

**REPORT**  
**ON SEMINAR ON “NRIs ABANDONED BRIDES- A CHALLENGE TO MEET”**  
**ORGANISED IN ASSOCIATION WITH FACULTY OF LAWS, PANJAB**  
**UNIVERSITY CHANDIGARH, FEBRUARY 13, 2007**

A one day seminar on “NRIs Abandoned Brides- A Challenge To Meet” organised in association with Faculty of Laws, Panjab University Chandigarh, February 13, 2007 was held to focus on finding solutions to broken marriages where one spouse is a Non Resident Indian. The seminar was split into two sessions. The details are as hereunder:

**INAUGURAL SESSION:**

The inaugural session comprised of following speakers who gave their respective views:

- a) Prof. (Dr.) R.C. Sobti, Vice Chancellor, Panjab University, Chandigarh, gave his insight of the problem and his welcome address.
- b) Mr. Anil Malhotra, Advocate presented the theme of the seminar (Copy enclosed).
- c) Hon’ble Mr. Justice Vijender Jain, Chief Justice, Punjab and Haryana High Court, Chandigarh made his valuable observations in his Inaugural Address.
- d) His Excellency General (Retd.) S.F. Rodrigues, Governor of Punjab & Administrator, UT Chandigarh presented his view point in the Presidential Address.
- e) Hon’ble Mr. Justice S.S. Nijjar Judge Punjab and Haryana High Court, Chandigarh summed up the inaugural session with his dimensions on the subject.

**INTERACTIVE SESSION:**

The above session was followed up by a Panel discussion comprising of the following speakers who gave their view points followed by an interactive question answer session in which the audience & members of public at large posed practical questions & view points:

- a) Hon’ble Mr. Justice S.K. Mittal, Judge Punjab and Haryana High Court, Chandigarh chaired the interactive session.
- b) Prof. Virendra Kumar, Former Dean, Faculty of Law, Panjab University Chandigarh and UGC Emeritus Fellow made some very valuable suggestions with practical solutions.

- c) Mr. Gaurav Yadav, IPS, Senior Superintendent of Police, UT Chandigarh gave some insights & practical view points in the handling of disputes of broken NRI marriages.
- d) Mr. Ajit Singh Nijjar, an NRI from Leeds, UK, gave his observations on handling of the problem with his perspective of viewing the issues overseas.
- e) Mr. Anil Malhotra, Advocate summed up the interactive session.

A number of members of the audience comprising of academics, lawyers, teachers, aggrieved spouses, researchers, law students and public spirited individuals raised a variety of questions in an interactive question answer session to conclude the seminar.

Press coverage of the seminar is enclosed with this report.

### **CONCLUSIONS:**

On the basis of different view points, perspectives, suggestions and discussions, the following possible solutions emerged from the said one day seminar. They are as follows:

1. **AWARENESS PROGRAMMES:** It is necessary to launch a proper awareness programme and more particularly in the rural areas from where most of the gullible brides come to make them and their parents aware of the risk they are taking by entering into foreign matrimonial alliances without proper verification of the antecedents of the NRI groom. Awareness of cultural, social & legal aspects of NRI marriages need to be publicized through the media, newspapers and TV. NGOs and State Government agencies through various channels can launch a wide publicity campaign to educate rural masses not to blindly enter into NRI marriages.
2. **NEW NRI LEGISLATION:** There should be a new comprehensive legislation on NRI marriages so that there are legal remedies available in India to such abandoned brides in distress which bar application of foreign marriage laws. By such a new law, Indian law should be made applicable to NRIs settled abroad and holding Indian Passports. Special Courts without legislation would have no meaningful purpose. A composite NRI law of marriage, divorce, maintenance, child custody and settlement of matrimonial property now needs to be enacted as existing family law legislations do not have wholesome effective remedies to handle cross border family law problems.
3. **REGISTRATION OF NRI MARRIAGES:** Registration of NRI marriages should be made compulsory in the case of overseas Indians. This will ensure compliance of conditions of a valid marriage. A complete proof of marriage would be a very strong deterrent for bigamous marriages. Certificates of NRI marriages must include the social security number of the foreign home of the NRI husband. The passport number and brief relevant details of the NRI husband should be compulsorily mentioned in the marriage certificate. Also, photocopy of the valid passport of the

NRI husband should be pasted in the Marriage Register maintained with the authorities, before the marriage certificate is actually issued to the parties. Recent steps of the Ministries of Women and Child Development and Overseas Indian Affairs to have a mandatory certificate of marriage on the wife's passport will provide her documentary evidence and proof of her marriage on being abandoned. Additionally, there should be nodal tip off government officers in every district in the State, having records of the marriages solemnized by NRIs in India, from whom the information regarding the marital status of an NRI can be checked & verified.

Additionally, there should be a strong and stringent check on registration of NRI marriages. In certain regions, marriages are registered without the presence of bride or bridegrooms. This malpractice should entail cancellation of marriage certificates.

4. **INTERNATIONAL CONVENTIONS AND BILATERAL TREATIES:** There is an urgent need to comprehensively and extensively examine the international conventions and bilateral treaties which have relevance and importance for the issues relating to NRI marriages. A cross-border dialogue with countries with substantial Indian Diaspora is the need of the hour. Harmonising legislations for recognizing inter-country court verdicts in family law areas has become increasingly significant. Marriages solemnized in India must be dissolved in accordance with Indian laws. This inter-country arrangement must be resolved by bilateral agreements for protection of such marriages where the Indian Diaspora is in large numbers.

5. **AMENDMENT OF EXISTING LEGISLATIONS:** Reviewing the existing laws and strengthening the provisions and their scope for providing effective remedies in fraudulent cases of NRI marriages. The Passports Act 1967 and rules made thereunder can contain special provisions for cancellation of passport of an offending NRI spouse if he is an Indian passport holder. More detailed particulars of wife with photograph must be mandatorily added in the husband's passport. Likewise, the Citizenship Act, 1955 can entail penalties for matrimonial frauds. Specific amendments in the Indian Penal Code, Criminal Procedure Code and Civil Procedure Code to take cognizance of NRI matrimonial offences / wrongs are needed. Bar of limitation for matrimonial cruelty in NRI marriages should be relaxed in cases of abandoned NRI wives. The Extradition Act 1962 can be amended to seek return of matrimonial offenders for trial in India who have settled in foreign countries.

6. **CONCILIATION AND LEGAL ASSISTANCE SCHEMES:** Government monitored conciliation process of settlement of matrimonial disputes must be initiated. The Ministry of Overseas Indian Affairs proposes to introduce a scheme to provide free legal and counseling services in foreign jurisdictions to NRI women as well as foreign citizens of Indian origin. NGOs in foreign countries will be given financial assistance to the tune of 1000 USD for every woman they assist. The scheme will cover women deserted in India or overseas. More such schemes and programmes must be floated particularly in Punjab. Legal cells can be set up in Punjab to liaise with these NGOs for better implementation of the scheme. Nodal officers should be appointed in Indian Embassies in countries with a large Indian

Diaspora who can come to the aid and rescue of deserted Indian spouses. A network of Core groups of caring people in different countries can be coordinated and monitored through the good offices of the Ministry of Overseas Indian Affairs for establishing an institutional contact with NRI facilitation chapters which are in place in these countries. These in turn can be linked to agencies and social groups in India for proper liaison and for providing information and assistance to spouses in distress.

7. **INFORMATION DISCLOSURE BY FOREIGN AUTHORITIES:** Foreign Missions, Embassies and High Commissions in India can be requested by the official agencies to provide details, whereabouts, antecedents and particulars of NRIs who have acquired foreign nationality and have committed matrimonial offences in terms of Indian matrimonial laws. As part of their consular obligations, it should be made mandatory for consular divisions to have designated nodal officers who can supply relevant information regarding offending NRI husbands to aggrieved spouses abandoned in India. Embassies should not shrug their responsibility by simply stating that they shall not interfere or assist in a private matrimonial dispute. Lack of information leaves the hapless Indian wife without recourse or remedy. Reciprocal arrangements, bilateral treaties and MOUs can be arrived at by the Indian government with countries of high NRI migration for setting up of such facilities.

8. **AMENDMENT OF INDIAN LAW OF MAINTENANCE:** The law of matrimonial maintenance in India both in family law legislations and the Criminal Procedure Code must be amended for making special provision for providing matrimonial maintenance and settlement of matrimonial property for the abandoned Indian spouse in accordance with the income and living standards of the husband living in the foreign jurisdiction. It is only then that the Indian Courts would be able to award befitting matrimonial relief in India which on becoming a precedent would be a major deterrent for future matrimonial defaulters living abroad. In so far relating to maintenance, the currency of the habitual residence of the NRI should be a standard benchmark for award of maintenance in NRI marriages which have broken down or there is a case of willful abandonment.

9. **CREATION OF FAMILY COURTS:** It may also be worthwhile to suggest that under Section 3 of The Family Courts Act, 1984, the respective State Governments where Family Courts have not been established should be directed to provide for Family Courts. Wherever one of the spouses is an NRI, these family Courts can better provide for provisions for maintenance and alimony of spouses, child custody and child support as also settlement of matrimonial property. This will ensure that the spouse/children on Indian soil are maintained & provided for in accordance with the income & standard of the NRI spouse in the foreign jurisdiction.

10. **ADDITION OF BREAKDOWN AS A GROUND FOR NRI DIVORCES:** Dissolution of marriage on the ground of breakdown of marriage as an additional ground for divorce should be introduced when at least one of the spouses is an NRI subject to safeguards provided by legislation. This would require amendment of the provisions of the Hindu Marriage Act, 1955 and Special Marriage Act, 1954. Such a ground would provide NRI spouses a judicial forum in India to seek a remedy on

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Indian soil rather than importing foreign judgments of alien courts on breakdown grounds and give a chance to the Indian spouse to defend on convenient and equitable terms in Indian courts & to avoid exorbitant overseas litigation expenses.

**Place: Chandigarh**  
**Date: 14 February 2007**

**Anil and Ranjit Malhotra**  
**Advocates**

## **NRIs ABANDONED BRIDES- A CHALLENGE TO MEET**

**By Anil Malhotra\***

On December 30, 2006, the Ministry of Overseas Indian Affairs had announced a scheme to provide free legal and counseling services to NRI women as well as foreign citizens of Indian origin in distress as a welfare measure. To begin with this scheme will be applicable in US, UK, Canada, Germany, Australia, Malaysia, New Zealand and the Gulf. This was followed by the publication of a guidance booklet titled "Marriage to overseas Indians". Now, another proposal as reportedly discussed on January 31, 2007, between the Overseas Affairs Minister and the Minister for Women and Child Development has come. According to this proposal, the Indian Government may soon decide to stamp the marital status of Non Resident Indians on their passports. This is indeed a welcome development. But is it enough. Do we need to do more.

Of a population of over one billion Indians, twenty five million are NRIs living worldwide. Times have changed but family law legislations enacted by the Indian Parliament in 1955 and 1956 have left family laws for NRIs where they were. The result, an influx of family law problems arising out of NRI marriages with no practical solutions in the legislative enactments as they exist today. To compound the problem, registration of marriages, which is optional under Hindu Family laws, has not been made compulsory in India. The result: multiple marriages by the NRI often without a previous divorce, invariably by duping the previous spouse and providing no maintenance to the abandoned wife and the unfortunate child of such union if any. Foreign divorce decrees are not accepted by Indian Courts. Defending a matrimonial matter abroad sitting in India is an impossible task. Legal recourse in India is difficult, time consuming, expensive and complicated. Despite a Family Courts Act, 1984, most States have none despite 22 years having elapsed since this law was made. The end result : about twenty five thousand abandoned women in Punjab alone fending for themselves in an uphill legal system which provides no solutions or answers. Then, there are issues relating to Inter parental child abduction. Legal recourse is difficult, undefined and India not being a signatory to The Hague Convention on Child Abduction, there is practically no law on the subject. Still further, inter country adoptions are governed by a maze of laws and procedures. How are all these family law related issues to be resolved. Who will do it. How will it be done.

An eye opener to the gravity of one such dominant problem arising from NRI marriages is projected in a path breaking and authoritative pronouncement by a Bench of the Delhi High Court then headed by Mr. Justice Vijender Jain which can be best quoted in its original form as follows:

"This is one of those classic cases where Indian citizens who go abroad and marry Indian women and thereafter maltreat such women and inflict cruelty and dump them in alien and hostile environment without even bothering to give adequate maintenance. Such persons take advantage of the fact that they are outside the jurisdiction of the Courts of India and most of the time, battered married women do not have resources to fight back and bring the culprits to face the consequences of their wrong doings. To deal with such kind of cases and to counter the mischief of such people who exploit the women of this country, and who feel that the strong arms

of law cannot reach them, stern action should be taken at every level against them and they should be made to pay such amount of maintenance as would be necessary to restore some dignity and comforts to such women to lead a normal life again. Therefore, in this regard, the duty is cast on the State that such persons who marry Indian women and then dump them in foreign countries by resorting to the laws of those countries for taking divorce, which may not be valid in India, and without giving any maintenance and without discharging their liabilities, to be served with the notices and the orders passed by the Court through the embassies and High Commissions of India in those countries so as to bring them under the jurisdiction of the Courts to enforce the liabilities fastened on them under India law and to make them comply with the orders passed by the Courts in India. Indian citizens residing outside as NRIs either on account of having a residency permit or on account of having work permit should not be allowed to violate the rule of law of this country. So long they are citizens of India, they are not immune from the laws of this country and must be made to comply with the orders passed by the Courts in India. “

In our country where we have a plural systems of family laws and no compulsory registration of marriages despite a Supreme Court Judgment in February 2006 giving Central and State Governments three months to enact legislation for compulsory registration of marriages, multiple bigamous unions by NRIs are abound. Defending summary divorce proceedings of foreign courts initiated by an erring NRI with no legal assistance or maintenance makes the hapless deserted Indian spouse suffer in agony thereby compounding the problem. Caught in this cross fire are innocent children of such unfortunate marriages often bundled of against their wishes. Indian legislation provides no answers. There being no bilateral agreements or treaties with foreign countries, parallel court proceedings initiated on both sides in different countries leads to a conflict of jurisdictions and flouted court orders. The result undoubtedly is a total mess. The sufferers are fellow citizens in India.

In this stage and time, the legislature seriously needs to enact a comprehensive legislation which is a composite and wholesome answer to these social issues. Patchwork with isolated eyewash will not help. The need of the hour is a new law.

#### **AUTHOR PROFILE\***

**Anil Malhotra is a practising Advocate in India since September 1983. He attained Bachelor of Science and Bachelor of Laws (Professional) degrees from the Panjab University, Chandigarh, India and an LLM degree from the University of London, London in November 1985 where, he studied Comparative Family Law at LSE and Law and Society at SOAS. He taught civil procedural laws and matrimonial remedies for six years as a part-time lecturer at the Faculty of Laws, Panjab University, Chandigarh, India. For over 20 years, he continues to conduct matters in Indian Courts pertaining to interpretation and application of foreign Court Orders regarding divorce decrees, child abduction, custody, maintenance, adoption and family related issues of Non-resident Indians. He has co-authored book titled “Acting for Non-resident Indian Clients” (London 2005) and has significant papers / conference participations to his credit. He writes a regular newspaper weekly column on family law issues.**