

Explore the Complicities of International Marriage and Divorce

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Abstract: *Marriage, is a legally and socially sanctioned union, usually between a man and a woman, that is regulated by laws, rules, customs, beliefs, and attitudes that prescribe the rights and duties of the partners and accords status to their offspring. In marriage, also called matrimony or wedlock, every citizen of India has the right to choose "his spouse, whoever". Art 21 of the Indian constitution guarantees the right to marry the person of one's choice. No one has the right to against that right and should not compel one to marry another person which is an offence in India. Art 16 of the Universal Declaration of Human Rights states that men and women of full age, without any limitations due to race, nationality, or religion have the right to marry and found a family so everyone has the right to marry a person of one's own choice if both were full age (women should complete 18 and men should complete 21) even if they belong to a foreign country. Even our Indian law did not explicitly prohibit individuals from marrying a person who belongs to an 'enemy' nation. But there are several issues and problems in that. Marriage between persons who belong to different countries is not as easy as regular marriage when comes to divorce. There are many conflicts and confusion arising in international divorce like jurisdictional issues, property division, and child custody in cross-border divorces. because it involves different countries' set of rules and regulations regarding marriage, divorce, and family matters determining which country's law should apply is a complex task, and determining which country's court has jurisdiction is very complex because in a country a law in the particular matter might not be an offense but in some another country it can be an offense. It is very complex which country will have jurisdiction in such cases, on grounds for divorce. Determining child custody matters is also a big issue. Because the child may be brought up in one country's culture and tradition, it is difficult for the child to adopt other countries. Property division is also one of the issues and it is a contentious issue due to the involvement of multiple countries' legal systems and various assets in different locations. And determining which country's court has jurisdiction over property division can be challenging, especially if the couple has lived in multiple countries during their marriage, asserts located in multiple countries including real estate, Bank account, investment, and business dividing these assets fairly can be challenging. Partners in mixed marriages may be supportive of each other's religious beliefs but still often run into unexpected issues. International marriages are not always easy and those married to someone with a different cultural background know that these kinds of relationships are challenging. Religious and political differences as well as language barriers can cause conflicts for couples in an international marriage.*

Keywords: Procedure for international marriage, Typologies of problems in NRI Marriage, an awareness campaign to sensitize NRI Marriage issues, Eternal vigilance.

1. Introduction

In this article, briefly explains how foreign marriage has been performed. What are the procedures we should compile for marriage? What is the problem involved in that kind of marriage and the solution for such problems? Can be discussed

Our country's youngsters were updated in technology, culture, tradition, customs, etc. Most of them wouldn't prefer to follow or hold back the old cultural system because they were deeply influenced by Western cultures. Now no one has followed discrimination among religions everyone accepts every religion its customs, traditions. No one is ready to follow the ideology of the medieval period. People trying to break the barrier of religion, lower or upper caste, race, region, etc. Moving forward with the idea that "every person is human" it also helps the person to live independently with his rights. He can independently choose his choice for his life in all categories like his marriage, education, job, etc.

He has every right to choose his choice if he is in the age of full capacity. No one has the right to interfere in his choice. Likewise, when it comes to marriage everyone has the right to marry any person if both accept and agree to marry. Art 21 of the constitution also ensures that one. Here we go to discuss international marriage. International marriage means

a person who marries each other and belongs to different countries. That is different cultures, traditions, and people marrying each other¹. Even in a country, there might be different cultures but in international marriage, the couple will differ not only in culture but also in law, language, administration, behavior, economic and ethical scales. So there might be many consequences. The international marriage is also known as transitional marriage.

2. Procedure for international marriage

For a valid marriage there need some procedure should be followed. Regular marriage in India is held based on their own religious custom the case of intercaste marriage the couple can married in both of their custom or either one of the customs is also a valid marriage. If a person doesn't believe in any religion can marry under the special marriage act but international marriage is not like other regular marriages because it involves a matter of two countries' laws and systems so the marriage should done under the guidelines mentioned in "the foreign marriage act,1969". The Foreign Marriage Act section 3 said about the conditions relating to the solemnization of foreign marriage.

A marriage between parties one of whom at least is a citizen of India may be solemnized under this Act by or before a Marriage Officer in a foreign country, if, at the time of the marriage, the following conditions are fulfilled, namely:--

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- a) Neither party has a spouse living,
- b) Neither party is an idiot or a lunatic,
- c) The bridegroom has completed the age of twenty-one years and the bride the age of eighteen years at the time of the marriage, and
- d) The parties are not within the degrees of prohibited relationship

Provided that where the personal law or a custom governing at least one of the parties permits a marriage between them, such marriage may be solemnized, notwithstanding that they are within the degrees of prohibited relationship.

Here in this section, it was mentioned that the marriage should be conducted before marriage officer. This act also mentions the marriage officer, the Central Government may, by notification in the Official Gazette, appoint such of its diplomatic or consular officers as it may think fit to be Marriage Officers for any foreign country diplomatic officer" means an ambassador, envoy, minister, high commissioner, commissioner, charge d' affairs or other diplomatic representative or a counselor or secretary of an embassy, legation or high commission

Sec 5 describes the responsibility of the marriage officer in the context that he has the responsibility to retain all marriage notices which contain information about the people who going to marry. The Marriage Officer must make a true copy of each notice and enter it into a specific record book known as the "Marriage Notice Book." This book is specifically designated for this purpose. The Marriage Officer must make a true copy of each notice and enter it into a specific record book known as the "Marriage Notice Book." This book is specifically designated for this purpose

There are certain procedures to be followed in life when the marriage notice book is given to the marriage officer. He has the responsibility to take several actions. The marriage officer must post a copy in his own office, making it visible to the public. The notice must also be published in India and in the country or countries where the parties planning to get married are typically residing. The specific method and manner of publication are usually outlined in the relevant regulations or laws. This is because of the legal process [2]

3. Typologies of problems in NRI Marriage

In a transitional marriage, there is a chance of creating more consequences. When the law comes to regular marriage protects the couple during marital disputes between couple. Like misunderstandings between them, cruelty, torturing the wife by asking for dowry, and so on. were in These issues will come under the same jurisdiction and regulated by the same law (here regular marriage means the couple belongs to the same country). And the judgment or decree given by the court is bound over the territory. But in the case of transitional marriage, one party is to one country's law and another belongs to another country's law where there might be confusion of jurisdiction. i.e which law the couple would bind is a major confusion And so on. I give some information about this, in the abstract and let Briefly explain them. Practically women will suffer a lot in this type of marriage because they were taken with their husbands

resident either to India or a foreign which the woman does not belong. So she will face certain problems like being abandoned by her husband, cruelty, without knowing his background women being cheated on by him like he was already a married person [3]

3.1 Problem regarding jurisdiction

In international marriage spouses are nationals of different countries. When family problems are across the national boundaries additional specific problems occur like which state's court would have the jurisdiction, and which state's law should be applied for litigation. It is very important to establish jurisdiction for the case in international marriage but the problem in international marriage is it is heterogeneous one side's competency of the judicial institution is set free by the state. On the other side, certain principles like substantial contact of state and dispute, and legal predictions. The jurisdiction of marriage can be determined in three factors the couple who were foreigners married in India, second the couple in which one is Indian or both were Indian married in a foreign country, thirdly the couple were belonged to a separate country but married in another country which both were not belongs to. For example, A is Indian and his spouse B is from Sri Lanka their marriage happened in Malaysia, In such cases, the jurisdiction applied is important. When the couples marry in India they will come under Indian law. If the couple marries in a foreign country they will come under the foreign marriage act, where the officer will be responsible which was discussed briefly above [4].

3.2 Consequences women face by marrying a foreigner

IDs, and get the knowledge of the Local language and local police and law system If a woman marries a foreigner, she might face certain problems like a husband abandoning his wife, a husband married another where she was still alive or, not knowing the fact that the man was already married, cheated the women by marrying her and sell her for prostitution, sexually abusing, made her as domestic maid. In these situations the women being isolated far away from home in an alien land, facing difficulties in local language, lack of knowledge of Local police and laws, lack of social support, monetary support suffer a lot. She might be affected by mental pressure and stress which made her to suicide, or mental disorder so the women who marry a foreigner or NRI so aware of his background, and check his passport, visa, and others. [5]

3.3 Children's problems after international marriage divorce

When an international marriage breaks the child custody will become a difficult one for the court. Even in regular marriages, it was a difficult one. Basically law says that if a girl child is below 18 she can be with her mother and for a boy child if he is below 9 court decides him to go with his mother unless the mother has any mental disorder or she refuses then the father can take care of the child. Child discretion is also considered. It was applied to all marriages. But in international marriage or divorce child will suffer a lot. Basically, divorce creates major impacts on children like

behaving aggressively, and a decrease in academic performance more research was done on this particular scenario where children will suffer from parental alienation syndrome, and detachment from family love which leads to mental pressure at a young age which will path a way to many diseases. So international marriage divorce will spoil the younger generation. So it is the duty of the parents to take off their children giving them the motivation to overcome such situations, diverting the Mind in education and extracurricular activities, more interaction with children makes them happy and makes their life easier because living with a single parent is a bigtask for children to accept that especially in international marriage the child grown with culture and customs were he born but after his/her parents divorce his culture and tradition might change he will struggle to accept the new culture in that scenario, parents and family and friends support is very necessary [6].

3.4 NRI Matrimonial Disputes: Some Notable Judgment

The Supreme Court of India has decided some of the NRI Matrimonial disputes Y. Narasimha Rao & other vs. Y. Venkata Lakshmi 1991 3 SCC451

In this case, both husband and wife were married in India under the Hindu Marriage Act. After the marriage, the husband went back to the USA and obtained a decree of divorce from the state of Missouri. The husband alleged to the court that he was a resident of the state of Missouri for 90 days preceding the institution of the petition and obtained a divorce decree on the ground that the marriage had been "irretrievably broken down". The Supreme Court of India held that both the issues of jurisdiction and the ground on which the foreign decree was passed were not in accordance with the Hindu Marriage Act under which the marriage took place.

The Supreme Court, therefore, held that the decree was not enforceable in India. [7] Neerja saraph vs. Jayant saraph and another 1994 6 SCC 641

Neeraja Saraph married Jayant Saraph, an NRI husband who returned to the USA and persuaded the wife to give up her job in India. Suddenly the NRI husband files a case for the annulment of marriage in the USA. The wife filed a suit for damage against her husband and father-in-law and obtained an ex-parte decree of Rs. 22lakh. Pending an appeal against the ex parte decree, the Supreme Court directed the NRI husband to make an interim deposit of Rs. 4 lakh in favor of the wife [8].

4. Awareness Campaign to Sensitize NRI Marriage Issue

Due to these issues in international marriage, the government takes several measures to create awareness. The Ministry of Overseas Indian Affairs has launched an awareness -cum-publicity campaign to educate and sensitize prospective brides and their families to create awareness of how to create a safe matrimonial bond, and the procedure for checking the bridegroom background. The ministry has brought up information about international marriage in pamphlets in English, Hindi, Punjabi, Malayalam, and

Telugu to make Indian women aware of their rights and responsibilities and the precautions that could take before the entire marital program. And these pamphlets were given in villages, Anganwadi, railway stations, airports, hospitals, NGOs and self-help groups.

The ministry also brings a guidance booklet on NRI marriages named "marriages to Overseas Indians" for the benefit of prospective brides and their families. This booklet was released by Hon'ble former Prime Minister Manmohan Singh on the eve of Pravasi Bharatiya Divas (PBD) in 2007. This booklet contains information on safeguards available to women deserted by their NRI spouse, legal remedies available, authorities that need to approach for redressal of grievances, and non- governmental Organisations that can provide assistance. This booklet was sent to all states and union territories of India.

Awareness-cum-publicity campaign through the media was launched by the ministry every year. The campaign runs through print and electronic media, advertisements on national and regional TV networks, newspapers, and magazines to sensitize people on this issue. A national consultation on "marriages to overseas Indians" was organized by the ministry in Feb 2006 following which the ministry, in collaboration with the National Commission for Women organized two workshops on Chandigarh and Trivandrum in 2006 with the objective of involving the state commission for Women as well as women's organisation in the states concerned to spread awareness. In PBD the parallel sessions have been done to create awareness about problems created in international marriage in that most of the state government representatives have participated in it.

In response to a suggestion of the Hon'ble Standing Committee on External Affairs to organize seminars/debates on fraudulent NRI marriages in Schools and Colleges for sensitizing female students, the State Governments of Kerala, Punjab, Andhra Pradesh, Bihar, Rajasthan, Tamil Nadu, Goa, UP and Delhi were requested to organize such seminars/debates. Based on this, the Punjab Police organized a National Seminar on Overseas Marriages in Jalandhar on 30.5.2012 in collaboration with the National Commission for Women. The special focus in the Seminar was on legal safeguards and institutional mechanisms required to be created to ensure justice to affected women [9].

Eternal Vigilance for international marriage

The person who is interested in international marriage needs to be cautious Of certain things. Don't take any decision in haste enquiries about the Full information about him and make decisions about the marriage it will be better if consult with your parents. Finalizing marriage by phone, or e-mail is not advisable were the chance of misuse is high, meeting the person via video call or directly and thoroughly checking his background and coming to a decision. Don't blindly trust the marriage by the agent and bureau or any middleman. Do not fall for any schemes to be able to migrate to another country, or promises of a green card through Marriage. It is advised that don't make international marriages secretly publish the marriage to friends and family so it might be a chance to know about the spouse. If the marriage was happening in foreign-made neighbors and relatives know about their

marriage and try to socialize with their neighbor faster [10].

5. Conclusion

Finally, it doesn't mean that international marriage is insecure and dangerous, the chance of complicity is higher than regular marriage so every person has a right to choose their spouse independently but at the same time carefully. Ancient people used to connect their life with nature; they linked marriage with nature and said marriage was "Aayiram Kalathu Payir" it means that crops like paddy, sugar cane, and wheat give profit periodically like all the problems in life will be solved by marriage and life will be pleasant until their lifetime for the couples. So for a pleasant life everyone needs to be cautious when comes to choosing their spouse

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