

**FNo. OI-19016/5/2007-SS**  
**Government of India**  
**Ministry of Overseas Indian Affairs**

**Venue : Committee Room, Ministry of Overseas  
Indian Affairs, Akbar Bhawan**

**Date of Meeting Tuesday, 24<sup>th</sup> July, 2007**  
**Time of Meeting : 1100 Hrs.**

**Subject : Minutes of the Second meeting of the inter-ministerial sub-committee to discuss the clauses to be inserted in the bilateral agreements to protect victims of fraudulent marriages and to find other ways and means to counter the problem - Regarding.**

The second meeting of the inter-Ministerial sub-committee was held on 24<sup>th</sup> July, 2007 in the Ministry of Overseas Indian Affairs to discuss the clauses which could be inserted in the bilateral agreements to protect victims of fraudulent marriages and to find other ways and means to counter the problem. The sub-committee had been constituted as a result of an inter-Ministerial meeting convened in the Ministry of Overseas Indian Affairs by the Hon'ble Minister Shri Vayalar Ravi on 4<sup>th</sup> May, 2007 to discuss the above issue.

The meeting of the sub-committee was chaired by the Secretary, Ministry of Overseas Indian Affairs. The names of the officers who attended the meeting are given in annexure 'A' to the minutes.

After brief introduction of the members to the Chair a quick recap of the decisions taken in the first meeting held on 7<sup>th</sup> June of the sub-committee was done. The sub-committee in the first meeting had come to the conclusion that inspite of provisions in the Indian law to take action against the accused, the main constraint was the enforcement of the provisions as the accused is overseas. As such it had been decided to constitute a two member special task force from legal & treaties wing of MEA and Ministry of Law and Justice to study the problems and give their recommendations with special reference to (a) Appointment of a Special Public Prosecutor to handle failed/fraudulent marriages cases for speedy trial and fast track procedure (b) Suggest insertion of suitable clauses in the bilateral agreements/treaties and (c) suggest ways and means for extradition of NRIs involved in failed and fraudulent marriages. It had also been decided to examine making of suitable amendments in the Indian Passport Act and to hear views of some major NGOs before finalization of the recommendations of the sub-committee.

Welcoming the members the Secretary MOIA expressed happiness that the sub-committee in its second meeting had the privilege of the presence of Sh. Ramoowalia, Member, National Commission for Minority Educational Institutions who had worked closely at the grassroots and had first hand experience of the problems faced by victims of NRI marriages.

The Secretary (MOIA) first invited Dr. Anupama Singh of Rakshak, a US based NGO to present her views as they had represented to the Ministry to present their views on the subject. Dr. Singh mainly concentrated on the problems faced by NRIs on account of their false implication in the cases filed in Indian Courts under section 498A of the Indian Penal Code by their Indian spouses. She suggested that the Ministry should take a gender neutral approach in tackling the problems. It was opined by the Committee that the data collected by the representative from Rakshak was incomplete and did not address the issue at hand which was abandoned wives. It was also pointed out by NCW and MWCD that there had been various seminars and workshops to address such issues. The Secretary (MOIA) desired that the material furnished by Rakshak be circulated to the members of the sub-committee for necessary action.

Sh. Ramoowalia, Member, National Commission for Minority Educational Institutions explained that the problem relating to NRI marriages is very acute particularly in Punjab, where a large number of Indian women have been deserted by their overseas Indian spouses without any financial support and suggested the following measures to be taken by the Government:

1. Amendment of present Performa of marriage registration certificate – Presently these certificates do not show NRI Passport details, permanent postal or e-mail address or contact no. overseas which leads to complication at the time of desertion or fraud. The registration certificate should be suitably amended to include a column for these essential details including the NRIs profession, work-place address, income, actual marital status and social security number.

2. Amendment in Passport Act - To avoid complications and fraud in judging the couple's marital status while photograph of the NRI groom with his name/parentage/overseas address should be pasted on his bride's passport; likewise, photograph of the bride with all particulars be also pasted on the passport of her NRI husband.

3. Impounding of passports and deportation

As no further administrative, legal, diplomatic or any other viable option is available to the deserted wife once the Court declares her accused NRI husband as a "proclaimed offender" after a lengthy litigation the only way left is to get her runaway husband deported from overseas for him to face the Indian law. Whenever such type of cases are referred to Indian Mission abroad, they express helplessness; consequently, accused NRIs feel free to live in the safety of their overseas abode unafraid of Indian law. To provide instant justice the evolution of a mechanism by which the Indian passport of an accused NRI could be seized/impounded compelling him to return to India. Ministry of External Affairs in consultation with the Ministry of Law & Justice & Ministry of Overseas Indian Affairs may consider suitably amending the Indian Passport Act inserting therein a provision that passports of accused NRIs against whom there are FIRs and who are declared proclaimed offenders by competent courts could be seized/impounded and to that purpose empower all Indian Missions abroad.

4. Extradition of accused NRIs - It is a lengthy process, But, to begin with, the police chief of a district could be empowered to initiate extradition proceedings with his recommendations to the State Government who should forward the same to the nodal Union Ministry who in turn should take it up with the concerned foreign government with whom extradition treaty exists. The scope for extending extradition treaty to many other countries should be examined.

5. Speedy trial of cases relating to failed/fraudulent marriages - Appointment of a Special Public Prosecutor and setting up of fast tract court is the answer.

6. Service of summons to overseas NRIs/PIOs - The service of summons to accused NRIs/PIOs overseas by Indian courts should be simplified and made easy by serving through the concerned Indian Mission.

7. In a number of cases FIRs are not registered by the police authorities in cases relating to desertion or harassment by the NRI spouses. Therefore, suitable instructions may issued to the police authorities of all the States/UTs to register FIRs in such cases without any delay.

8. Steps may be taken by the government for attachment of properties of NRI spouses in cases of desertion/ex parte divorces.

After the presentation by Mr.Ramoowalia the Secretary (MOIA) invited the special task course constituting Sh. M.K. Gandhi, Director (L&T), MEA and Sh. Suresh Chandra, Additional Legal Advisor, Ministry of Law and Justice, Deptt. of Legal Affairs to present the findings of their study:-

(A) With respect to Appointment of special public prosecutors, the Task Force stated that Public Prosecutors are appointed under section 24 of the Criminal Procedure Code by the Central Government or the State Governments, after consultation with the High Court, for conducting in such court, any prosecution, appeal or other proceeding on behalf of the Central Government or State Government as the case may be. As the subject matter pertains to State Government, therefore they are the prosecutors. If there are offences, concerning the enactment administered by the Central Government in those cases, special public prosecutors may be appointed by the Central Government. In that eventuality, the concerned administrative Ministry forwards proposal to the Ministry of Law for appointment of public prosecutors.

(B)The Legislative Department on the basis of the views received from the State Governments and the case of Smt. Seema Vs. Sh. Ashwani [Air 2006 SCC 1158] has been proposing a Note for the Cabinet on the Hindu Marriage (Compulsory Registration Bill, 2007).

(C) With respect to having bilateral agreements for service of summons in Civil Suits for execution of decree of civil courts, for the enforcement of maintenance orders etc. it was stated that there is no bilateral agreement or treaty with the aforementioned countries. However, a proposal or agreement/treaty in civil matters with Australia was under consideration. There are no reciprocal arrangements with Australia and UK under Section 3 of the Maintenance Orders Enforcements Act, 1921. However there is reciprocal arrangements with UK and

New Zealand under Section 44A, of CPC regarding execution of Civil Decrees. In addition, India has become a party to the following Hague Conventions:

- (i) 1961 Convention Abolishing the requirement of Legalisation for Foreign Public Documents (entered into force for India on 14<sup>th</sup> July, 2005);
- (ii) 1965 Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters (Acceded on 23.11.2006, will enter into force for India w.e.f. 1.8.2007); and
- (iii) 1970 Convention on Taking of Evidence Abroad in Civil or Commercial Matters (entered into force for India w.e.f. 8.4.2007). 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.

Shri P. M. Meena Joint Secretary (Consular), MEA was requested to give recommendations regarding amendment of the Passport Act. In this regard Shri Meena has expressed the view that the proposal is impractical and would not serve the desired objective due to following reasons:

- (i) Name of the spouse, if declared by the applicant, is already mentioned on the passport.
- (ii) It is needed to check whether inclusion of wife's photo in the passport of an NRI husband would be ICAO regulations – compliant.
- (iii) The photo of the spouse can be included if the person is married at the time of application of passport. Supposing the person is unmarried at the time of obtaining a passport for ten years and marries during the ten years period, how we can comply with the requirement?
- (iv) Several NRIs may obtain foreign nationality. In that situation there will be no authority for including his Indian spouse's photo on his foreign passport.

In the meeting the following decisions were taken:

1. MHA (JS(J-1/Shri M. Perumal, Director) may be requested for giving instructions regarding registering of FIRs in cases relating to desertion/harassment by NRI spouses.
2. Proposal appoint Special prosecutors for NRI marriage victims should be examined by the Punjab and A.P.govts. Secretary (NRI) Punjab and A.P. to discuss with Registrar, legal aid society for free legal cells and more fast track courts to take up such cases expeditiously or for special type of working arrangement which could involve experienced private agencies which may also help in lodging of FIRs.
3. A meeting may be fixed to obtain the views of NGOs of Punjab, Andhra Pradesh and Delhi. In the said meeting the representatives of Ministry of Women and Child Development and NCW may also be invited.
4. The task force and JS(CPV) may give their final recommendations for the next meeting of the sub-committee which may be at end August.
5. Next meeting of the committee may be fixed after getting final recommendations of the Task Force.
6. The spots for T.V. prepared by NFDC to create awareness be circulated to the members of the sub-committee for their views.

The meeting ended with thanks to the Chair.

## ANNEXURE 'A'

### **Present:**

Hon'ble Member, National Commission for Minority Educational Institutions Shri Ramoowalia.

### **Representatives from different Ministries:**

1. Shri Nirmal Singh, Secretary, Ministry of Overseas Indian Affairs – in chair
2. Smt. . Aruna Sharma, Joint Secretary, National Human Rights Commission
3. Shri Ashim Khurana, Joint Secretary (Foreigners), Ministry of Home Affairs
4. Smt.. Vijaya Moorthy, Joint Secretary, National Commission for Women
5. Shri G.Gurucharan, Joint Secretary ( FS and CVO), Ministry of Overseas Indian Affairs
6. Shri P.M.Meena, Joint Secretary (Consular) Ministry of External Affairs
7. Shri Suresh Chandra, Addl. GC/LA (MOIA), Ministry of Law and Justice
8. Dr. .M.Gandhi , Director (L&T), Ministry of External Affairs
9. Shri B.V. Gopinath, Director (I&C), Foreigners Division, Ministry of Home Affairs
10. Smt. Sandhya Shukla, Director (DS-I), Ministry of Overseas Indian Affairs
11. Smt.. Usha R.Sharma, Secretary, NRI Affairs , Govt . of Punjab
12. Smt. .R. Suez, Deputy Director, Department of WD & CW, Govt. of Andhra Pradesh
13. Mrs. Surinder Kumari, Dy. Director, Social Security Department, Govt. of Punjab
14. Shri K.C. Kedia, Under Secretary, Ministry of Women and Child Development
15. Shri C.D.Sarma, Under Secretary (DS-I), Ministry of Overseas Indian Affairs
16. Shri S.S.Rana Under Secretary (Parl. &Coord) , Ministry of Overseas Indian Affairs
17. Dr. Anupama Singh, Rakshak , (Rakshak – NGO)
18. Mrs. Rohitash. K, (Rakshak)
19. Mrs. Niladri Shekhar Das, (Rakshak)
20. Mrs. Geeta Gupta, (Rakshak)