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**COMMITTEE ON EMPOWERMENT OF WOMEN
(2008-2009)**

(FOURTEENTH LOK SABHA)

'PLIGHT OF INDIAN WOMEN DESERTED BY NRI HUSBANDS'

MINISTRY OF OVERSEAS INDIAN AFFAIRS

*[Action Taken on Twelfth Report of the Committee on
Empowerment of Women (Fourteenth Lok Sabha)]*

SEVENTEENTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

October, 2008/ Asvina, 1930 (Saka)

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MINISTRY OF OVERSEAS INDIAN AFFAIRS

*[Action Taken on Twelfth Report of the Committee on
Empowerment of Women (Fourteenth Lok Sabha)]*

Presented to Lok Sabha on 20th October, 2008

Laid in Rajya Sabha on 21st October,, 2008



LOK SABHA SECRETARIAT
NEW DELHI

October, 2008/Asvina, 1930 (Saka)

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**COMPOSITION OF THE COMMITTEE ON EMPOWERMENT OF WOMEN
(2007-2008)**

Hon'ble Chairperson - Smt. Krishna Tirath

MEMBERS

LOK SABHA

2. Smt. Priya Dutt
3. Smt. Jayaprada
4. Smt. Preneet Kaur
5. Smt. Sushila Kerketta
6. Smt. Manorama Madhvaraj
7. Shri Tek Lal Mahato
8. Smt. Kiran Maheshwari
9. Shri Rajesh Kumar Manjhi
10. Smt. Neeta Pateriya
11. Prof. M. Ramadass
12. Smt. K. Rani
13. Smt. Tejaswini See Ramesh
14. Smt. Minati Sen
15. Smt. Karuna Shukla
16. Smt. C.S. Sujatha
17. Smt. B. Jayaben Thakkar
18. Shri P. C. Thomas
19. Shri M.P. Veerendra Kumar
20. Shri Kinjarapu Yerrannaidu

RAJYA SABHA

21. Smt. Shobhana Bhartia
22. Shri Jabir Hussain
23. Smt. Hema Malini
24. Smt. Brinda Karat
25. Smt. Syeda Anwara Taimur
26. *Dr. Prabha Thakur
27. *Dr. C.P. Thakur
28. *Shri Banwari Lal Kanchhal
29. *Smt. Kanimozhi
30. *Shri Gandhi Azad

* Nominated w.e.f. 28th May, 2008 against the vacancies that arose on retirement of Ms. Pramila Bohidar, MP w.e.f 02.04.2008, Smt. Prema Cariappa, MP, Smt. N. P. Durga, MP, Smt. Maya Singh, MP, w.e.f 09.04.2008 and demise of Kum. Nirmala Deshpande on 05.05.2008.

SECRETARIAT

- | | | |
|----|---------------------------|-------------------|
| 1. | Shri A.K. Singh | Joint Secretary |
| 2. | Shri C.S. Joon | Director |
| 4. | Smt. Reena Gopalakrishnan | Committee Officer |

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(2008-2009)**

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30. Dr. Prabha Thakur

SECRETARIAT

1. Shri A.K. Singh Joint Secretary
2. Shri C.S. Joon Director
3. Smt. Reena Gopalakrishnan Committee Officer

INTRODUCTION

I, the Chairperson of Committee on Empowerment of Women, present the Seventeenth Report (Fourteenth Lok Sabha) on the Action Taken by the Government on the recommendations contained in the Twelfth Report of the Committee on Empowerment of Women (Fourteenth Lok Sabha) on 'Plight of Indian Women Deserted by NRI Husbands'.

2. The Twelfth Report (Fourteenth Lok Sabha) of the Committee on Empowerment of Women was presented to Lok Sabha and laid in Rajya Sabha on 13th August, 2007. The Action Taken Replies of the Government to all the Observations/Recommendations contained in the Report have been received.

3. The Draft Report was considered and adopted by the Committee on Empowerment of Women (2007-2008) at their sitting held on 11th August, 2008. The Report was again adopted by the Committee on Empowerment of Women (2008-09) at their sitting held on 29th August, 2008.

4. An Analysis of the Action Taken by the Government on the recommendations contained in the Twelfth Report (Fourteenth Lok Sabha) of the Committee is given in Appendix III.

5. For facility of reference and convenience, the Observations/Recommendations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix IV of the Report.

6. The Committee also place on record their appreciation for the valuable assistance rendered to them by the Officers of the Lok Sabha Secretariat attached to the Committee.

NEW DELHI
15th October, 2008
23rd Asvina, 1930(Saka)

KRISHNA TIRATH
CHAIRPERSON
COMMITTEE ON EMPOWERMENT OF WOMEN

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by the Government on the Recommendations contained in the Twelfth Report (Fourteenth Lok Sabha) of the Committee on Empowerment of Women on the subject 'Plight of Indian Women Deserted by NRI Husbands' which was presented to Lok Sabha on 02.8.2007.

2. Action Taken Replies of the Government in respect of all recommendations have been received from the Government and are categorized as under:-

- i) Recommendations/Observations which have been accepted by the Government:
Para Nos. 81, 82, 85, 86, 87, 89, 90 (i), 90 (ii), 90(v), 90(vii).
- ii) Recommendations/Observations which the Committee do not desire to pursue in view of the replies of the Government:
Para Nos. 84, 90 (iii) , 90 (vi).
- iii) Recommendations/ Observations in respect of which replies of the Government have not been accepted by the Committee:
Para No. 83.
- iv) Recommendations/Observations in respect of which final replies of the Government are still awaited:
Para Nos. 80, 88, 90 (iv)

3. The Committee trust that utmost importance would be given by the Government to the implementation of their recommendations. In case where it is not possible for the Government to implement the recommendations in letter and spirit for any reason, the matter should

be reported to the Committee with reasons for non-implementation. The Committee further desire that the Action Taken Notes on the Recommendations/Observations contained in Chapter I of this Report and Final Replies in respect of the recommendations for which interim replies have been furnished by the Government (included in Chapter V), should be furnished expeditiously.

4. The Committee will now deal with the action taken by the Government on some of their recommendations.

A. Coordination among various agencies dealing with the issue of problematic NRI marriages

Recommendation Para No. 80

5. With the increase in Indian Diaspora and consequently overseas marriages, the number of matrimonial and related disputes in such marriages had also risen proportionately. The problems of women trapped in fraudulent NRI marriages included aspects like dowry, concealment of earlier/existing marriages, marriages of convenience etc. In this context, the Committee had noted that different agencies viz. Ministry of Overseas Indian Affairs, Ministry of External Affairs, Ministry of Women and Child Development, National Commission for Women, State Commissions for Women, National Human Rights Commission, State Governments etc. were dealing with the issue of problematic NRI marriages. The Committee were constrained to note that no well defined/evolved coordination mechanism existed among the aforementioned agencies. The Ministry of Overseas Indian Affairs, the nodal Ministry for all matters relating to NRIs, consulted the Ministry of Women and Child Development, National Commission for Women, National Human Rights Commission, etc. on the issues relating to NRI marriages only when they felt it necessary to do so. More disturbing was the fact that the Ministry of Overseas Indian Affairs had not taken any concrete steps to evolve a convergence among the various agencies. Since

women victims of such marriages approached different agencies for registering their complaints, the Committee were of the view that there should be proper coordination among all the concerned agencies to enable the aggrieved women to get a respectable solution to their problems. The Committee, therefore, had recommended that the Ministry of Overseas Indian Affairs, being the nodal Ministry for the purpose, should take urgent steps to evolve a well defined/coordinated mechanism among all the agencies to deal with the issue of problematic NRI marriages.

6. The Government has submitted the following reply in this regard:

“The Ministry of Women and Child Development have stated that it is not an agency to register, investigate or prosecute any complaint of violence against/maltreatment of women but is concerned with the issue at the policy level along with other relevant Ministries. These complaints are to be registered by the National Commission for Women under its mandated functions. The Commission can directly look into the complaints or send them to State Governments or State Commissions for Women or any other authority for disposal.

The Ministry of Overseas Indian Affairs, ever since its inception, has been working actively to assist distressed Indian women facing desertion and other problems as a result of their marriage with Non Resident Indians. The suggestion of the Hon'ble Committee would be discussed at an Inter-Ministerial Committee likely to be convened soon with a view to evolve a possible coordinating mechanism.

The Ministry of External Affairs has stated that it would extend all possible cooperation to the Ministry of Overseas Indian Affairs in evolving a mechanism to deal with the issue.”

7. The Committee have noted the absence of a coordinated mechanism among the various agencies dealing with the issue of problematic NRI marriages viz. Ministry of Overseas Indian Affairs, Ministry of External Affairs, Ministry of Women and Child Development,

National Commission for Women, State Commissions for Women, National Human Rights Commission, State Governments, etc. The Committee have, therefore, recommended that the Ministry of Overseas Indian Affairs, being the nodal Ministry for the purpose, should take urgent steps to evolve a well defined/coordinated mechanism among all the agencies to deal with the issue of problematic NRI marriages. The Government, in its Action Taken Reply has stated that the suggestion would be discussed at an Inter-Ministerial Committee likely to be convened soon with a view to evolve a possible coordinating mechanism. The Committee would like to know the progress made in this regard. The Committee also desire that this process should be completed expeditiously.

B. Hague Conventions relating to NRI marriages

Recommendation Para No.83

8. The Committee had found that the matrimonial disputes in NRI marriages eluded resolution due to the complexities and lacunae in the existing domestic and international laws. When a marriage steps out of the boundaries of a country's legal system and enters the domain of Private International Law, finding a proper solution to the problem becomes extremely complex and difficult. The Committee had noted that the Private International Law was not the same in all the countries and it tried to reconcile the conflict of laws which arose out of differences between the law of the country of nationality of a person and that of in which that person may reside, or of which he may acquire nationality. The Committee had also found that to bring uniformity among various systems of Private International

Law and to lay down uniform and accepted codes of etiquette that governed interactions of courts in different countries, a series of international conventions needed to be signed by countries. The Committee had observed that the conventions of 'The Hague Conference on Private International Law' could greatly smoothen the process of dispute adjudication among the legal systems to which the NRI husband and wife belonged by providing appropriate civil procedures acceptable to both jurisdictions. However, they were disturbed to note that India was not yet a signatory to 'The Hague Conventions'. The Committee were of the view that unless India became a party to the related conventions of The Hague Conference, justice could not be meted out to aggrieved Indian women. Considering the importance and usefulness of The Hague Conventions, the Committee had recommended that immediate steps should be taken by the Government to become a signatory to The Hague Conventions, especially the ones, related to NRI marriages.

9. The Government has submitted the following reply in this regard:

"The reply of the Ministry of External Affairs, which is the nodal authority to examine and sign the Hague Conventions, bilateral agreements/Mutual Legal Assistance Treaties with foreign countries, and for extradition of criminals etc., is as under:

- (a) The Government is aware that in order to bring uniformity among various systems of Private International Law and to lay down uniform and accepted codes of etiquette that govern interactions of Courts in different countries, a series of relevant international conventions need to be signed by the countries.
- (b) It may be noted that the subject of private international law was accorded priority in the Ministry when it took up "Diaspora" issues and organized the first "Pravasi Bharatiya Divas" in 2003.
- (c) The Ministry also commissioned in 2003 a research project on the "Legal Problems faced by Non-Resident Indians (NRIs), with specific reference to the Hague Conventions on Private International Law". This project in substance dealt with legal

problems concerning marriage, divorce, maintenance obligations, matrimonial property and succession involving laws and jurisdiction of India and other foreign countries where NRIs are living. The report of the Indian Society for International Law covering issues, relating to, inter-alia, NRI marriages, has been printed in a booklet form entitled 'Non-Resident Indians and Private International Law. [The Ministry of Overseas Indian Affairs provided a financial assistance of Rs. 2.00 lakh to the Indian Society for International Law to bring out the said compilation.]

- (d) The recommendations of the above project were also discussed in the Regional Workshops organized by the National Commission for women and the Ministry of Overseas Indian Affairs on "Problems relating to NRI marriages and suggested measures" in Chandigarh and Thiruvananthapuram in June and September 2006. These Regional Workshops recommended, among other things, the need for the Government to carefully examine the following Hague Conventions which are relevant for issues relating to NRI marriages:
- (i) Convention on the service abroad of judicial and extra-judicial documents in civil or criminal matters, 1965 (Service Convention);
 - (ii) Convention on the recognition of divorce and legal separation, 1970;
 - (iii) Convention on the laws applicable to maintenance obligation, 1973;
 - (iv) Convention on celebration and recognition of validity of marriage, 1968;
 - (v) Convention on the civil aspects of international child abduction, 1980; and
 - (vi) Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of parental responsibility and measure for the protection of the children, 1996.
- (e) It was decided to initially take up for consideration the Hague Conventions dealing with Civil Procedure, as these involve matters of general interest and concerns of NRIs. Accordingly, after a careful consideration, India has become party to the following Conventions:

- (i) 1961 Convention on Abolishing the Requirement of Legalization for Foreign Public Documents (came into force for India on 14 July, 2005);
 - (ii) 1965 Convention on Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters (Acceded on 23.11.2006, which entered into force for India w.e.f. 1.8.2007); and
 - (iii) 1970 Convention on Taking of Evidence Abroad in Civil or Commercial Matters (Acceded on 7.2.2007 entered into force for India w.e.f. 8.4.2007)
- (f) India has already become a party to the Convention of 29 May, 1993 on Protection of Children and Cooperation in respect of Inter-country Adoption.
- (g) Having acceded to one of the Conventions recommended by the workshops namely, 1965 Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, the remaining Conventions on Marriage/Divorce referred to in the recommendations of the Chandigarh and Thiruvananthapuram Workshops are under careful scrutiny and consideration by the Ministry taking into account the ratifications made by target countries in respect of the particular Convention(s).
- (h) The Convention on Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters provides a reliable method of serving summons and other judicial documents in a country that is a party to this convention and vice-versa and thus helps in reducing delays in such cases, as well as providing greater authority for judgments of Courts. The Convention on Taking of Evidence Abroad in Civil or Commercial Matters facilitates taking of evidence by means of letters of request by diplomatic or consular agents and by commissioners, as well as through the Courts of another country in cases where it is necessary to obtain evidence from a witness residing abroad. It would also provide greater certainty regarding admissibility of evidence obtained before Indian courts and thereby facilitate speedy disposal of cases.
- (i) It may also be noted that countries seldom agree to change their substantive private international law to suit the needs of other countries on bilateral basis. That is why issues of this nature are being dealt in a multilateral format under Hague Conference on Private International Law. With a view to engage the target countries multilaterally on this aspect, a

proposal was made to the Cabinet to become Party to the Hague Conference on International Law. On 3 May, 2007 the Cabinet approved India becoming a member of the Hague Conference on Private International Law.

- (j) India has been admitted as a member of the Hague Conference on 13th March 2008.
- (k) Extradition procedure can be invoked in a criminal case involving extradition offence, i.e. an offence which is punishable by imprisonment of not less than one year. For seeking extradition, a country needs to have legal basis established with the other country that could be bilateral extradition treaty, or, in the absence thereof, a reciprocal arrangement. Extradition can also be sought under international conventions for the offences covered thereunder. Therefore, extradition can be sought in the above mentioned cases provided there is a criminal case involving extradition offence and a legal basis for seeking extradition, as explained above, exists with the country to be requested.

In this connection, the Ministry of Law and Justice, Department of Legal Affairs have stated as follows:-

India has already become a signatory to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial documents w.e.f 01.08.2007 and on the Taking of Evidence Abroad w.e.f 08.04.2007 in civil and commercial matters.

It is pointed out that Government of India has become a signatory of the Hague Convention on Services Abroad. The said Convention has 45 member states and 11 non-member states. As such, this Department does not find any immediate necessity to enter into any reciprocal arrangement with other countries.”

10. The Committee while observing that the conventions of ‘The Hague Conference on Private International Law’ could greatly smoothen the process of dispute adjudication among the legal systems to which the NRI husband and wife belong by providing

appropriate civil procedures acceptable to both jurisdictions have recommended that immediate steps should be taken by the Government to become a signatory to The Hague Conventions, especially the ones, related to NRI marriages. The Committee have been informed through the Government's Action Taken Reply that India has already become a signatory to the Hague Conventions dealing with Civil Procedure, viz. Convention on Abolishing the Requirement of Legalization for Foreign Public Documents w.e.f. 14.07.2005, Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters w.e.f. 01.08.2007 and Convention on Taking of Evidence Abroad in civil or commercial matters w.e.f. 08.04.2007. However, the Conventions on Marriage/Divorce are yet to be signed. The Committee have further been informed that these Conventions are still under the careful scrutiny and consideration of the Ministry of External Affairs. Considering the importance of the Conventions on Marriage and Divorce in ensuring justice to women deserted by NRI husbands, the Committee once again desire that the Government should take sincere efforts in being a party to the Conventions on Marriage/Divorce under Hague Conventions.

C. Financial assistance to victims of NRI marriages

Recommendation Para No. 88

11. The Committee had observed that the Ministry of Overseas Indian Affairs had recently launched a scheme to give financial assistance to Indian women deserted or divorced by their overseas Indian spouses to obtain legal and counselling services through the Indian Missions abroad. They found that the Ministry had earmarked 2 crore rupees for the Scheme and financial assistance of US \$1,000 per case, would be provided to the victims of NRI marriages which would be released to the NGOs/Indian Women Associations etc. empanelled with the Indian Missions to provide legal and counselling services. The Committee were of the view that the amount of US \$ 1,000 would be quite insufficient to bear the expenses of legal attorney in countries like USA and Canada. Moreover, keeping in view the manifold increase in the number of problematic NRI marriages, the total amount earmarked for the scheme also appeared to be insufficient. Even the Secretary of the Ministry of Overseas Indian Affairs had admitted this fact. The Committee, therefore, had recommended that the Ministry of Overseas Indian Affairs should take up the matter with the Ministry of Finance for an increase in the amount earmarked for the scheme. The Committee had also desired that the amount of financial assistance per case, provided under the Scheme should be increased keeping in view the legal costs involved in such cases in other countries.

12. The Government has submitted the following reply in this regard:

“The Committee on Non Plan Expenditure (CNE), under the Ministry of Finance (Department of Expenditure) has recently approved Rs. 31.70 Crore budget for the Scheme to provide legal and financial assistance to Indian Women victims of NRI marriages for the five year period 2007-08 to 2011-12 on the following conditions:

- Selection of committed NGOs/Overseas Indian Organizations is carefully done by laying down objective guidelines for their identification and selection,
- MOIA should be clearly involved in this selection process and not leave it to the Indian Missions abroad,
- The selected NGOs should pursue the case after GOI assistance is stopped, and
- MOIA should devise an appropriate Management Information System (MIS), which would help the Ministry to monitor the outcomes from this Scheme and facilitate correctives to be applied where necessary.

The approval has been granted on the basis of that the assistance in each case would be limited to US \$ 1,000. Also, the amount is meant to meet initial cost and incidental charges for documentation and filing of the case by the Indian Women Organization/Indian Community Association/NGO, on behalf of the affected Indian woman. Concerned Indian Missions/Posts abroad have accordingly been given revised instructions on the subject along with prescribed Proforma for periodic monitoring of the progress made in such cases.

The recommendation of the Committee to enhance the financial assistance of US \$1,000 per case has been noted for examination in consultation with the Indian Missions concerned. “

13. The Committee, in their earlier Report have recommended that the financial assistance to Indian women deserted or divorced by their overseas Indian spouses to obtain legal and counselling services through the Indian Missions abroad should be increased from US \$1,000 keeping in view the legal costs involved in such cases in other countries. They have also desired that the total amount earmarked under the scheme should be enhanced from 2 crore rupees. The Committee are happy to note that Rs. 31.70 Crore have recently been

approved for the Scheme for the five year period 2007-08 to 2011-12. At the same time, they are unhappy that no action has so far been initiated to enhance the financial assistance provided per case. Instead, it has just been stated that the Recommendation has been noted for examination in consultation with the Indian Missions concerned. The Committee, therefore, once again recommend that the enhancement be worked out expeditiously under intimation to the Committee.

D. Compulsory registration of marriages

Recommendation Para No. 90 (i)

14. The Committee were of the view that all marriages, irrespective of religion should compulsorily be registered. However, only a few States had made registration of marriages compulsory. The Committee strongly believed that if a marriage was registered, it would provide valid evidence/proof of such alliance and would protect the rights of the woman to a greater extent. In marriages with NRIs, such registration would not only help a woman fight her case if deserted but also enable the Embassy to have full information about the marriage while keeping a track of the erring NRI husband. The Committee, therefore, had desired that the Government should make registration of all marriages mandatory, making the procedure simpler, affordable and accessible. The Committee would like to be apprised about the action taken by each State Government in this behalf. The Government in this regard may consider enactment of a suitable legislation.

15. The Government has submitted the following reply in this regard:

“The enactment of a suitable legislation for compulsory registration of marriages falls within the domain of the Legislative Department of the Ministry of Law & Justice. Comments of the said Department on this matter are as follows:

On the recommendation of the National Human Rights Commission and National Commission for Women and also as per the judgment of the Supreme Court in the case of Smt. Seema Vs. Ashwani AIR 2006 SC 1158, a proposal to enact a suitable legislation relating to compulsory registration of marriages is under active consideration in consultation with State Governments. In this regard, it may be stated that for bringing in legislation will necessarily involve deep study and careful consideration and wide range consultations. In view of the importance and complexity of the matter, it will take some more time before a Bill could be introduced in the Parliament.

The Ministry of Overseas Indian Affairs has drawn the attention of all States/UTs to the judgment of the Supreme Court in the case of 'Smt. Seema vs. Ashwini Kumar' and has requested them to make laws for compulsory registration of marriages. As per the information received by this Ministry, 16 States have framed guidelines/issued Notifications for compulsory registration of marriages solemnized in their respective States.

The Ministry of External Affairs has stated that the Indian Missions /Posts abroad do register all the marriages solemnized by them and issue certificates”.

16. The Committee have desired the Government to consider enactment of a suitable legislation for mandatory registration of all marriages, making the procedure simpler, affordable and accessible. In this regard, the Government has stated that a proposal to enact a suitable legislation relating to compulsory registration of marriages is under active consideration in consultation with State Governments. It is further stated that since bringing in such legislation will necessarily involve deep study and careful consideration and wide range consultations, it will take some more time before a Bill could be introduced in the Parliament. The Committee once again urge upon the

Government to continue the efforts in this direction and bring the Bill for compulsory registration of marriages as early as possible.

E. Special Cells in Missions Abroad

Recommendation Para No. 90 (iv)

17. As the victims of problematic NRI marriages tend to immediately approach the Indian Embassies, the Committee had felt an urgent need to set up separate Cells with Indian Embassies, especially, in target countries to render necessary help in such cases. They had recommended that the Ministry of External Affairs should take concrete steps to set up such special Cells in Embassies/Posts/Missions abroad, especially in countries having large Indian Diaspora.

18. The Government has submitted the following reply in this regard:

“The Ministry of External Affairs has stated that the Consular Wing of the Indian Missions/Posts abroad render all necessary assistance to Indians living abroad including victims of problematic NRI marriages.

The Ministry of Overseas Indian Affairs proposes to set up Overseas Indian Centers in the Indian Missions/Posts at Washington, Kuala Lumpur and Dubai to cater to the interests of the Indian Diaspora. The objectives of the centres are to provide legal and financial services to the Indian Diaspora including Indian women victims of NRI marriages. While the Dubai centre will look after the Gulf region, the centre at Kuala Lumpur will cater to the Diaspora in Malaysia, Singapore and Brunei while the one at Washington will perform similar functions for USA and Canada. “

19. The Committee in their earlier Report have recommended that the Ministry of External Affairs should take concrete steps to set up Special Cells in Embassies/Posts/Missions abroad, especially in

countries having large Indian Diaspora to render necessary help to victims of problematic NRI marriages. Through their Action Taken Reply, the Committee have been informed that there is a proposal to set up Overseas Indian Centres in the Indian Missions/Posts at Washington, Kuala Lumpur and Dubai to cater to the interests of the Indian Diaspora. The Committee desire that these proposals be taken up for actual implementation without any delay and the Committee may be apprised of the progress.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation Para No. 81

The Committee find that whenever cases of fraudulent NRI marriages are referred by National Commission for Women to the Ministry of Overseas Indian Affairs or the Ministry of External Affairs, the same are taken up with the respective authorities concerned such as Indian Missions, Police Authorities or State Governments, for appropriate action in the matter. The Committee understand that these cases are generally followed up with reminders and feedback to victims is sent only when the Ministries get some response from our Missions. The Committee, while interacting with the aggrieved women have found that the Ministries generally do not respond to the complaints filed with them. The Committee consider such an approach quite indifferent bordering on callousness. Considering the highly sensitive and emotional nature of the cases, the Committee are of the view that the Ministry should have a sympathetic attitude towards aggrieved women and therefore, recommend that through proper follow-up action, the Ministry of Overseas Indian Affairs should ensure regular feedback to the complainants regarding the action taken by the Ministry and the status of their cases.

Replies of the Ministry of Overseas Indian Affairs

The Ministry of Overseas Indian Affairs assures the Hon'ble Committee that it has a most sympathetic attitude towards aggrieved women and within its limited resources it tries the utmost to ensure regular feedback to the complainants.

The Ministry of External Affairs has stated that as and when a complaint is received by the Ministry matter is followed up with the respective authorities concerned in India and abroad including Indian Missions for appropriate action in the matter. While the Ministry has been responding to the complaints in the past at appropriate stage of processing of the matter, the Hon'ble Committee's instructions regarding regular feedback have been noted for strict compliance in future.

(O.M. No. OI-19021/3/2006-SS.dated.9.4.2008)

Recommendation Para No. 82

The Committee note with concern that over the years the problems in NRI marriages have assumed alarming proportions. Such cases may generally take the shape of abandonment of spouse for various reasons, domestic violence, extra-marital relationships, delay in the system of acquiring visa/immigration, *ex parte* divorces, etc. The Committee find that the absence of proper precautions and sufficient fact finding is the main reason behind the mismatch of expectations turning marriages sour. In their eagerness not to let go of the so called 'promising alliances', the families often totally ignore even the common cautions that are generally observed in traditional match-making. The Committee, therefore, feel that proper guidance as to how due diligence can be exercised before entering into such alliances can only minimize the problem. They, therefore, urge upon the Government to take up community mobilization and capacity building through rigorous steps to ensure precaution so as to obviate such cases.

Replies of the Ministry of Overseas Indian Affairs

The Ministry has noted the Hon'ble Committee's recommendation for community mobilization and capacity building through rigorous steps to obviate such cases. It may be noted that the Ministry has already launched a rigorous awareness-cum-publicity campaign to educate and sensitize prospective brides and their families with regard to problems arising out of marriages with overseas Indians and how due diligence can be exercised before entering into marital alliance with overseas Indians. Steps taken in this regard include:

(a) Information Pamphlets

The Ministry has brought out information pamphlets in English, Hindi, Punjabi, Malayalam and Telugu to make Indian women aware of their rights and responsibilities and the precautions that could be exercised before entering into marital alliance with overseas Indians. These pamphlets have been sent to the State Governments concerned for distribution through Village Panchayats, Anganwadis, Railway Stations, Airports, Hospitals /Dispensaries, NGOs/Self Help Groups etc.

The Ministry has also brought out information pamphlets in English, Hindi and various regional languages on the scheme to provide legal and financial assistance to women deserted by their overseas Indian spouses.

(b) Guidance Booklet on NRI Marriages

The Ministry has brought out a guidance booklet on “Marriages to Overseas Indians” for the benefit of prospective brides and their families. The guidance booklet was released by the Hon’ble Prime Minister on the eve of PBD, 2007. This booklet contains information on safeguards available to women deserted by their NRI spouses, legal remedies available, authorities that can be approached for redressal of grievances and non-governmental organizations which can provide assistance. The guidance booklet has been sent to all States/UTs and the Indian Missions in the countries having high concentration of Indian Diaspora for wide dissemination of information among the groups concerned. Now, the Ministry is bringing out the guidance booklet in Hindi, Punjabi and Telugu for distribution in the States concerned.

(c) Awareness-Cum-Publicity campaign through Media

The Ministry launched its publicity campaign through electronic scrolls on regional T.V. The Ministry of Women and Child Development have stated that also been launched on regional TV networks to cover the States of Punjab, Kerala, Andhra Pradesh, Karnataka and Tamil Nadu.

The Ministry of Women and Child Development have stated that Central Social Welfare Board has reported that the State Social Welfare Boards of Andhra Pradesh , Kerala and Punjab , which are the states most affected by the problems as per the Twelfth Report, have been asked to take up the issues with voluntary agencies which organize Awareness Generation Programme and run Family Counseling Centres to guide women regarding the problem. The National Commission for Women also runs legal awareness camps and can include guidance material for women who wish to marry NRIs.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Recommendation Para No. 85

The Committee find that in the Indian context, the absence of uniform civil laws and the abundance of personal laws of various religious communities make matrimonial disputes extremely difficult to deal with. They, therefore, recommend the Government to consider enactment of uniform personal laws for all religious communities on marriage/divorce,

maintenance, property rights, etc. and incorporate special provisions in them with regard to NRI marriages.

Replies of the Ministry of Overseas Indian Affairs

The subject matter falls within the domain of the Ministry of Law & Justice (Legislative Department), who have replied as under:

“The Supreme Court of India in its judgment delivered dated 21.7.2003 in the matter of John Vallamattom Vs. Union of India has made certain observation in respect of the need for enactment of a Uniform Civil Code. The observations of the Supreme Court on the desirability of enacting the Uniform Civil Code are in the nature of *obiter dicta* though these observations are made in good faith and entitled to the highest respect. Even though the goal of Uniform Civil Code has to be kept constantly in mind, complete uniformity in making laws may not be feasible. Under the existing provisions of the Constitution, personal laws generally fall in the List III-Concurrent List of the Seventh Schedule to the Constitution of India, where both State Legislature as well as Parliament is competent to legislate. The State Legislatures can always make changes in personal laws keeping in view the local conditions. However, the reforms in the personal laws would continue to be of utmost concern to the Central Government, it has been the consistent policy of the Central Government not to interfere in the personal laws of minority communities unless the necessary initiative for such changes comes from a sizeable cross-section of such communities themselves.”

(O. M. No. OI-19021/3/2006-SS dated.9.4.2008)

Recommendation Para No. 86

The Committee has been informed that the Ministry of External Affairs and its Missions/Posts abroad attend to complaints regarding NRI marriages with an objective to helping the feuding parties reach an amicable settlement. They also find that arrangements for temporary shelter and food are made on humanitarian grounds, in case a woman seeks refuge in the Consulate or Embassy premises and emergency travel documents are issued if the women in distress want to return to India. The Committee while appreciating the considerate approach shown by the Missions abroad, urge upon them to ensure that such emergency consular services are easily accessible to all NRI wives in distress.

Replies of the Ministry of Overseas Indian Affairs

The Indian Missions/Posts abroad function under the superintendence and control of the Ministry of External Affairs. In this regard the Ministry of External Affairs has assured that the Indian Missions/Posts abroad will continue to render assistance as mentioned in Para 86 of the Committee's Report to all Indian Women including NRI wives in distress.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Recommendation Para No. 87

The Committee finds that in the various seminars, workshops, sessions and consultations organized by the Ministry of Overseas Indian Affairs to address the issues related to NRI marriages, a multitude of suggestions have emerged to tackle the problem. Since the Committee are of the opinion that the problems of fraudulent NRI marriages is more of social nature than of legal nature, the best way to deal with it is to create awareness among general masses particularly in the States where problem is more rampant. Information campaign to educate prospective brides and their families about pitfalls of entering into an alliance with an NRI person with unknown credentials should be given utmost importance. The Committee note that the Ministry of Overseas Indian Affairs has brought out a Guidance Booklet on marriages to Overseas Indians. Besides, the Ministry has been distributing the pamphlet version of the booklet in Hindi, English, Punjabi, Telugu and Malayalam. The Committee, while appreciating the efforts, recommend that such pamphlets should be brought out in all regional languages without any delay. As precaution is better than cure, the Committee also urge upon the Government to give wider publicity to its efforts and resort to aggressive awareness campaign using print/electronic media and all other possible channels such as Pantheist, anganwadis, Airports, Post Offices, travel agents etc. Special awareness programme for Muslim girls who are married off to Gulf countries is also required to be mounted. The Government can involve and consult other related agencies/NGOs in developing such awareness campaigns.

Replies of the Ministry of Overseas Indian Affairs

The Ministry has noted the suggestion of the Committee for compliance and will continue its efforts in this direction. In order to educate and sensitize prospective brides and their families with regard to problems arising out of marriages with overseas Indians and how due diligence can be exercised before entering into marital alliance with overseas Indians, the

Ministry of Overseas Indian Affairs has brought out information pamphlets in English, Hindi, Punjabi, Telugu and Malayalam for distribution in the States concerned. The Ministry is in the process of bringing out Gujarati, Kannada and Tamil versions of the pamphlets. The Ministry has also brought out information pamphlets in English, Hindi and various regional languages on the scheme to provide legal and financial assistance to Indian women divorced or deserted by their overseas Indian spouses through Indian Missions abroad.

The pamphlets are being distributed through NGOs, Self Help Groups, Gram Panchayats, Anganwadis, Airports, Post Offices, Hospitals, Dispensaries etc. The awareness-cum-publicity campaign of the Ministry also covers the Muslim girls who are married off in Gulf countries.

The Ministry has also launched a publicity campaign through electronic scrolls on regional TV networks in the States of Punjab and Andhra Pradesh as well as audio-visual advertisements on regional TV networks to cover the States of Punjab, Kerala, Andhra Pradesh, Karnataka and Tamil Nadu.

The Ministry of Women and Child Development has stated that the Anganwadi Worker in Ministry of Women and Child Development's ICDS Programme (Integrated Child Development Services) is required to focus exclusively on the enunciated objectives of the programme, which are to improve the nutritional and health status of children below six years of age and pregnant and lactating mothers. Any deviation from the core function will lead to a dilution of her performance. Awareness building regarding NRI marriages cannot therefore be assigned to Anganwadi workers. However, the Central Social Welfare Board is positioned to partner the Ministry of Overseas Indian Affairs in mounting awareness campaigns.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Recommendation Para No. 89

The Committee have been informed that the Ministry of Overseas Indian Affairs have recently constituted a Gender Advisory Group consisting of representatives from related Ministries, NCW, State Governments, legal fraternity and non-governmental organizations. They further find that this Group will engage in exploring ways and means of providing assistance to women who face problems arising from marriages to overseas Indians. The Committee would like to be apprised of the activities and achievements of this Advisory Group, especially with regard to handling problems in NRI marriages, divorce and child custody.

Replies of the Ministry of Overseas Indian Affairs

The Gender Advisory Group (GAG) of MOIA consists of the following:

1. Secretary, MOIA – Chairperson
2. Shri S. Krishna Kumar, Former Secretary, MOIA
3. Member Secretary, National Commission for Women,
4. Justice K. Sukumaran
5. Shri C. Jayaraj, former Secretary General, Indian Society of International Law.
6. Ms. Lakshmi Jambholkar, Former Prof. of Law, Delhi University and Member, National Legal Services Authority.
7. Ms. Praveen Kodoth, Research Associate, Centre for Development Studies, Thiruvananthapuram
8. Joint Secretary, Ministry of Women and Child Development.
9. Joint Secretary, Legal & Treaties Division, MEA.
10. Joint Commissioner of Police, Crime against Women Cell, Delhi Police.
11. Ms. Abha Bhaiya, Jagori
12. Principal Secretary, Women and Child Development, Karnataka.
13. Principal Secretary, Women and Child Development, Andhra Pradesh.
14. Secretary to the Government of Punjab, Department of Social Security and Development of Women and Children
15. Principal Secretary, Women and Child Development, Gujarat.
16. Ms. Uma Reddy, Association of Women Entrepreneurs of Karnataka (AWAKE).

It met on 2nd April 2007. Recommendations made by the Group with regard to problems relating to NRI marriages, divorce, etc. are given as under:

1. Setting up of resource centres in Indian Missions;
2. Preparing a short documentary film on the issue of NRI marriages with Punjab as a pilot project;
3. Distribution of information pamphlets through Self Help Groups (SHG) in the States concerned as well as undertaking other publicity measures, viz. mobile units, video, T.V., guidance booklets, information pamphlets, staging of plays etc.
4. Using women NGOs overseas for providing assistance;

5. Making Punjab a pilot State to study the problems of victims of NRI marriages, particularly in districts like Ludhiana, Moga etc.
6. Examining the possibility of India becoming party to Hague Conventions on Recognition of Divorce and Legal Separation, on the laws applicable to Maintenance Obligation, on Celebration and Recognition of Validity of Marriage, on the Civil Aspects of International Child Abduction, on Measures for Protection of Children and on Service Abroad of Divorce and Legal/Extrajudicial Documents in Civil or Criminal matters;
7. Making data base of advocates working in this field in India and Overseas;
8. Preparing a background paper by ISIL suggesting clauses which could be added to the existing bilateral agreements with countries having problems of NRI marriages.

Keeping in view the recommendations of GAG, the Ministry has taken the following steps to address the problems relating to marriages with overseas Indians:

- (a) It has launched a scheme during 2006-07 to bring the skill level of potential emigrants (including women emigrants) at par with the overseas labour market requirement and to equip them with the basic knowledge about the laws, the language and the culture of the destination country.
- (b) Three posts of Counselor-Community Affairs in the Indian Missions/Posts at Washington, Kuala Lumpur and Dubai have been sanctioned. The Counselor at Washington will look after the interests of Overseas Indians in USA and Canada, the Counselor at Dubai will cater to the community in the Gulf countries, and the Counselor at Kuala Lumpur will look after Malaysia, Singapore and Brunei, etc. The Counselors will provide assistance in the fields of health, legal and financial matters.
- (c) The Ministry has entered into a contract with M/s Bharat Vision Corporation for production of a documentary on 'Marriages with overseas Indians' with Punjab as the pilot State.
- (d) The Ministry had brought out information pamphlets in English, Hindi, Punjabi, Malayalam and Telugu to make Indian women aware of their rights and responsibilities and precautions that could be exercised before entering into marital alliance with overseas Indians. It has also brought out a guidance booklet on 'Marriages to Overseas Indians' which contains information on safeguards available to women deserted by their NRI spouses, legal remedies available, authorities that can be approached for redressal of grievances, and NGOs which

can provide assistances. The Ministry has also launched the publicity cum awareness campaign through audio-visual advertisement on regional TV network primarily to cover the States of Punjab, Kerala, Andhra Pradesh, Tamil Nadu and Karnataka.

- (e) The Ministry has launched a scheme to provide legal and financial assistance through Indian Missions abroad to Indian women deserted or divorced by their overseas Indian spouses. Under the scheme, funds have been placed at the disposal of Indian Missions in USA, UK, Canada, Australia, New Zealand and countries in the Gulf which can be released to the Indian Women's Associations, NGOs etc. empanelled with the Missions for providing legal and counseling services to Indian women victims of NRI marriages.
- (f) The Ministry of External Affairs has intimated that India has also negotiated bilateral agreements with foreign countries in the matter of cooperation, inter-alia, in service of documents, taking of evidence, and recognition and enforcement of judgments in civil and commercial matters including those relating to marriages and other women related problems. These countries include Russian Federation, U.A.E. Mongolia, France, Kuwait, Ukraine and Bulgaria.
- (g) The Indian Society of International Law has brought out a compilation entitled 'NRIs and Private International Law' which deals, inter alia, with (i) Issues of Private International Law affecting NRIs and (ii) the conventions adopted by the Hague Conference on Private International Law on the subjects of marriage, divorce, maintenance obligations, etc.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Recommendation Para No. 90(i)

The Committee are of the view that all marriages, irrespective of religion should be compulsorily registered. However, only a few States have made registration of marriages compulsory. The Committee strongly believe that if a marriage is registered, it provides valid evidence/proof of such alliance and will protect the rights of the woman to a greater extent. In marriages with NRIs, such registration will not only help a woman fight her case if deserted but also enable the Embassy to have full information about the marriage while keeping a track of the erring NRI husband. The Committee, therefore, desire the Government to make registration of all marriages mandatory, making the procedure simpler, affordable and accessible. The Committee would like to be apprised about the action taken

by each State Government in this behalf. The Government in this regard may consider enactment of a suitable legislation.

Replies of the Ministry of Overseas Indian Affairs

The enactment of a suitable legislation for compulsory registration of marriages falls within the domain of the Legislative Department of the Ministry of Law & Justice. Comments of the said Department on this matter are as follows:

“On the recommendation of the National Human Rights Commission and National Commission for Women and also as per the judgment of the Supreme Court in the case of Smt. Seema Vs. Ashwani AIR 2006 SC 1158, a proposal to enact a suitable legislation relating to compulsory registration of marriages is under active consideration in consultation with State Governments. In this regard, it may be stated that for bringing in legislation will necessarily involve deep study and careful consideration and wide range consultations. In view of the importance and complexity of the matter, it will take some more time before a Bill could be introduced in the Parliament.”

The Ministry of Overseas Indian Affairs has drawn the attention of all States/UTs to the judgment of the Supreme Court in the case of ‘Smt. Seema vs. Ashwini Kumar’ and has requested them to make laws for compulsory registration of marriages. As per the information received by this Ministry, 16 States have framed guidelines/issued Notifications for compulsory registration of marriages solemnized in their respective States.

The Ministry of External Affairs has stated that the Indian Missions /Posts abroad do register all the marriages solemnized by them and issue certificates.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Comments of the Committee

(Please see Para No. 16 of Chapter 1 of the Report)

Recommendation Para No. 90(ii)

The Committee also recommend that the marriage certificate for NRI marriage should be issued in duplicate to facilitate the deserted woman to

fight her legal battle even if the original marriage certificate is taken away by her husband on the pretext of getting visa, etc.

Replies of the Ministry of Overseas Indian Affairs

Marriage being a commitment/contract between two persons, this Ministry is of the view that both husband and wife have a right to receive their marriage certificate, even though certified copies of a marriage certificate can be obtained by either party subsequently. State Governments have been advised by this Ministry to consider issuing marriage certificate to both husband and wife in marriages registered in their States.

For the marriages of Indians solemnized abroad, the Ministry of External Affairs has been requested to issue suitable directions to all the Indian Missions/Posts abroad to provide a copy of the marriage certificate to both husband and wife.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Recommendation Para No. 90(v)

The Committee are of the view that various associations and societies of Punjabis, Gujaratis etc. residing in other countries can be utilized for getting complete information about prospective bridegroom. They, therefore, desire that the Ministry of Overseas Indian Affairs in consultation with the Ministry of External Affairs should examine the feasibility of involving such associations/societies in getting complete information about prospective bridegrooms as well as husbands of such marriages. Further, the Ministry of Overseas Indian Affairs should take specific steps to identify such associations in particular countries and thereafter, create awareness about such associations in India.

Replies of the Ministry of Overseas Indian Affairs

The Ministry of External Affairs has assured that it would extend all possible cooperation to the Ministry of Overseas Indian Affairs in evolving such a mechanism. However, the said Ministry has further stated that the information so provided by the concerned associations and societies abroad may not be fully reliable and authentic and it will have to be ensured that problems resulting from marriages based on such information provided by the Government do not lead to legal claims against the Government.

The view of the Ministry of Overseas Indian Affairs is that it may not be an effective measure on the following reasons, besides what has been stated by the Ministry of External Affairs:

- (i) There are several such associations in some of the foreign countries,
- (ii) These associations would not be under any compulsion to respond to our requests and that, too, in a time bound fashion,
- (iii) They may or may not have requisite details in respect of the person, and
- (iv) The information, when provided, could be biased.
- (v) The laws of the country concerned may not permit such activities to be undertaken by associations/societies.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Recommendation Para No. 90(vii)

The Committee desire that out of the budgetary allocations earmarked for the welfare of women, a suitable amount should be apportioned for dealing with the problems relating to fraudulent marriages, dowry, child marriage, etc.

Replies of the Ministry of Overseas Indian Affairs

The Ministry of Overseas Indian Affairs has been allocated Rs. 31.70 crores under the scheme to provide legal/financial assistance to the victims of NRI marriages for the period 2007-08 to 2011-12. Issues relating to dowry and child marriage are not in the purview of this Ministry.

The Ministry of Women and Child Development has stated that they can support innovative projects on the above issues under its Scheme of "Innovative Work on Women and Children" for which a provision of Rs. 6.88 crores has been made in B.E. 2008-2009 (Plan).

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF THE GOVERNMENT

Recommendation Para No. 84

The Committee understands that signing reciprocal bilateral treaties with other countries will also be of use in tackling the issue of fraudulent NRI marriages. However, the Ministry of Overseas Indian Affairs has informed them that at present, there is no proposal under consideration of the Ministry of Law and Justice or Ministry of External Affairs to have bilateral agreements/protocols to deal exclusively with cases of fraudulent NRI marriages. The Committee have also observed that Mutual Legal Assistance Treaties in civil and criminal matters, Extradition Treaties and reciprocal arrangements already exist with several countries. The Committee, therefore, desire that the Government should examine the feasibility of entering into reciprocal bilateral treaties with countries where Indian Diaspora is in large number taking into account issues such as grounds for recognition and validity of divorce decrees, various judicial decisions dealing with the issue of domicile, nationality, child custody, abduction etc. They also desire that the action taken in this regard may be intimated to the Committee. The Committee also urge upon the Ministry of External Affairs to examine the feasibility of invoking the provisions of Extradition Act, 1962 which provides for return of any person accused of or convicted for an extradition offence from foreign country to India.

Replies of the Ministry of Overseas Indian Affairs

The reply of the Ministry of External Affairs, which is the nodal authority to examine and sign the Hague Conventions, bilateral agreements/Mutual Legal Assistance Treaties with foreign countries, and for extradition of criminals etc., is as under:

- (a) The Government is aware that in order to bring uniformity among various systems of Private International Law and to lay down uniform and accepted codes of etiquette that govern interactions of Courts in different countries, a series of relevant international conventions need to be signed by the countries.
- (b) It may be noted that the subject of private international law was accorded priority in the Ministry when it took up "Diaspora" issues and organized the first "Pravasi Bharatiya Divas" in 2003.

- (c) The Ministry also commissioned in 2003 a research project on the “Legal Problems faced by Non-Resident Indians (NRIs), with specific reference to the Hague Conventions on Private International Law”. This project in substance dealt with legal problems concerning marriage, divorce, maintenance obligations, matrimonial property and succession involving laws and jurisdiction of India and other foreign countries where NRIs are living. The report of the Indian Society for International Law covering issues, relating to, inter-alia, NRI marriages, has been printed in a booklet form entitled ‘Non-Resident Indians and Private International Law. [The Ministry of Overseas Indian Affairs provided a financial assistance of Rs. 2.00 lakh to the Indian Society for International Law to bring out the said compilation.]
- (d) The recommendations of the above project were also discussed in the Regional Workshops organized by the National Commission for women and the Ministry of Overseas Indian Affairs on “Problems relating to NRI marriages and suggested measures” in Chandigarh and Thiruvananthapuram in June and September 2006. These Regional Workshops recommended, among other things, the need for the Government to carefully examine the following Hague Conventions which are relevant for issues relating to NRI marriages:
- (i) Convention on the service abroad of judicial and extra-judicial documents in civil or criminal matters, 1965 (Service Convention);
 - (ii) Convention on the recognition of divorce and legal separation, 1970;
 - (iii) Convention on the laws applicable to maintenance obligation, 1973;
 - (iv) Convention on celebration and recognition of validity of marriage, 1968;
 - (v) Convention on the civil aspects of international child abduction, 1980; and
 - (vi) Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of parental responsibility and measure for the protection of the children, 1996.
- (e) It was decided to initially take up for consideration the Hague Conventions dealing with Civil Procedure, as these involve matters of general interest and concerns of NRIs.

Accordingly, after a careful consideration, India has become party to the following Conventions:

- (i) 1961 Convention on Abolishing the Requirement of Legalization for Foreign Public Documents (came into force for India on 14 July, 2005);
 - (ii) 1965 Convention on Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters (Acceded on 23.11.2006, which entered in to force for India w.e.f. 1.8.2007); and
 - (iii) 1970 Convention on Taking of Evidence Abroad in Civil or Commercial Matters (Acceded on 7.2.2007 entered into force for India w.e.f. 8.4.2007)
- (f) India has already become a party to the Convention of 29 May, 1993 on Protection of Children and Cooperation in respect of Inter-country Adoption.
- (g) Having acceded to one of the Conventions recommended by the workshops namely, 1965 Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, the remaining Conventions on Marriage/Divorce referred to in the recommendations of the Chandigarh and Thiruvananthapuram Workshops are under careful scrutiny and consideration by the Ministry taking into account the ratifications made by target countries in respect of the particular Convention(s).
- (h) The Convention on Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters provides a reliable method of serving summons and other judicial documents in a country that is a party to this convention and vice-versa and thus helps in reducing delays in such cases, as well as providing greater authority for judgments of Courts. The Convention on Taking of Evidence Abroad in Civil or Commercial Matters facilitates taking of evidence by means of letters of request by diplomatic or consular agents and by commissioners, as well as through the Courts of another country in cases where it is necessary to obtain evidence from a witness residing abroad. It would also provide greater certainty regarding admissibility of evidence obtained before Indian courts and thereby facilitate speedy disposal of cases.
- (i) It may also be noted that countries seldom agree to change their substantive private international law to suit the needs of other countries on bilateral basis. That is why issues of this

nature are being dealt in a multilateral format under Hague Conference on Private International Law. With a view to engage the target countries multilaterally on this aspect, a proposal was made to the Cabinet to become Party to the Hague Conference on International Law. On 3 May, 2007 the Cabinet approved India becoming a member of the Hague Conference on Private International Law.

- (j) India has been admitted as a member of the Hague Conference on 13th March 2008.
- (k) Extradition procedure can be invoked in a criminal case involving extradition offence, i.e. an offence which is punishable by imprisonment of not less than one year. For seeking extradition, a country needs to have legal basis established with the other country that could be bilateral extradition treaty, or, in the absence thereof, a reciprocal arrangement. Extradition can also be sought under international conventions for the offences covered thereunder. Therefore, extradition can be sought in the above mentioned cases provided there is a criminal case involving extradition offence and a legal basis for seeking extradition, as explained above, exists with the country to be requested.

The Ministry of Law and Justice, Department of Legal Affairs have stated that the following:

“India has already become a signatory to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial documents w.e.f 01.08.2007 and on the Taking of Evidence Abroad w.e.f 08.04.2007 in civil and commercial matters.”

“It is pointed out that Government of India has become a signatory of the Hague Convention on Services Abroad. The said Convention has 45 member states and 11 non-member states. As such, this Department does not find any immediate necessity to enter into any reciprocal arrangement with other countries.”

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Recommendation Para No. 90(iii)

The Committee also feel that there is a need to amend Passport Act for including the detailed particulars along with photographs of the spouse and add special provision for cancellation of passport to intimidate NRI spouse. They, therefore, desire the Ministry of External Affairs to take suitable steps in this direction and inform the Committee accordingly.

Replies of the Ministry of Overseas Indian Affairs

The Ministry of External Affairs have stated as follows: "The passport application form provides for the declaration of the name of spouse and if declared by the applicant, the name of spouse is entered in the passport."

As regards inclusion of photograph of wife in the passport of an NRI spouse, the Ministry of External Affairs have stated as follows: "First of all, the proposal of inclusion of wife's photo in the passport of an NRI husband is not compliant with the regulations of International Civil Aviation Organisation. Further, this proposal does not seem to be a practical one and would not serve the desired objective for the following reasons:

- The photo of the spouse can be included only if the person is married at the time of applying for a passport.
- If the person gets married during the ten-year validity period of the passport, the requirement cannot be complied with.
- An NRI, who marries an Indian girl, may possess foreign nationality and the Government of India cannot include his Indian spouse's photo in the foreign passport."

As regards making special provisions in the Passport Act for cancellation of passport to intimidate NRI Spouse, the Ministry of External Affairs vide its Circular No. VI/40/1/1/2006 dated 4th June, 2007 has conveyed the following to all Indian Missions/Posts abroad as far as revocation of passports of Indian nationals against whom cases under section 498A of IPC have been filed in India, is concerned:

- (a) Section 10(3) (h) of the Passport Act is an enabling provision and not a mandatory one;
- (b) Passport Issuing Authorities (PIAs) should weigh the merits of the case where non-bailable warrant under Section 498A of the IPC has

been issued and use their discretion to impound/revoke the passport based on the explanation given by the passport holder in response to the show cause notice;

- (c) Impound/revoke the passport if there is a specific order to this effect by the court in India, and;
- (d) Advise the passport holder who has been issued warrant or summons to cooperate with the Court by presenting himself before it as desired.

(O. M. No. OI-19021/3/2006-SS dated .9.4.2008)

Recommendation Para No. 90(vi)

The Ministry of External Affairs should ensure that there should be a provision for submission of Affidavit by the potential NRI husband also indicating his economic, marital and citizenship status with respect to host country. This would help in evoking the legal provisions if the husband defaults or make a misrepresentation.

Replies of the Ministry of Overseas Indian Affairs

The Ministry of External Affairs has stated that submission of affidavit by the potential NRI husband, indicating his economic, marital and citizenship status etc. can only be ensured by the Marriage Registration authorities in India.

It may be stated that in the matter of 'Seema Vs, Ashwani Kumar', the Hon'ble Supreme Court while issuing directions for compulsory registration of all marriages solemnized in India, has stated, "The Officer appointed under the said rules on the States shall be duly authorized to register the marriages. The age, marital status (unmarried, divorcee) shall be clearly stated. The consequence of non-registration of marriages or for filing false declaration shall also be provided for in the said rules. "

The Ministry of Overseas Indian Affairs is of the view that in the wake of Hon'ble Supreme Court's above judgment, there may not be any need to seek any separate affidavit for this purpose. Moreover, requirement of such an affidavit, even if found legally tenable, may have to be made applicable to all marriages registered in India so that it is not discriminatory in nature.

Also, it may be noted that a person married in India may subsequently become an NRI.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

Recommendation Para No. 83

The Committee find that the matrimonial disputes in NRI marriages elude resolution due to the complexities and lacunae in the existing domestic and international laws. When the marriage steps out of the boundaries of a country's legal system and enters the domain of Private International Law, finding a proper solution to the problem becomes extremely complex and difficult. The Committee note that the Private International Law is not the same in all the countries and it tries to reconcile the conflict of laws which arise out of differences between the law of the country of nationality of a person and that of in which that person may reside, or of which he may acquire nationality. The Committee also find that in order to bring uniformity among various systems of Private International Law and to lay down uniform and accepted codes of etiquette that govern interactions of courts in different countries, a series of international conventions need to be signed by countries. The Committee observe that the conventions of 'The Hague Conference on Private International Law' can greatly smoothen the process of dispute adjudication among the legal systems to which the NRI husband and wife belong, by providing appropriate civil procedures acceptable to both jurisdictions. However, they are disturbed to note that India is not yet a signatory to the Hague Conventions. The Committee are of the view that unless India become a party to the related conventions of the Hague Conference, justice cannot be meted out to aggrieved Indian women. Considering the importance and usefulness of the Hague Conventions. The Committee recommend that immediate steps should be taken by the Government to become a signatory to the Hague Conventions, especially the ones, related to NRI marriages.

Replies of the Ministry of Overseas Indian Affairs

The reply of the Ministry of External Affairs, which is the nodal authority to examine and sign the Hague Conventions, bilateral agreements/Mutual Legal Assistance Treaties with foreign countries, and for extradition of criminals etc., is as under:

- (a) The Government is aware that in order to bring uniformity among various systems of Private International Law and to lay down uniform and accepted codes of etiquette that govern interactions of Courts in different countries, a series of relevant international conventions need to be signed by the countries.
- (b) It may be noted that the subject of private international law was accorded priority in the Ministry when it took up “Diaspora” issues and organized the first “Pravasi Bharatiya Divas” in 2003.
- (c) The Ministry also commissioned in 2003 a research project on the “Legal Problems faced by Non-Resident Indians (NRIs), with specific reference to the Hague Conventions on Private International Law”. This project in substance dealt with legal problems concerning marriage, divorce, maintenance obligations, matrimonial property and succession involving laws and jurisdiction of India and other foreign countries where NRIs are living. The report of the Indian Society for International Law covering issues, relating to, inter-alia, NRI marriages, has been printed in a booklet form entitled ‘Non-Resident Indians and Private International Law. [The Ministry of Overseas Indian Affairs provided a financial assistance of Rs. 2.00 lakh to the Indian Society for International Law to bring out the said compilation.]
- (d) The recommendations of the above project were also discussed in the Regional Workshops organized by the National Commission for women and the Ministry of Overseas Indian Affairs on “Problems relating to NRI marriages and suggested measures” in Chandigarh and Thiruvananthapuram in June and September 2006. These Regional Workshops recommended, among other things, the need for the Government to carefully examine the following Hague Conventions which are relevant for issues relating to NRI marriages:
 - (i) Convention on the service abroad of judicial and extra-judicial documents in civil or criminal matters, 1965 (Service Convention);
 - (ii) Convention on the recognition of divorce and legal separation, 1970;
 - (iii) Convention on the laws applicable to maintenance obligation, 1973;
 - (iv) Convention on celebration and recognition of validity of marriage, 1968;

- (v) Convention on the civil aspects of international child abduction, 1980; and
 - (vi) Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of parental responsibility and measure for the protection of the children, 1996.
- (e) It was decided to initially take up for consideration the Hague Conventions dealing with Civil Procedure, as these involve matters of general interest and concerns of NRIs. Accordingly, after a careful consideration, India has become party to the following Conventions:
- (i) 1961 Convention on Abolishing the Requirement of Legalization for Foreign Public Documents (came into force for India on 14 July, 2005);
 - (ii) 1965 Convention on Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters (Acceded on 23.11.2006, which entered into force for India w.e.f. 1.8.2007); and
 - (iii) 1970 Convention on Taking of Evidence Abroad in Civil or Commercial Matters (Acceded on 7.2.2007 entered into force for India w.e.f. 8.4.2007)
- (f) India has already become a party to the Convention of 29 May, 1993 on Protection of Children and Cooperation in respect of Inter-country Adoption.
- (g) Having acceded to one of the Conventions recommended by the workshops namely, 1965 Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, the remaining Conventions on Marriage/Divorce referred to in the recommendations of the Chandigarh and Thiruvananthapuram Workshops are under careful scrutiny and consideration by the Ministry taking into account the ratifications made by target countries in respect of the particular Convention(s).
- (h) The Convention on Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters provides a reliable method of serving summons and other judicial documents in a country that is a party to this convention and vice-versa and thus helps in reducing delays in such cases, as well as providing greater authority for judgments of Courts. The Convention on Taking of Evidence Abroad in Civil or Commercial Matters facilitates taking of evidence by means of

letters of request by diplomatic or consular agents and by commissioners, as well as through the Courts of another country in cases where it is necessary to obtain evidence from a witness residing abroad. It would also provide greater certainty regarding admissibility of evidence obtained before Indian courts and thereby facilitate speedy disposal of cases.

- (i) It may also be noted that countries seldom agree to change their substantive private international law to suit the needs of other countries on bilateral basis. That is why issues of this nature are being dealt in a multilateral format under Hague Conference on Private International Law. With a view to engage the target countries multilaterally on this aspect, a proposal was made to the Cabinet to become Party to the Hague Conference on International Law. On 3 May, 2007 the Cabinet approved India becoming a member of the Hague Conference on Private International Law.
- (j) India has been admitted as a member of the Hague Conference on 13th March 2008.
- (k) Extradition procedure can be invoked in a criminal case involving extradition offence, i.e. an offence which is punishable by imprisonment of not less than one year. For seeking extradition, a country needs to have legal basis established with the other country that could be bilateral extradition treaty, or, in the absence thereof, a reciprocal arrangement. Extradition can also be sought under international conventions for the offences covered thereunder. Therefore, extradition can be sought in the above mentioned cases provided there is a criminal case involving extradition offence and a legal basis for seeking extradition, as explained above, exists with the country to be requested.

The Ministry of Law and Justice, Department of Legal Affairs have stated that the following:

“India has already become a signatory to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial documents w.e.f 01.08.2007 and on the Taking of Evidence Abroad w.e.f 08.04.2007 in civil and commercial matters.”

“It is pointed out that Government of India has become a signatory of the Hague Convention on Services Abroad. The said Convention has 45 member states and 11 non-member

states. As such, this Department does not find any immediate necessity to enter into any reciprocal arrangement with other countries.”

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Comments of the Committee

(Please see Para No. 10 of the Chapter 1 of the Report)

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT ARE STILL AWAITED:

Recommendation Para No. 80

Overseas Indians include Indian citizens who have moved abroad for higher studies and/or work or foreign citizens whose parents are of Indian origin. Many overseas Indians seek matrimonial alliance with Resident Indians due to cultural similarities and traditional Indian values. With the increase in Indian Diaspora and consequently overseas marriages, the number of matrimonial and related disputes in such marriages has also risen proportionately. The problems of women trapped in fraudulent NRI marriages include aspects like dowry, concealment of earlier/existing marriages, marriages of convenience etc.

The Committee note that different agencies viz. Ministry of Overseas Indian Affairs, Ministry of External Affairs, Ministry of Women and Child Development, National Commission for Women, State Commissions for Women, National Human Rights Commission, State Governments etc. are dealing with the issue of problematic NRI marriages. The Committee are constrained to note that no well defined/evolved coordination mechanism exists among the aforementioned agencies. The Ministry of Overseas Indian Affairs, the nodal Ministry for all matters relating to NRIs, consults the Ministry of Women and Child Development, National Commission for Women, National Human Rights Commission, etc. on the issues relating to NRI marriages only when they feel it necessary to do so. What is more disturbing is the fact that the Ministry of Overseas Indian Affairs have so far not taken any concrete steps to evolve a convergence among the various agencies. Since women victims of such marriages approach different agencies for registering their complaints, the Committee are of the view that there should be proper coordination among all the concerned agencies to enable the aggrieved women to get a respectable solution to their problems. The Committee, therefore, recommend that the Ministry of Overseas Indian Affairs, being the nodal Ministry for the purpose, should take urgent steps to evolve a well defined/coordinated mechanism among all the agencies to deal with the issue of problematic NRI marriages.

Replies of the Ministry of Overseas Indian Affairs

The Ministry of Women and Child Development have stated that it is not an agency to register, investigate or prosecute any complaint of violence against/maltreatment of women but is concerned with the issue at the policy level along with other relevant Ministries. These complaints are to be registered by the National Commission for Women under its mandated

functions. The Commission can directly look into the complaints or send them to State Governments or State Commissions for Women or any other authority for disposal.

The Ministry of Overseas Indian Affairs, ever since its inception, has been working actively to assist distressed Indian women facing desertion and other problems as a result of their marriage with Non Resident Indians. The suggestion of the Hon'ble Committee would be discussed at an Inter-Ministerial Committee likely to be convened soon with a view to evolve a possible coordinating mechanism.

The Ministry of External Affairs has stated that it would extend all possible cooperation to the Ministry of Overseas Indian Affairs in evolving a mechanism to deal with the issue.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Comments of the Committee

(Please see Para No. 7 of Chapter 1 of the Report)

Recommendation Para No. 88

The Committee observe that the Ministry of Overseas Indian Affairs have recently launched a scheme to give financial assistance to Indian women deserted or divorced by their overseas Indian spouses to obtain legal and counselling services through the Indian Missions abroad. They find that the Ministry have earmarked 2 crore rupees for the Scheme and financial assistance of US \$1,000 per case, will be provided to the victims of NRI marriages which will be released to the NGOs/Indian Women Associations etc. empanelled with the Indian Missions to provide legal and counselling services. The Committee is of the view that the amount of US \$ 1,000 is quite insufficient to bear the expenses of legal attorney in countries like USA and Canada. Moreover, keeping in view the manifold increase in the number of problematic NRI marriages, the total amount earmarked for the scheme also appears to be insufficient. Even the Secretary of the Ministry of Overseas Indian Affairs has admitted this fact. The Committee, therefore, recommend that the Ministry of Overseas Indian Affairs should take up the matter with the Ministry of Finance for an increase in the amount earmarked for the scheme. The Committee also desire that the amount of financial assistance per case, provided under the Scheme should be increased keeping in view the legal costs involved in such cases in other countries. The Committee would also like to be apprised of the action taken in this regard.

Replies of the Ministry of Overseas Indian Affairs

The Committee on Non Plan Expenditure (CNE), under the Ministry of Finance (Department of Expenditure) has recently approved Rs. 31.70 Crore budget for the Scheme to provide legal and financial assistance to Indian Women victims of NRI marriages for the five year period 2007-08 to 2011-12 on the following conditions:

- Selection of committed NGOs/Overseas Indian Organizations is carefully done by laying down objective guidelines for their identification and selection,
- MOIA should be clearly involved in this selection process and not leave it to the Indian Missions abroad,
- The selected NGOs should pursue the case after GOI assistance is stopped, and
- MOIA should devise an appropriate Management Information System (MIS), which would help the Ministry to monitor the outcomes from this Scheme and facilitate correctives to be applied where necessary.

The approval has been granted on the basis of that the assistance in each case would be limited to US \$ 1,000. Also, the amount is meant to meet initial cost and incidental charges for documentation and filing of the case by the Indian Women Organization/Indian Community Association/NGO, on behalf of the affected Indian woman. Concerned Indian Missions/Posts abroad have accordingly been given revised instructions on the subject along with prescribed Proforma for periodic monitoring the progress made in such cases.

The recommendation of the Committee to enhance the financial assistance of US \$1,000 per case has been noted for examination in consultation with the Indian Missions concerned.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Comments of the Committee

(Please see Para No. 13 of Chapter of 1 of the Report)

Recommendation Para No. 90(iv)

As the victims of problematic NRI marriages tend to immediately approach the Indian Embassies, the Committee find an urgent need to set up separate Cells with Indian Embassies, especially, in target countries to render necessary help in such cases. They recommend that the Ministry of External Affairs should take concrete steps to set up such special Cells in

Embassies/Posts/Missions abroad, especially in countries having large Indian Diaspora.

Replies of the Ministry of Overseas Indian Affairs

The Ministry of External Affairs has stated that the Consular Wing of the Indian Missions/Posts abroad render all necessary assistance to Indians living abroad including victims of problematic NRI marriages.

The Ministry of Overseas Indian Affairs proposes to set up Overseas Indian Centers in the Indian Missions/Posts at Washington, Kuala Lumpur and Dubai to cater to the interests of the Indian Diaspora. The objectives of the centres are to provide legal and financial services to the Indian Diaspora including Indian women victims of NRI marriages. While the Dubai centre will look after the Gulf region, the centre at Kuala Lumpur will cater to the Diaspora in Malaysia, Singapore and Brunei while the one at Washington will perform similar functions for USA and Canada.

(O. M. No. OI-19021/3/2006-SS dated 9.4.2008)

Comments of the Committee

(Please see Para No. 19 of Chapter 1 of the Report)

NEW DELHI
15th October, 2008
23rd Asvina, 1930(Saka)

KRISHNA TIRATH
CHAIRPERSON
COMMITTEE ON EMPOWERMENT OF WOMEN

**MINUTES
COMMITTEE ON EMPOWERMENT OF WOMEN (2007-2008)**

**Ninth Sitting
(11.8.2008)**

The Committee sat on Monday, the 11th August, 2008 from 1500 hrs. to 1600 hrs. in Hon'ble Chairperson, EWC's Chamber (Room No. 130, Parliament House Annexe), New Delhi.

PRESENT

Smt. Krishna Tirath - Hon'ble Chairperson

MEMBERS

LOK SABHA

2. Smt. Preneet Kaur
3. Smt. Sushila Kerketta
4. Smt. Manorama Madhvaraj
5. Shri Rajesh Kumar Manjhi
6. Smt. Neeta Pateriya
7. Smt. K. Rani
8. Smt. Tejaswini See Ramesh
9. Smt. Minati Sen
10. Smt. Karuna Shukla
11. Smt. C. S. Sujatha
12. Shri P.C. Thomas
13. Shri M.P. Veerendra Kumar

RAJYA SABHA

14. Smt. Brinda Karat
15. Smt. Syeda Anwara Taimur
16. Dr. Prabha Thakur
17. Dr. C.P. Thakur
18. Shri Gandhi Azad

SECRETARIAT

1. Shri C.S. Joon Director
2. Smt. Mamta Kemwal Deputy Secretary-II

2. At the outset, Chairperson welcomed the Members to the sitting of the Committee.

3. The Committee then took up for consideration the draft Action Taken Report on the 12th Report of the Committee on the subject '**Plight of Indian Women Deserted by NRI Husbands**'. After deliberations, the Committee adopted the draft Action Taken Report with some changes and authorised the Chairperson to finalise the Report and present the same to Parliament.

The Committee then adjourned.

**MINUTES
COMMITTEE ON EMPOWERMENT OF WOMEN (2008-2009)**

**First Sitting
(29.8.2008)**

The Committee sat on Friday, the 29th August, 2008 from 1500 hrs. to 1600 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Smt. Krishna Tirath - Hon'ble Chairperson

MEMBERS**LOK SABHA**

2. Smt. Neeta Pateriya
3. Smt. Minati Sen
4. Smt. C.S. Sujatha
5. Smt. Jayaben.B. Thakkar
6. Shri P.C. Thomas
7. Shri M.P. Veerendrakumar

RAJYA SABHA

8. Smt. Syeda Anwara Taimur
9. Dr. C.P. Thakur
10. Dr. Prabha Thakur

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri C.S. Joon - Director
3. Smt. Mamta Kemwal - Deputy Secretary – II

2. X X X X X X X

3. X X X X X X X

4. X X X X X X X

5. The Committee then decided to treat two Action Taken Reports viz. i) Action Taken Report on the subject 'Insurance Schemes of LIC for Women'; and ii) Action Taken Report on the subject 'Plight of Indian Women Deserted by NRI Husbands' adopted by the previous Committee (2007-2008) as adopted by them also and present the same in the next Parliament Session since these Reports could not be presented to Parliament before.

The Committee then adjourned.

APPENDIX III

(Vide Para 4 of the Introduction)

ANALYSIS OF ACTION TAKEN BY GOVERNMENT ON THE TWELFTH REPORT OF THE COMMITTEE ON EMPOWERMENT OF WOMEN (14TH LOK SABHA)

(i)	Total No. of Recommendations	17
(ii)	Observations/Recommendations which have been accepted by the Government: Para Nos. 81, 82, 85, 86, 87, 89, 90 (i), 90 (ii), 90 (v), 90 (vii). Percentage to Total	10 58.82%
(iii)	Observations/Recommendations which the Committee do not desire to pursue in view of the replies of the Government: Para Nos. 84, 90 (iii) , 90 (vi). Percentage to Total	3 17.65%
(iv)	Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee: Para No. 83. Percentage to Total	1 5.88%
(v)	Observations/Recommendations in respect of which the Government have furnished interim replies: Para Nos. 80, 88, 90 (iv) Percentage to Total	3 17.65%

APPENDIX IV
OBSERVATIONS/RECOMMENDATIONS

Sl. No.	Para No.	Ministry/Department	Observations/Recommendations
1.	7.	Ministry of Overseas Indian Affairs	The Committee have noted the absence of a coordinated mechanism among the various agencies dealing with the issue of problematic NRI marriages viz. Ministry of Overseas Indian Affairs, Ministry of External Affairs, Ministry of Women and Child Development, National Commission for Women, State Commissions for Women, National Human Rights Commission, State Governments, etc. The Committee have, therefore, recommended that the Ministry of Overseas Indian Affairs, being the nodal Ministry for the purpose, should take urgent steps to evolve a well defined/coordinated mechanism among all the agencies to deal with the issue of problematic NRI marriages. The Government, in its Action Taken Reply has stated that the suggestion would be discussed at an Inter-Ministerial Committee likely to be convened soon with a view to evolve a possible coordinating mechanism. The Committee would like to know the progress made in this regard. The Committee also desire that this process should be completed expeditiously.
2.	10.	Ministry of Overseas Indian Affairs	The Committee while observing that the conventions of 'The Hague Conference on Private International Law' could greatly smoothen the process of dispute adjudication among the legal systems to which the NRI husband and wife belong by providing appropriate civil procedures acceptable to both jurisdictions have recommended that immediate steps should be taken by the Government to become a signatory to The Hague Conventions, especially the ones, related to NRI marriages. The Committee have been informed through the Government's Action Taken Reply that India has already become a signatory to the Hague Conventions dealing with Civil Procedure, viz. Convention on Abolishing the Requirement of

Legalization for Foreign Public Documents w.e.f. 14.07.2005, Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters w.e.f. 01.08.2007 and Convention on Taking of Evidence Abroad in civil or commercial matters w.e.f. 08.04.2007. However, the Conventions on Marriage/Divorce are yet to be signed. The Committee have further been informed that these Conventions are still under the careful scrutiny and consideration of the Ministry of External Affairs. Considering the importance of the Conventions on Marriage and Divorce in ensuring justice to women deserted by NRI husbands, the Committee once again desire that the Government should take sincere efforts in being a party to the Conventions on Marriage/Divorce under Hague Conventions.

3. 13.

The Committee, in their earlier Report have recommended that the financial assistance to Indian women deserted or divorced by their overseas Indian spouses to obtain legal and counselling services through the Indian Missions abroad should be increased from US \$1,000 keeping in view the legal costs involved in such cases in other countries. They have also desired that the total amount earmarked under the scheme should be enhanced from 2 crore rupees. The Committee are happy to note that Rs. 31.70 Crore have recently been approved for the Scheme for the five year period 2007-08 to 2011-12. At the same time, they are unhappy that no action has so far been initiated to enhance the financial assistance provided per case. Instead, it has just been stated that the Recommendation has been noted for examination in consultation with the Indian Missions concerned. The Committee, therefore, once again recommend that the enhancement be worked out expeditiously under intimation to the Committee.

4. 16.

The Committee have desired the Government to consider enactment of a suitable legislation for mandatory registration of all marriages, making the procedure simpler, affordable and accessible. In this regard, the Government has stated that a proposal to enact a suitable legislation relating to compulsory registration of marriages is under active consideration in consultation with State Governments. It is further stated that since bringing in such legislation will necessarily involve deep study and careful consideration and wide range consultations, it will take some more time before a Bill could be introduced in the Parliament. The Committee once again urge upon the

Government to continue the efforts in this direction and bring the Bill for compulsory registration of marriages as early as possible.

5. 19.

The Committee in their earlier Report have recommended that the Ministry of External Affairs should take concrete steps to set up Special Cells in Embassies/Posts/Missions abroad, especially in countries having large Indian Diaspora to render necessary help to victims of problematic NRI marriages. Through their Action Taken Reply, the Committee have been informed that there is a proposal to set up Overseas Indian Centres in the Indian Missions/Posts at Washington, Kuala Lumpur and Dubai to cater to the interests of the Indian Diaspora. The Committee desire that these proposals be taken up for actual implementation without any delay and the Committee may be apprised of the progress.
