through its embassies, high commissions and consulates.

In case of conflicts pertaining to NRI wedlock, the embassy and consulate function as facilitators instead of adjudicators. Thus, they provide information on the law and procedure of

⁴ S.P. TYAGI, MARRIAGE AND DIVORCE LAWS IN INDIA, Universal Law Publishing, Delhi, 2015.

the land, refer the affected individual to qualified legal professionals, collaborate with law enforcement and immigration agencies if needed and help with the process of issuance/renewal of travel documents. Indian Missions also cooperate closely with the Ministry of External Affairs, National Commission for Women, and similar bodies to ensure that all distressed individuals are provided with the relevant help in a timely manner.⁵

Nonetheless, the powers of diplomatic and consular officials are limited in some way. It is a well-known fact that the principle of State sovereignty is one of the basic principles of international law and therefore, diplomatic missions cannot interfere in internal affairs of the host country. Therefore, it is impossible for Indian authorities to initiate investigations into criminal cases, force foreign courts to accept decisions made by Indian courts, and directly get involved in the ongoing matrimonial processes. In actuality, all the issues of divorce, alimony, child custody, and violence at home are solved according to local laws. So, consular officials are able to arrange communication, provide consultation, and interact with the necessary authorities, but they are not allowed to take the place of local jurisdictions and law enforcement bodies.

International law identifies diplomatic protection as the doctrine whereby a country may advocate for the claims of its citizens against another country for wrongful conduct. Though, in practice, issues arising from private matrimonial matters rarely constitute internationally wrongful act performed by a foreign country. Thus, therefore, the victims of NRI marriages receive consular assistance, rather than official diplomatic protection. While this distinction seems rather technical, it has important practical implications, since it specifies the range of governmental involvement in this matter.⁶

Even though there are certain legal limitations, representatives of diplomatic and consular institutions have become much more important when it comes to dealing with the issues faced by victims of NRI marriages. Diplomatic authorities' functions now encompass not only standard consular services, but also access to justice, organization of work with numerous state institutions, and provision of victims with the necessary assistance. Still, consular assistance cannot resolve all issues regarding cross-border matrimonial disputes. Effective solution to this problem requires better cooperation among countries, effective mutual legal assistance, well-designed bilateral agreements, and proper national legislation that would help to meet the specific requirements of cross-border marriage disputes.

⁵ EILEEN DENZA, *DIPLOMATIC LAW: COMMENTARY ON THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS*, 4th ed., Oxford University Press, Oxford, 2016.

⁶ John Dugard, *Diplomatic Protection and the Rights of Individuals*, *INTERNATIONAL LAW REVIEW*.

A. Evolution of India's Diplomatic Response to NRI Matrimonial Disputes

In the last twenty years, India has changed its stance towards its involvement in matrimonial disputes that involve non-resident Indians (NRI). At that time, inter-jurisdiction matrimonial disputes were thought of as relatively private matters, subject to limited governmental involvement. However, wives that were left behind by their NRIs have been put in an especially difficult position. The existing matrimonial laws were basically directed towards the domestic matrimonial disputes without accounting for the complications that could arise due to multiple jurisdictional aspects. Moreover, the lack of coordination between various governmental organizations and Indian embassies worsened the situation, depriving many victims of opportunities to apply for help and support.

By the beginning of the new millennium, an exceptional rise of complaints regarding marriages involving NRIs was noted. Cases of matrimonial abandonment, marriage frauds, dowry-related crimes, domestic violence, and abandonment of alimony began popping up quite regularly, seemingly following a trend. In some instances, husbands returned to their homeland shortly after a wedding ceremony leaving their wives behind. In other instances, husbands abandoned their wives after taking them abroad leaving women with no money or acquaintances to rely on. In many cases the women found out that their husbands had concealed important information prior to their marriage such as having been married before, immigration status, work or financial situation.

As the magnitude of the issue could no longer be overlooked, the Indian Government implemented various policy measures aimed at strengthening institutional support. One of the most important developments was the creation of an NRI Cell by the National Commission for Women (NCW) in 2009. This move was based on the recommendations given by the Parliamentary Standing Committee, as well as other experts, which pointed out the need for a specialised institution to address issues arising from NRI marriages. The NRI Cell was given the mandate to receive complaints, provide legal guidance and counselling, liaise with the Ministry of External Affairs (MEA), State Police authorities, Passport Authorities, and Indian Missions abroad, and assist victims in securing legal redress.

In 2016, another significant organizational change took place with the integration of the Ministry of Overseas Indian Affairs (MOIA) into the Ministry of External Affairs (MEA). Before the merger, the MOIA was responsible for looking after the problems of the Indian community in the world including matters related to the marriages of NRIs. After the merger, the MOIA became part of the system of the MEA thus making the MEA the only authority

dealing with the affairs of Overseas Indians and helping people with international matrimonial cases. This merger resulted in simplification of the operation of the system, elimination of duplication of work between ministries, and improvement of the interaction of the authorities responsible for dealing with such cases.⁷

India's strategy has gone through other changes as well. Previously, India's efforts were chiefly reactive and used to come into the picture after customers filed their complaints. However, things began to change, with increased reliance on digital governance playing a vital role in the transition. The introduction of the MADAD pull-up Consular Services Management System has allowed Indian residents to issue complaints online, to follow the progression of their cases, and to improve the communication with the Ministry of External Affairs, Indian Diplomatic Missions abroad, and other competent authorities. In effect, the introduction of the eMigrate platform has enhanced the overall framework aimed at the provision of protection for Indian citizens abroad, by getting better coordination between services and maintaining the records of overseas migration and employment.

In addition to such digital initiatives, the function of Indian embassies has changed a lot. To date, embassies and consulates help victims navigate the local legal processes, connect them to lawyers, assist with urgent travel documents, liaise with local authorities when possible as well as keep in touch with the Ministry of External Affairs and the National Commission for Women. Although their capabilities are restricted by international law and the sovereignty of the host country, these institutions still play a key role in India's fight against women's struggles with international marriages.

Although there has been notable progress in this matter, there are still roadblocks. Off conflicting jurisdictions, off enforcing Indian court orders abroad, off varying legal systems and lack of comprehensive laws governing marriages of NRI are some of the obstacles faced in using existing mechanisms. The development of diplomatic response of India indicates an important shift towards more victim-centered approach as well as better coordination and institutional strength. And it hints at broader understanding that protecting victims of NRI marriages can not only rely on utilization of national legal instruments.⁸

⁷ IVOR ROBERTS, *SATOW'S DIPLOMATIC PRACTICE*, 8th ed., Oxford University Press, Oxford, 2020.

⁸ Luke T. Lee, *The Right to Consular Assistance Under International Law*, 33 *INTERNATIONAL AND COMPARATIVE LAW QUARTERLY* 73–96 (1984).

IV. ROLE OF THE MINISTRY OF EXTERNAL AFFAIRS AND INDIAN MISSIONS ABROAD

The main government entity in charge of safeguarding the needs of Indian nationals abroad is the Ministry of External Affairs (MEA). MEA plays an important role in case of NRI marriages (e.g. Indian women victims of marital fraud, marital abandonment, domestic violence or any other type of abuse and exploitation in other countries). Once a problem goes beyond the territory of India making the legal solutions much more complex than in ordinary matrimonial cases, as the dispute crosses national borders. The refugee may be overwhelmed with questions regarding jurisdiction, language, immigration status and learning about the legal matters for the very first time.

Embassies, High Commissions, and Consulates representing India generally serve as the first port of call when Indian citizens get locked in marriage-related problems and conflicts while overseas. Although they do not have any judicial power, their consular duties can greatly help an individual cope with an unknown legal environment. These Missions explain the law in the host country and help to understand the various forms of legal options that are available to the person and arrange for communication with local authorities, as well as provide access to attorneys, legal aid stakeholders, women's shelters, counselling centres, and social services. In case domestic violence or threats to safety are present, Indian Missions liaise with local authorities and police departments to ensure the safety of victims.

The responsibilities of Indian Missions also include preparing travel documents and repatriation. Victims often find themselves in possession of invalid passports as a result of their documents having been confiscated, withheld, or made invalid as a result of a long-standing marriage dispute. In such situations, the consulate provides assistance when it comes to the issuance of new passports or Emergency Certificates and facilitates the return of the victim in India. Even though these tasks seem to be mundane, they are in many cases the first step towards restoring independence to victims and taking other measures in terms of legal actions.

The MEA has developed various institutional mechanisms in relation to grievance redressal associated with NRI marriages issues. One is MADAD, or the Consular Services Management System, which is an online platform that permits Indian nationals to lodge complaints and track cases relating to consular services, including matrimonial cases concerning NRIs. The platform improves relations between the Ministry, Indian missions, and other departments and makes the grievance redressal process more transparent and systematic.

The second major program is the eMigrate system, which is mainly aimed at regulating migration for work and ensuring safety in migration. The principal aim of the eMigrate system is to protect migrant workers, which indirectly contributes to the safety of Indian nationals overseas by enabling better cooperation between Indian authorities and foreign countries. The MEA continues to issue travel advisories, informative materials, and sets of advice on following up on the status of residence, marital status, employment, financial situation, and residence of a potential NRI before getting married to him or her. Although the safety measures mentioned cannot rule out all possibilities of conflict, they minimize the chance of getting into trouble due to concealment or falsification of information relating to a person's NRI partner.⁹

The Ministry works hand in glove with several organizations and government departments at the national level like the National Commission for Women, the police at the state level, the Regional Passport Offices, the Ministry of Women and Child Development and some of the Legal Services Authorities. Whenever there is a situation that requires any kind of diplomatic intervention, any complaint that has come to the NCW NRI Cell is forwarded to the MEA. The Indian missions can then find the person concerned, serve the notice, verify the location, etc. Such inter-agency coordination is vital since international marriages come with accompanying problems such as alimony, child custody, immigration, extradition and implementation of court orders, etc.

In addition to carrying out these functions, the Indian Missions provide important documentary services in connection with tribunals in India. They can authenticate documents, attest affidavits, assist in execution of powers of attorney and issue consular certificates under the provisions of Indian law. In case of victims who cannot travel back to India due to financial problems, migration restrictions or ongoing judicial proceedings in other countries, these services often acquire enormous significance when it is necessary to launch or continue marital or criminal litigation at Indian courts.

Despite all these active steps, the MEA and Indian Missions authority does have certain limits. According to the Vienna Convention on Diplomatic Relations, 1961, and the Vienna Convention on Consular Relations, 1963, the diplomatic and consular authority should always comply with sovereignty and internal law of the country it operates at. Therefore, it can't force the NRI spouse to return to India, any enforcement of maintenance or child custody order, intervening into the court processes in foreign countries, and conducting independent investigation in the

⁹ PARLIAMENTARY STANDING COMMITTEE ON EXTERNAL AFFAIRS, PROBLEMS BEING FACED BY INDIAN WOMEN DESERTED BY THEIR NRI HUSBANDS, Parliament of India, New Delhi.

territory where it operates. As a result, its role is limited to facilitative actions rather than court proceedings.¹⁰

The Ministry of Foreign Affairs has made considerable progress in terms of institutional support by implementing digital grievance mechanisms, providing effective consular assistance, and improving inter-agency coordination. However, there are various practical limitations that hinder the effectiveness of these initiatives. The delays in the acquisition of information from foreign authorities, discrepancies in legal systems, lack of bilateral enforcement agreements, and limited powers of the diplomatic missions make solutions less effective. These issues point to the need for a proper legal framework dealing with the issue of NRI marriages as well as enhance cooperation with the countries with a large Indian diaspora as well as improve coordination among diplomacy, judiciary, and law enforcement agencies.¹¹

V. ROLE OF THE NATIONAL COMMISSION FOR WOMEN AND OTHER INSTITUTIONAL MECHANISMS

The National Commission for Women (NCW) has an extremely important role to play in the form of addressing complaints arising from marriages of NRIs and ensuring the protection of Indian women who are affected by cross-border matrimonial issues. The NCW, setting up a dedicated NRI Cell to handle the cases pertaining to marital abandonment, abuse, dowry harassment, child custody conflict, and matrimonial fraud, has witnessed an upsurge in complaints. The NCW may not have any power of a judicial character but its role has grown significantly over time. It does not decide on the disputes but rather coordinates between various participants, such as government agencies, police authorities and Indian missions abroad so that the victims get assistance in time.

The NRI Cell aids distressed women through the provision of legal advice, counseling, and useful information regarding legal recourse available under Indian law. Complaints are received from women who are situated both in India and abroad. Each case is treated on an individual basis before being referred, wherever necessary, to Ministry of External Affairs, State Police, Regional Passport Office, or any other authority as required. In the case of matrimonial fraud or marital desertion cases, the cases are facilitated by the Commission for timely communicate between victims and Indian missions so that consular assistance is obtained without delay.

¹⁰ Vienna Convention on Diplomatic Relations, Apr. 18, 1961, 500 U.N.T.S. 95.

¹¹ Asha Bajpai, *Across the High Seas: Abuse, Desertion, and Violence in Transnational Marriages in India*, 19 VIOLENCE AGAINST WOMEN 1246–1262 (2013).

In situations involving a respondent who is outside of India, collaboration between the NCW and the Ministry of External Affairs has emerged as vital. This partnership can help Indian Missions located abroad to investigate the location of the spouse, communicate with local authorities, and provide necessary assistance to victims in obtaining legal services, obtaining travel papers, or receiving emergency help. The Commission works closely with the Ministry of Women and Child Development, the State Women Commissions, Legal Services Authorities, and Police Departments in various States. Such collaborations become critical because of the multi-dimensional nature of transnational matrimonial conflicts. Issues regulating the debt owed to the spouse, child custody, and immigration matters are frequently intertwined making collective effect of many institutions much greater than actions of each one of them separately.

The National Commission for Women (NCW) is one of the institutions that works toward ensuring that victims of NRI marriages receive justice. In addition to it, other statutory bodies also assist in this process. The National Legal Services Authority (NALSA) as well as the State Legal Services Authorities provide free legal assistance to eligible women so that they can file both civil and criminal cases without great financial burden.¹² Family Courts, Protection Officers designated under the Protection of Women from Domestic Violence Act, 2005, District Legal Services Authorities, etc. are among other institutions that safeguard victims' right to maintenance, obtain protection orders, receive residence rights, and so on.

Digital grievance redressal mechanisms initiated by the Government of India have enhanced institutional support. The MADAD or Consular Services Management System run by the Ministry of External Affairs is one such system that has emerged as a major platform for victims of NRI matrimonial conflict. Through MADAD, a complainant can file his/her grievances, track their progress and improve the coordination between the Indian Missions abroad and the Indian authorities. Passport authorities can also act under the Passports Act, 1967,¹³ which includes confiscation of NRI spouse's passport where the provisions are satisfied. Though these measures are not enough to solve every dispute, they do help enhance access and organisation of institutional support.

Despite these mechanisms available, some challenges continue to hinder their effectiveness. The question of jurisdiction over individual who are living overseas is a question of limited jurisdiction; the cooperation among various parties can sometimes be strained; and the implementation of court decisions in foreign states is almost insurmountable. Thus, the absence of a basic legal framework on NRI marriages represents an additional complication. Moreover,

¹² Legal Services Authorities Act, 1987, No. 39, Acts of Parliament, 1987 (India).

¹³ Passports Act, 1967, No. 15, Acts of Parliament, 1967 (India).

the issue of coordination may be worsened by certain disparities in legal systems and absence of bilateral agreements concerning recognition and enforcement of matrimonial judgments.

VI. JUDICIAL RESPONSE AND LANDMARK CASE LAW

The judicial system of India has contributed significantly to the safeguarding of the rights of women who suffer from the impact of NRI marriages particularly because of legal abandonment, fraudulent foreign divorce orders, child custody disputes, and the enforcement of maintenance claims. The country lacks a special law directly governing aspects related to NRI marriages, but the Supreme Court and several High Courts of India have gradually elaborated judicial principles to solve jurisdictional problems and prevent the misuse of foreign law systems by defaulting spouses. Having received many court judgments, the cases brought to the courts have established the fact that the legal rights of an Indian woman cannot be violated only due to the fact her husband lives abroad.

Y. Narasimha Rao v. Y. Venkata Lakshmi, (1991) 3 SCC 451¹⁴ is one of the important cases in this field. The judgment of the case lays down the parameters for the recognition of foreign marriage judgments in India by the Supreme Court. It was held that a foreign divorce decree would not be recognized if it was passed by a court that lacked jurisdiction, was obtained by fraud, or was passed against the principles of natural justice. The judgment provides a solid protection against foreign divorce judgments obtained without the knowledge or consent of the Indian spouse.

One more landmark ruling is *Neeraja Saraph v. Jayant V. Saraph* (1994) 6 SCC 461,¹⁵ where the Supreme Court underscored the menace of increasing exploitation of women in NRI marriages. The court was appalled to note that several Indian women were deserted almost immediately after marriage and were facing considerable barriers in their way to justice, both in terms of real-life challenges and legal hurdles, partly because an effective regulatory mechanism was absent. The court recommended that the government come up with a comprehensive legislation which should make the registration of NRI marriages compulsory and make it mandatory for an NRI husband to disclose all the information about his immigration status, employment, and other relevant details. Even though the observations were made three decades ago, they continue to play an important role in shaping legal discourse as well as the understanding of the issue of protection of NRI wives.

¹⁴ *Y. Narasimha Rao v. Y. Venkata Lakshmi*, (1991) 3 SCC 451.

¹⁵ *Neeraja Saraph v. Jayant V. Saraph*, (1994) 6 SCC 461 (India).

The role of judiciary is more than just solving disputes. As mentioned time and again in its various judgments, the Supreme Court has emphasized the need for better legislative measures to have comprehensive law concerning NRI marriages and has urged the government to implement effective measures regarding registration of such marriages, service of summons abroad, enforcement of maintenance orders, and greater synchronization among the judiciary, the Ministry of External Affairs, passport authorities, and Indian missions abroad. The observations made by the judiciary were not merely theoretical but have actually led to various governmental propositions with the purpose of promoting consular assistance and improving grievance redressal for victims of NRI marriages.

VII. COMPARATIVE DIPLOMATIC PRACTICES IN PROTECTING VICTIMS OF TRANSNATIONAL MARRIAGES

Increasing transnational family law disputes have made many countries improve their consular support systems for their nationals dealing with family law-related issues abroad. While diplomatic and consular authorities generally do not engage in personal marriage disputes, they perform a crucial supportive role. They help affected people understand unfamiliar legal processes, assist with their communication with local authorities, and connect them with legal, social, and welfare services. A comparison of the practices adopted by Canada, the USA, Australia, India, and the UK shows significant similarities and indicates ways of strengthening such mechanisms in India.

The Foreign, Commonwealth and Development Office (FCDO) of the UK provides consular services to British citizens involved in family conflicts overseas. As part of these consular services, it issues emergency travel documents, gives details of local lawyers and interpreters, helps make contact with family members and connects persons to local aid organizations. But its limitations are apparent. The FCDO does not provide legal representation, does not pay for legal services or interfere into legal processes in foreign countries. Matters of divorce, child custody and support depend on local legislation.¹⁶

In the United States, a procedure that is more or less the same is used. The Bureau of Consular Affairs in the U.S. Department of State provides help to Americans who have problems with their family matters abroad, by giving summaries of local legal practices, offering lists of qualified attorneys, helping with welfare and whereabouts checks, issuing emergency passports and cooperating with regional authorities in case of emergency situations. These services are

¹⁶ FOREIGN, COMMONWEALTH & DEVELOPMENT OFFICE, INTERNATIONAL CHILD ABDUCTION: INFORMATION FOR PARENTS, Government of the United Kingdom.

especially useful in cases when people do not know about local law. However, this does not mean that American consular representatives have the right to represent the individuals legally, make the authorities obey court decisions or influence judicial processes. Their functions are to advise and coordinate in the framework of the consular service.¹⁷

Canada has created a pretty well-developed and comprehensive system under Global Affairs Canada. The Canadian diplomatic missions aid in enlightening citizens about the local legal system and connecting with lawyers. They assist in communicating with local government authorities and let the complainants know about the shelters and the assistance available to them. In the cases of domestic violence or childcare issues, Canadian missions do cooperatively work with local agencies fully considering the jurisdiction of the host country.¹⁸

A comparable model has been followed by Australia through the Department of Foreign Affairs and Trade (DFAT). The Australian missions are authorized to support their nationals through the provision of emergency documents, legal referrals, welfare checks, and assistance to families or local authorities, as required. In addition, DFAT releases detailed information intended for people affected by family violence or international parental child abduction to ensure that essential information is available before the crisis arises. However, as is the case in the other countries mentioned above, Australian diplomatic missions are unable to participate in either court processes or judicial decisions because of the fact that these issues are treated under the jurisdiction of the receiving state.

India has developed its diplomatic approach via the Ministry of External Affairs (MEA), Indian Embassies, High Commissions, and Consulates to some degree. Its approach differs from that of many other nations in some respects as it offers specialised institutional measures to address problems resulting from the marriages of Indians living abroad. The National Commission for Women (NCW) NRI Cell, MADAD Consular Services Management System, and the close coordination between Indian Missions and country authorities indicate that its approach is institutionally more focused in nature. Just like the above discussed measures, the Indian Missions also offer legal assistance, establish communication with foreign authorities, assist locating the spouse, issue emergency travel documents, and cooperate with the relevant agencies within the country to ensure that the victims receive support during the legal proceedings.

¹⁷ U.S. DEPARTMENT OF STATE, BUREAU OF CONSULAR AFFAIRS, CONSULAR NOTIFICATION AND ACCESS, U.S. Department of State.

¹⁸ GLOBAL AFFAIRS CANADA, CHILDREN AND FAMILY MATTERS ABROAD, Government of Canada.

Despite all the good developments in India, it faces various practical challenges in its diplomatic framework. One of the most critical problems lies in enforcement of maintenance orders, child custody orders, and matrimonial decrees in different jurisdictions. In contrast to many developed jurisdictions with their network of reciprocal arrangements and support services for victims, India is hampered by its jurisdictional problems as well as lack of effective means for international enforcement.

It has been discovered through the analysis that the five nations are similar in their enforcement of law. Embassies do not have the right to become involved in private marriage affairs and violate the laws of the host nation. Their laws are merely confined to consular assistance, consultation, and emergency services. Nevertheless, India's actions directed towards establishing systems designed for NRI marriage cases can be considered as a rather significant institutional progress. There are still possibilities for improvements, which can be pursued by using best international practices, building intergovernmental cooperation, activating embassies, helping victims, better enforcing court decisions in other countries, etc.

VIII. CHALLENGES FACED BY DIPLOMATIC AND CONSULAR AUTHORITIES

Even though the Ministry of External Affairs (MEA), Indian Embassies, High Commissions, and Consulates provide vital help to those affected by NRI marriages, they are still bound by many legal, institutional, and practical limitations in their ability to effectively provide protection. Since these issues cross national borders, diplomatic officials have to work within the laws of the host country as well as comply with the limitations of international law. In this regard, their role is often more that of support rather than of direct intervention.

An additional important challenge is the limitation in jurisdiction of diplomats and consular officials. As stipulated by the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1963, the Indian missions have no powers to investigate any offence, arrest the spouse of Indian nationality residing in another country, make any person appear before the Indian courts, or enforce any maintenance or custody order directly. However, it can provide assistance regarding communication, documentation, or access to local public services. Thus, it can be seen that regardless of the good intentions, victims of injustice tend to demand more than is legally possible for the diplomatic personnel.

The complexity of transnational jurisdiction adds yet another layer of difficulty. The laws of different countries concerning marriage, divorce, maintenance, custody, and matrimonial property vary widely. Because of this, many cases proceed in India and abroad at the same time, sometimes with conflicting outcomes. Even if an Indian court gives relief in a case, the relief

may require new recognition and enforcement proceedings in the foreign jurisdiction. Therefore, where's there is no effective reciprocal enforcement mechanism for judgments, winning a judgment does not mean that the victim can benefit from the judgment.

The attempts to track absconding spouses might also be impacted by practical difficulties. The NRI spouse can change his/her place of residence, work, and immigration and citizenship status, while there may also be certain privacy and data protection laws concerning this information in the receiving State. The lack of a mandatory and centralized NRI marriage registration makes things more complicated as far as marriage, identity, immigration status, and previous complaints verification are concerned.

Indian Missions also encounter limitations in terms of resources and capabilities. In nations where the Indian Diaspora is considerable, officials in consulates have different tasks besides engaging in cases involving marriage disputes. The adequacy of the man power available and the specialists' knowledge in legal area makes provision of assistance difficult. Certain people involved in troubles do not have required knowledge of the MADAD platform utility, NCW NRI Cell, Legal Services Authorities, which results in delay in submitting claims for help.

Another recurrent problem is the absence of working together by the Indian and foreign agencies. In case of taking effective action, the Ministry of External Affairs (MEA), the National Commission for Women (NCW), police, passport offices, courts, immigration offices, and foreign agencies may be brought into the fray. Differences in rules of law, languages, administrative procedures, and communication may hinder the free flow of information and proceedings.

Disputes involving child custody and parental abduction are very delicate. As India is not a signatory to the Hague Convention on the Civil Aspects of International Child Abduction, 1980,¹⁹ bringing back a child overstepped the jurisdiction will often lie with the relevant courts of law of the designated country. The Indian missions can help in contacting the parties and provide the necessary assistance, but they do not have the authority to force the return of the child.

Finally, the lack of proper statutory regulation of NRI marriages is a major structural weakness. Available remedies are scattered across personal laws, criminal laws, private international laws, and administrative procedures. A clearer framework along with compulsory marriage registration, stronger international cooperation, agreements of mutual enforcement, creation of

¹⁹ Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, 1343 U.N.T.S. 89.

NRI specialized legal cells, and enhanced institutional coordination could improve protection for victims of NRI marriages significantly.

IX. CONCLUSION AND RECOMMENDATIONS

The increasing number of victimization in NRI marriages indicates that traditional legal solutions cannot resolve the entire gamut of challenges faced by women who are affected. The international nature of these cases frequently gives rise to queries regarding jurisdiction, enforcement of matrimonial decrees, and the cooperation of the Indian authorities with their foreign counterparts. While various institutions such as the MEA, Indian missions abroad, and the National Commission for Women do provide support as and when required.

To have an efficient protection mechanism in place, it is important to have more institutional cooperation and effective international cooperation. Agreement bilaterally and mutual legal assistance would help in the enforcement of maintenance, custody, and matrimonial orders, serving of judicial papers, and help locate missing spouses. Various agencies such as MEA, NCW, police, courts, passport authorities and legal services should have a proper coordination process and integrated case management mechanism.

Importance of access to affordable legal aid, counseling, translating services, temporary housing, and financial help should be emphasized especially when women need to go through cases in foreign jurisdictions. Grievance redressal systems should focus more on real-time case tracking and appropriate sharing of information by different departments. Also, preventive measures should be implemented. Families and would-be spouses should be suggested to validate the marital status of the person, the immigration status, work status, and financial status prior to marriage.

It is important to train professionals who deal with international marriage conflicts properly and to develop a mechanism for finding the needed information. Women's organizations and diaspora make a significant contribution to the assistance of victims. In summary, it can be stated that the issue of protection of NRI wives requires the coordinated work of specialists, availability of legal assistance, and international support.

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