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Minutes of the Meeting

(NRI, Cell, NCW)

Minutes of the Meeting of the Expert Committee on the subject "Need to review the existing legislatures or to enact special Indian enactments to address the various issues that arise in NRI/ Overseas marriages" held on 27.03.2012 at 11.30 am in NCW.

1. The list of participants is enclosed. Other co-opted members had not been able to attend.
2. The Joint Secretary, NCW welcomed the members of the Committee and referred to the terms of references for constitution of the Expert Committee. It was explained that the Committee was constituted to examine relevant laws from two aspects: firstly whether there is need for amendments in the existing laws which can address the various issues that arise in NRI/ Overseas marriages; and secondly whether there is a need for fresh legislation to address the issues of NRI/ Overseas marriages. After discussion in the first meeting held on 28.07.11, the consensus proposed that a Sub Committee may be constituted by NCW to go deeper into the issues of proposed amendments or new legislation. In furtherance of this a four member sub Committee was constituted by an office order dated 25.08.2011 under the Chairmanship of Ms. Pam Rajput.
3. The sub Committee met and had consultations on issues involved in the NRI/overseas marriages. At the meeting held on 27th March 2012, Ms. Kirti Singh (Adv), Hon'ble member of the sub Committee presented a Note on NRI marriages comprising of recommendations on behalf of the sub Committee which could help in addressing the problem. The report of the sub Committee (annexed herewith) was read over and circulated to the Committee members and was discussed elaborately.
4. The report of the sub Committee was accepted by the Expert Committee overall except to the suggestion regarding point (1) and (2) of the report wherein it was felt that there should be suitable time limit within which the liability/ guarantee on the spouse property towards maintenance is to be imposed.
5. The Expert Committee's recommendations would be submitted to the Hon'ble Commission for further consideration.
7. The meeting concluded with a vote of thanks to the Chair.

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List of Participants

1. **Joint Secretary, NCW, Ms.Minakshi Ghose**
2. **Ms. Kirti Singh(Adv)**
3. **Sh.AshwiniLuthra, President Asian Education Society**
4. **Prof.V.C.Govindraj, Indian Society of International Law**
5. **Mr. Neeraj Rawat , Law Officer, NCW**
6. **Ms. Kanchan Khattar CO(NRI)**

A note on NRI Marriages

Kirti Singh

It is well known that the last few decades have witnessed a phenomenal rise in NRI marriages in India in which typically the groom is a NRI and the wife is a resident of India. It has also been seen that an alarming number of these marriages are fraudulent marriages or marriages for dowry etc in which the groom has no intention to actually live with his wife. The wives are abandoned in India or left with very little resources in foreign countries. Even when marriages breakup in foreign countries after a few months or years the wife is often forced to return to India while the husband proceeds in foreign courts to get ex parte decrees of divorce and possibly custody orders for their children.

In this note we are primarily concerned with the woman who is left alone to fight her legal battles without any resources. The breakup of NRI marriages in a large number of cases adversely impacts on women as does the breakup of any marriage in both economic and social terms except that, in these marriages the woman finds it more difficult to access the courts, particularly foreign courts and finds it difficult to even locate her husband to serve him with initial court notices/summons and to enforce orders of the court regarding maintenance, custody etc.

The NCW has, in the past, made several useful suggestions and has also been able to persuade the Ministry of Overseas Indian Affairs to promulgate a scheme which finances abandoned Indian housewives through empanelled Community organizations and NGOs to fight their cases in Foreign Courts. This scheme should be strengthened and made available to a much larger number of separated women in several countries who cannot afford to fight cases.

Apart from this the NCW has also suggested that all NRI marriages should be registered and the certificate of registration should contain the social security

number of the NRI spouse. We feel that the NRI groom should be made to fill a form making a full disclosure of his income and movable and immovable assets and give an undertaking that he will be responsible for maintaining and looking after his wife. If the groom does not have any property in India, his parent or someone on his behalf should stand guarantee.

If a wife of an NRI files a criminal case an immediate FIR should be lodged so that the husband can be stopped from fleeing the country to escape the criminal proceedings through an appropriate notice to the immigration authority. If he seeks bail his passport should be deposited in Court and appropriate changes should be made in the law to ensure this. It is also extremely important to change the CrPC to explicitly provide that a woman can file a case in India even though the violence may have taken place in a foreign country or the demand for dowry may have been made there.

Also jurisdiction to file a both a criminal case and a civil case should exist in the place where the wife or child/children are currently residing and amendments to this effect must be made in the Crpc, the Civil Procedure Code and the Guardian and Wards Act etc. It is relevant to point out that such a provision already exists in the PWDVA and in the Hindu Marriage Act etc.

Other changes which are also necessary include:

1. Making a provision in all the marriage acts and maintenance statutes for stay from selling or alienating property during the proceedings of the case and for attachment before judgement. This provision should in addition to any other law in existence in the CPC etc
2. An appropriate guarantee should be taken from the husband or his relative that they will pay the maintenance ordered by the court.

3. The guardian and Wards act should be changed to make a woman an equal guardian of her child and to strengthen her position as a primary caretaker.
4. The woman should be given an equal right in marital property ie in property acquired by the spouses which should accrue to her from the moment of separation.
5. Apart from this Special Cells should be set up in all Indian Embassies and High Commissions to specifically deal with problems of NRI marriages. This Cell should be widely publicized and should give effective guidance and help.
6. The foreign Marriages Act should be amended to provide for divorce even in a situation in which both spouses have assumed foreign Nationalities and to provide that petition can be filed under the Act at any time that the wife desires to do so.
7. India should sign treaties for service of summons and for enforcement of maintenance orders and extradition with all countries in which there are sizeable populations of people of India origin