



// स्त्रीशक्तिरतुल्या सदा //

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TRAFFICKING OF WOMEN & CHILDREN

ISSUES & WAY FORWARD

National Conference

Organised by

Ministry of External Affairs, New Delhi &
Maharashtra State Commission For Women



महाराष्ट्र राज्य महिला आयोग, मुंबई

अध्यक्षा



विजया रहाटकर

सदस्य



नीता राजेंद्र ठाकरे

सदस्य



गयाताई शिवाजीराव कराड

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सदस्य



विंदा कीर्तीकर

सदस्य



अॅड.आशा लांडगे

पदसिद्ध सदस्य



दत्ता पडसलगीकर
पोलीस महासंचालक

सदस्य सचिव



डॉ. मंजूषा सुभाष मोळवणे

Preface



I am deeply concerned with the issues of women trapped in NRI marriages. I have seen umpteen examples where women marrying NRI's have been abandoned, face domestic violence, issues of honeymoon brides, husbands giving false information about himself including his job, immigration status, earning, property, marital status and more, to deceive her into the marriage.

It is heart wrenching to see that there are so few remedies available for women, for both legal and social justice. Many a times, we see that when women seek legal remedy either in India or abroad, they encounter many technical and legal obstacles. These can be related to jurisdiction, and enforcement of the law which leaves the woman with no remedy to fend for herself in the foreign country or even her own country. Due to the lack of effective remedy the women face severe mental, emotional and physical trauma.

The United Nations reported that Indians are the largest diaspora living abroad. A survey estimated that over 16 million Indians were living abroad in the year 2015. With such a large and ever-increasing community being built internationally, the number of such cases are on the rise as well. Effective measures are needed, now more than ever, to tackle the same.

The government, at the Central and State level, have come up with various policy level initiatives to combat this crime. It is incumbent upon each one of us to find solutions for this grave issue and be vigilant on the issue of NRI marriages. We must ensure that young women, their families, as well as community leaders are aware and able to conduct the due diligence necessary before getting into such marriages. If we join our hands together I am confident that we will find lasting solutions for these grave problems and provide necessary support for the women trapped in these marriages.

On this day of the “National Conference on NRI Marriages and Trafficking of Women and Children” on 27th July 2018, the Maharashtra State Women's Commission is happy to release this book. This book, source from ministry of External affairs and National Women Commission, contains articles on various topics and solutions that can be used as we look forward, as we look to bring a positive change.

I hope you find this reading material on the issue of NRI Marriages beneficial.

Vijaya Rahatkar,

Chairperson,

Maharashtra State Women's Commission



INDEX

Sr. No.	Topic	Page No.
1	A Positive Brainstorming on NRI Marriage Problem	3
2.	COMMON ISSUES IN NRI MARRIAGES	6
3.	Important Case Laws elated to NRI marriages	9
4.	Challenges faced by Women in of NRI marriages	15
5.	DO's and Don'ts	20
6.	A Helping hand :	24
7.	LIST OF NGO's for Assistance	29
8.	Know the legal provision in foreign countries	32
9.	वैचारिक घुसळणीची संधी	39
10.	ही काळजी घ्या	42

A Positive Brainstorming on NRI Marriage Problem



NRI marriages and the problems arising from them are getting serious with every passing day. The issue of trafficking of women and children is also critical. The central government has taken several decisions in the past four years and has passed some laws in this regard. Nevertheless, there is a need to have a new national discourse on this issue and to pave new path for solving this problem.

Vijaya Rahatkar,

Chairperson, Maharashtra State Women's Commission

The momentum that the process of globalization has gained in the last three decades has posed many opportunities as well challenges for many countries. This process of globalization has shot up the number of people migrating due to the reasons of industry, business or employment. The problems arising from marriage to such youths who have migrated to foreign are also increasing due to this. To marry a groom settled abroad or having a foreign job is still considered status symbol even today. The family of the girl having such a marriage enjoys a different bliss altogether. If such bliss is punctuated due to some reason, then the

concerned woman and her family suffers a lot. This problem is becoming increasingly complex day by day and its form is also getting complicated.

Although all the fields in the country fall under the jurisdiction of the law, the field of family and home is still found to be a field where the law takes relatively secondary place. There is no uniform civil law in the country for settling of the marriage related problems. Furthermore, each caste and faith has its own some beliefs and since people's sentiments on them are too volatile, making of such an uniform law is also difficult. When there is an interfaith marriage, the issue becomes even more complicated.

Problems emerging from the marriages that have crossed the bounds of nation's boundaries are equally serious and their complications are growing. A prominent feature is seen in these kinds of marriages known as NRI marriages. The number of non-resident Indian men (who have gone abroad for jobs or business) or men of Indian origin, having taken the foreign citizenship, marrying Indian girls is significant. The family of bride is on seventh heaven when she gets a chance to marry foreign-based groom. It is not always that care of having all information about groom or groom's side is taken. That is why legal battles are inevitable if there are difficulties in such a relationship. In such a situation, this marriage is not confined in the jurisdiction of the Indian judicial system only, judicial systems of other countries are also involved in it and this complicates the matter further. Thus, the women have very few options available with them to fight cases in foreign land and the options available are very costly. Because of diverse reasons like language, lack of right contacts and guidance, inadequate information or ignorance of local police and judicial system, expected but unavailable emotional, financial and emotional support from family and friends, lack of money, problems in quickly getting shelter somewhere else, the woman trapped in such a marriage become lonely. The woman's plight becomes all the more severe if she has a child with her. Another equally complicated question is who should be given charge of the children of parents who have separated after such a marriage. Even so, the number of such NRI



marriages is increasing day by day, and the increase in the number of troubles and cases is also going up. The Indian embassies in different countries received 3328 complaints of harassment from husband, unilateral divorce by husband or similar types in the last three years. This figure illustrates the seriousness of this issue.

In addition to the central government, Maharashtra State Women's Commission has taken serious note of the issue and has taken initiative to avail help for such victim women immediately. There was no legal restriction in the past on when to register NRI marriages. However, the central government mandated through a decision that such marriages should be registered within seven days. It has also been decided to seize the passport of the concerned husband if it is not registered in this manner. The cases of abandoning wife and children after the marriage are also increasing. In such cases, the Women's Commission has proposed confiscate the property of husband in the country and the deliberations on the same are going on. Cognizance of the complaints received by the Indian embassies in different countries is being taken immediately.

Moreover, legal, financial and other forms of assistance are being provided promptly. Separate arrangement has been made in the embassies in many countries for this purpose alone. The central government has also started efforts to provide information about such NRI marriages at one place and a portal is being prepared for the same.

There is an another aspect of the same problem and that is of human trafficking. Women are taken abroad by luring them with promise of marriage or a job. In addition, children are also being taken abroad by dubious means. The problem of women and children taken abroad in this manner is also getting serious. Many countries are facing this problem now and the question of how to get out of this is nagging them. The central government has continued to discuss the issue with many countries , and has stressed the need for a roadmap on the issue. Many cases in the last four years that External Affairs Minister Sushma Swaraj herself looks into such cases and takes the initiative to provide justice. Whether it is dealing with problems of NRI marriages, or preventing human trafficking, it is necessary for the Ministry of External Affairs and Women and Child Development, Home and Law Ministry in coordination with each other and work together. It is pertinent to note here that the four ministries in the present government are working with similar coordination. The decision to register NRI marriages and starting a portal for information on the same can be deemed as a fresh example of this.

Whether is is NRI marriages or women and children trafficking, there is a need of wider public awareness. Also, many solutions and laws are being formulated in this context worldwide. We have to take cognizance of all these in today's era of globalization. By doing so only can we make decisions in accordance with the world. For this, having a nation-wide discourse on these problems is a way out and with this purpose, the MSCW and MEA has organized national seminar on 'NRI Marriages – Issues and Way Forward' and 'Trafficking of Women And Children' on July 27th in New Delhi. A brainstorming will take place on all these issues in the seminar that will be held in New Maharashtra Sadan. External Affairs Minister Sushma Swaraj will inaugurate the seminar while Vice President of India Shri Venkaiah Naidu Ji and Central Women and Child Development Minister Maneka Gandhi will conclude the seminar. Some new ideas about handling these issues will definitely come out of this seminar. I feel sure that the central government will take the initiative for the implementation of these measures. Also, I assure that Maharashtra State Women's Commission will insist on it.



COMMON ISSUES IN NRI MARRIAGES



Following are some of the typical instances of the issues that arise in NRI marriages that have been repeatedly shown up in the actual case studies from different states of the country:

- Woman married to NRI who was abandoned even before being taken by her husband to the foreign country of his residence – after a short honeymoon he had gone back, promising to soon send her ticket that never came. In many instances the woman would already have been pregnant when he left and so both she and the child (who was born later) were abandoned. The husband never called or

wrote and never came back again. The in-laws who could still be in India would either plead helplessness or

- flatly refuse to help.
- Woman who went to her husband's home in the other country only to be brutally battered, assaulted, abused both mentally and physically, malnourished, confined and illtreated by him in several other ways. She was therefore either forced to flee or was forcibly sent back. It could also be that she was not allowed to bring back her children along. In many cases, the children were abducted or forcibly taken away from the woman.

- Woman who was herself or whose parents were held to ransom for payment of huge sums of money as dowry, both before and after the marriage, her continued stay and
- safety in her husband's country of residence depending on that.
- Woman who reached the foreign country of her husband's residence and waited at the international airport there only to find that her husband would not turn up at all.
- Woman who was abandoned in the foreign country with absolutely no support or means of sustenance or escape and without even the legal permission to stay on in that country.
- Woman who learnt on reaching the country of her NRI husband's residence that he was already married in the other country to another woman, whom he continued to live with. He may have married her due to pressure from his parents and to please them or sometimes even to use her like a domestic help.
- Woman who later learnt that her NRI husband had given false information on any or all of the following: his job, immigration status, earning, property, marital status and other material particulars, to con her into the marriage.
- Woman whose husband, taking advantage of more lenient divorce grounds in other legal systems, obtained ex-parte decree of divorce in the foreign country through fraudulent representations and/ or behind her back, without her knowledge, after she was sent back or forced to go back to India or even while she was still there.
- Woman who was denied maintenance in India on the pretext that the marriage had already been dissolved by the court in another country.
- Woman who approached the court, either in India or in the other country, for maintenance or divorce but repeatedly encountered technical legal obstacles related to jurisdiction of courts, service of notices or orders, or enforcement of orders or learnt of the husband commencing simultaneous retaliatory legal proceeding in the other country to make her legal action
- Woman who sought to use criminal law to punish her husband and in-laws for dowry
- demands and/ or, or matrimonial cruelty and found that the trial could not proceed as the husband would not come to India and submit to the trial or respond in any way to summons, or even warrant of arrest.
- Woman who was coaxed to travel to the foreign country of the man's residence and

get married in that country, who later discovered that Indian courts have even more limited jurisdiction in such cases.

- Woman who had to fight nasty legal battles for custody of her children and for child support, and to bring them back with her after she was divorced or forced to leave, sometimes even facing charges of illegally abducting her own children.
- Many woman have also approached the Commission seeking redressal of their grievances having been deserted by their NRI Spouses.



Important Case Laws related to NRI marriages



1 . In Harmeeta Singh v Rajat Taneja 102 (2003) DLT 822 the wife was deserted by her husband within 6 months of marriage as she was compelled to leave the matrimonial home within 3 months of joining her husband in the US. When she filed a suit for maintenance under the Hindu Adoptions and Maintenance Act in India, the High Court disposed of the interim application in the suit by passing an order of restraint against the husband from continuing with the proceedings in the US court in the divorce petition filed by the husband there and also asking him to place a copy of the order of the High Court before the US court.

The Court made some other observations while passing this order, mainly that even if the husband succeeded in obtaining a divorce decree in the US, that decree would be unlikely

to receive recognition in India as the Indian court had jurisdiction in the matter and the jurisdiction of the US courts would have to be established under Section 13, CPC. The Court then said that till the US decree was recognized in India, he would be held guilty of committing bigamy in India and would be liable to face criminal action for that. The court also said that since the wife's stay in the US was very transient, temporary and casual, and she may not be financially capable of prosecuting the litigation in the US court, the Delhi courts would be the forum of convenience in the matter.

2. In **Vikas Aggarwal v Anubha** (AIR 2002 SC 1796), the Supreme Court had been approached by the NRI husband whose defence had been struck off in a maintenance suit filed by the wife in the High Court as he had not appeared in the High Court despite the High Court's order directing him to personally appear and giving him several opportunities.

The High court had directed him to personally

appear to give clarifications to the court on the circumstances in which the US court had proceeded with and granted decree in a divorce petition filed by the husband in the US despite order of restraint having been issued by the Indian court against the proceedings in the US. The High Court had also rejected his application for exemption from personal appearance on the basis that he apprehended that he would be arrested in the case under Section 498 A, IPC filed by the wife.

(16)The Supreme Court upheld the High Court's order and held that Order X of CPC is an enabling `provision that gives powers to courts for certain purposes. The Delhi High Court was therefore justified in requiring the husband to personally appear before the Court for his clarification, especially since the affidavit of his counsel in America annexed with the affidavit filed in the trial court was not enough to clarify the position and his father, as found by the trial court, could not throw further light in the matter, having not been present during the proceedings in America. Also the inherent powers of the Court under Section 151 C.P.C. can always be exercised to advance interests of justice and it was open for the Court to pass a suitable consequential order under Section 151 CPC as may be necessary for ends of justice or to prevent the abuse of process of Court.

3. **Venkat Perumal v State of AP II (1998) DMC 523** is a judgment passed by the Andhra Pradesh High Court in an application filed by an NRI husband for quashing of the

proceedings of the wife's complaint in Hyderabad under Section 498 A of the IPC against matrimonial cruelty meted out to her. She had alleged that she was subjected to harassment, humiliation and torture during her short stay at Madras as well as US and when she refused to accept the request of her husband to terminate her pregnancy, she was dropped penniless by her husband at Dallas Air Port in the US and she returned back to India with the assistance of her aunty and on account of the humiliation and mental agony she suffered miscarriage at Hyderabad.

The High Court held that the offence under Section 498-A of IPC is a continuing offence and the mental harassment on the wife had continued during the stay with her parents at Hyderabad. The court therefore rejected contention of the husband that sanction of the Central Government, as contemplated under Section 188 of the Code, is required to prosecute and held that even otherwise, it is not a condition precedent to initiate criminal proceedings and the same can be obtained, if need be, during trial and hence, it could not be said that the proceedings were liable to be quashed on that ground.

The Court also refused to influence its decision with the divorce decree from the US court produced by the husband since in any case the FIR had been lodged by the wife prior to the UC court's decree.

4. The judgment in **Neeraja Saraph v Jayant**

Saraph (1994) 6 SCC 461 was passed in the following facts: The appellant wife who got married to a software engineer employed in United States was still trying to get her visa to join her husband who had gone (17)back after the marriage, when she received the petition for annulment of marriage filed by her NRI husband in the US court. She filed a suit for damages in such circumstances as she had suffered not just emotionally and mentally but had also given up her job in anticipation of her departure to the US. The trial court passed a decree of Rs. 22 lakhs The High Court in appeal stayed the operation of the decree pending final disposal on the condition of deposit of Rs. 1 Lakh with the court. On appeal by the wife the Supreme Court modified the High Court's order in favour of the wife by enhancing the deposit amount to Rs. 3 Lakh Even though the order was on a limited ground in an interim application, this case shows the feasibility of suit for damages by wife in such cases. It is also pertinent that the Court passed some obiter observations, which were as follows:

“Feasibility of a legislation safeguarding interests of women may be examined by

incorporating such provisions as-

(1) No marriage between a NRI and an Indian woman which has taken place in India may be annulled by a foreign court;

(2) Provision may be made for adequate alimony to the wife in the property of the

husband both in India and abroad.

(3) The decree granted by Indian courts may be made executable in foreign courts both on principle of comity and by entering into reciprocal agreements like

Section 44-A of the Civil Procedure Code which makes a foreign decree executable as it would have been a decree passed by that court.°

5. **Rajiv Tayal v. Union of India & Ors. (124 (2005) DLT 502: 2005 (85) DRJ 146)** is another judgment which shows that the wife also has an available remedy under Section 10 of the Passport Act for impounding and/or revocation of the passport of her NRI husband if he failed to respond to the summons by the Indian courts

In this case the NRI husband had filed a writ petition seeking to quash the order passed by Consulate General of India, New York, USA, on the directions of the Ministry of External Affairs, Government of India, New Delhi, for impounding his passport. He also challenged the order of the Trial Court declaring him a ‘proclaimed offender’ The NRI husband had filed the Petition even as he continued to refuse to join the proceedings pending before the Metropolitan Magistrate largely on the ground that he was residing in USA and subjecting him to the criminal process in India would be an unfair burden. The (18)petitioner also submitted in the same breath that he had not been served with the summons and that the investigation in his case ought to be conducted

by sending him a questionnaire and he should not be asked to join the investigation in India. The court held that acceptance of such a plea would give a premium to the accused husband just because he happened to be abroad. Merely by going abroad a person could not claim a status superior to that of a citizen of India. It would then be open to such an accused to misuse the process of law and to make a mockery of the Indian judicial system by asking for such a special procedure which is in any case totally opposed to the principles of the criminal jurisprudence. The court passed his judgment after also looking at the conduct of the accused husband since he had refused to join the proceedings even after being repeatedly assured by the court that he would be extended suitable protection against his arrest or any other penal consequences in respect of his passport, but he declined to do so and insisted that the summons must be served on him before he is required to answer it, thus taking a hypertechnical plea. The court therefore held that there was no merit in the husband's plea as to the invalidity of Section 10(e) & (h) of the Passport Act being violative of Articles 14, 19 and 21 of the Constitution and the plea of constitutional validity of such provisions thus stood rejected.

6. Marggarate Pulparampil v Dr. Chacko Pulparampil (AIR 1970 Ker 1), is one of the earliest cases before an Indian court involving the issue of children's custody in NRI marriage. In this judgment the High Court of Kerala not

only recognized the important principle of 'real and substantial connection' to establish the court's jurisdiction to decide custody issue, but also recognized the availability of the remedy of writ of habeas corpus to claim custody of child who has been illegally removed by a parent. Here the court allowed the child to be moved back to the mother in Germany even though that meant allowing the child to be moved out of the Indian court's jurisdiction, as the court felt that the interests of the child were of paramount consideration and in this case made it necessary to give the custody to the mother in Germany. The court also laid down the safeguards for ensuring the parental rights of the father in India were not totally compromised in the process by passing a series of directions to balance the conflicting interests:

(i) The petitioner will execute a bond to this Court to produce the children whenever ordered by this Court to do so.

(19)2. An undertaking from the German Consulate Authority in Madras that they will render all assistance possible for the implementation of any order passed by this Court from time to time within the framework of the German Law will be produced by the petitioner.

3. The petitioner will obtain and send a report from the Parish Priest within the Parish in which they propose to live every three months to this Court giving sufficient details about the

children, their health and welfare and send a copy thereof to the father.

4. The petitioner will inform the Registrar of this Court the address of her residence from time to time and any change of address will be immediately notified.

5. She will not take the children outside West Germany without obtaining the previous orders of this Court excepting when they are brought to this country as directed in this order.

6. Once in three years, she must bring the children to this country for a minimum period of one month at her own expense. At that time, the father will have access to the children on terms and conditions to be directed by this Court when the children have reached this country. The three years' period will be determined from the date on which the children are taken by the mother from this country. They will be brought to India earlier as directed by the Court at the instance of the father provided that it is not within a year from today, if the father is willing to meet the expenses for the trip from Germany to India and back for the mother and children.

7. The father, if he is visiting Germany, will be allowed access to the children on terms and conditions as ordered by this Court on motion by the father intimating his desire to go and see the children and requesting for permission for access.

8. When the children are brought to India at the end of 3 years the whole question of custody may be reviewed suo motu by this Court or at the instance of the father or mother and the present order maintained, modified, altered or cancelled.°

7. In **Surinder Kaur Sandhu v. Harbax Singh Sandhu, AIR 1984 SC 1224** the Supreme Court had to decide the custody of the wife/mother in circumstances where while the wife was still in England, the husband had clandestinely taken away the children to India (20) to his parents place even as the English Court had already passed an order on the children's custody in England. The Court looked into all the relevant facts of the case to decide what was in the best interest of the children and ultimately on the basis of this consideration directed the custody of the children to be given to the mother.

8. **Elizabeth Dinshaw v. Arvand M. Dinshaw (MANU/SC/0312/1986)** while dealing with a child removed by the father from USA contrary to the custody orders of the US Court passed in favour of the mother, the Supreme Court directed that the child be sent back to USA to the mother not only because of the principle of comity but also because, on facts - which were independently considered - it was in the interests of the child to be sent back to the native State. There the removal of the child by the father and the mother's application in India were within six months

9. In **Kuldeep Sidhu v. Chanan Singh (AIR 1989 P&H 103)** the High Court of Punjab and Haryana also took the view that it was in the best interests of the children that the mother who was in Canada be allowed to take back the children from India to Canada where the mother continued to live as they were with their paternal grandparents in India, the father still being in Canada and as, in any case, the mother had been awarded their custody by a competent court in Canada.

10. **Dhanwanti Joshi v Madhav Unde (1998) 1 SCC 112** the NRI husband was already married to another woman and during the subsistence of the earlier marriage had married the second wife appellatant Dhanwanti Joshi. Dhanwanti had a son from him and when the

child was just 35 days old she left her husband and came back to India with her infant son. The Supreme Court had the occasion to decide the custody of the child when he was more than 12 years old and decided that eventhough the father may have obtained custody from the US court, the best interests of the child demanded that the child be allowed to continue to stay with the mother in India who had brought up the child singlehandedly in India, subject to visitation rights of the father.

(Source : NCW)



Challenges faced by Women in of NRI marriages



Adequate background checks such as verification of prospective groom's marital status, income and salary, family background etc are not undertaken.

Indian society continues to be enamoured by the prospects of marrying off daughters to men settled abroad. Most parents and relatives fail to perform due background checks on prospective PIO / NRI grooms and safeguard their daughter's interests. Adequate background checks such as verification of prospective groom's marital status, income and salary, family background etc are not undertaken. Further there are differences in the cultural background, standard of living and life-style of the PIO/NRI spouse and the Indian woman married to him.

In recent years this Ministry has come across following problems arising as a result of these marriages:

1. COMMON ISSUES IN NRI MARRIAGES

- Abandoned in India after Marriage: Indian woman who is married to an

NRI/PIO is, after the marriage and honeymoon in India, abandoned in India. The husband returns to the country of his residence and promises that he would arrange her visa and ticket to join him in the foreign country. However, after he leaves India, his wife doesn't have any further contact with him or his family in India. Often there is a payment of dowry in such marriages.

- Whereabouts of spouse unknown: In some cases, the abandoned Indian woman has no clue about her husband who remains abroad as she does not have his passport details, address, occupational details, etc. She registers a complaint in the Indian police station and is unable to get help without his details. The police cannot investigate or coordinate with Interpol.
- Marriage not registered: Before the overseas Indian spouse leaves for the foreign country after the marriage, the marriage is not registered in the Registrar's Office. When the Indian woman prepares the paperwork to file for a visa to join him, she discovers that her application is incomplete as there is no marriage

certificate. Her spouse denies that the marriage took place and does not come back for her.

- After marriage, the PIO/NRI spouse visits India occasionally and spends time with the wife. However the visa application for the wife is delayed or not submitted for one reason or another. The Indian wife never resides abroad after marriage. The in-laws family who could still be in India either plea helplessness or refuse to help.
- Husband already married: The Indian woman joins her PIO/ NRI spouse in the foreign country. On arrival, she learns that her husband was already married to another woman, or has a live-in relationship/partner outside the marriage. He informs her that he has married her due to pressure from his parents. The Indian wife is then asked either to continue in the same household or when she protests, is thrown out and left to fend for herself. In these circumstances, not knowing anyone in the foreign country, being unfamiliar with the legal frameworks, and fearing the social stigma of being abandoned by the spouse, she opts to continue in the same household often as a domestic help.
- Harassment by husband and in-law family: The Indian woman who reaches her husband's home in the foreign country is subjected to ill-treatment; and abuse both mentally and physically, malnourished, confined etc. by her spouse and family. Under these circumstances, she is either forced to run away or is forcibly sent back to India.
- False information about husband's job and

salary: The Indian woman, on arrival in the foreign country discovers that her NRI husband had given false information on any or all of the following: his job, immigration status, income, property, and other particulars.

- Abandoned in foreign country: After Marriage and moving to foreign countries the husband asks his wife to move out of the house so that he can marry another woman or bring in his partner. His Indian wife is stranded (sometimes with her children) in the foreign country, with no financial means to take care of her and her children's basic needs. She has no family, relatives or friends who can assist her in this situation. She is not aware of the legal framework in the foreign country or how she can obtain any help from police or civil society organizations.
- Overseas Indian Spouse disappears: The Indian woman joins her husband in the foreign country. Thereafter her husband disappears, abandoning her and letting her fend for herself.
- Sent back to India: In some cases, the Indian wife reaches the foreign country on a dependent visa. When problems crop up between the couple, she returns to India. When her visa expires, her spouse doesn't renew her visa application. Sometimes she is deceptively/ coercively taken back to India and left there without her passport, a valid visa for the foreign country, and money. She has no means of rejoining her husband. Despite her efforts and that of her family, there is no further communication from her husband. He does not come back

to India to meet her. Even if he visits India, he does not contact her or her family.

- Husband not responding to summons: The Indian woman who files a case in India under criminal law for issues pertaining to dowry demands and/ or, or matrimonial cruelty, finds that the trial cannot proceed as the husband will not come to India to attend the trial proceedings or respond in any way to summons, or even a warrant of arrest. A Look Out Circular is issued by the Indian Passport authority against the husband following a case filed by his wife. However the spouse does not acknowledge the circular or respond to it.
- Custody of children: The abandoned wife is not allowed to bring her children along with her when she returns to India. Sometimes the children are abducted or forcibly taken away by her NRI/PIO husband. The wife files for custody of her children and child support, or to bring the children back with her to India. In some cases when she returns to India with her children she has to face her husband's charges that she has illegally abducted her own children. Sometimes the Indian court passes a decree in her favour but the husband files a counter case in the foreign court.
- Husband obtains an ex-parte decree of divorce: The overseas Indian files a case for divorce in the foreign country. His wife files a civil suit against the husband in India against the divorce case in the foreign country. The overseas Indian obtains ex-parte decree in the foreign court without paying alimony or maintenance. Sometimes there are child custody issues

involved in such divorce proceedings.

2. CHALLENGES FACED BY WOMEN

Issues related to desertion of Indian women by their overseas spouses are complex and sensitive. They also fall within the purview of private international law.

2.1 Indian Legal System

- i. Denial of maintenance in India: Women who are divorced from their overseas Indian spouses are denied maintenance in India on the pretext that the marriage had already been dissolved by the court in another country.
- ii. Obstacles in getting maintenance or divorce: Women who approach the Indian court for maintenance or divorce encounter issues related to jurisdiction of courts, service of notices or orders, or enforcement of orders. Sometimes the husband commences retaliatory legal proceedings in the other country to make her legal actions null and void.
- iii. High legal costs: The Indian woman has to incur substantial legal costs while filing for maintenance or divorce. Lawyers in India are not keen to take up cases against Overseas Indians due to the legal challenges in such cases and the slim chances of winning a case.
- iv. Wife does not know about foreign laws or means to go abroad: Most often, the women are unaware of foreign laws and regulations. The overseas Indian spouse takes advantage of this ignorance and files a divorce in a foreign country. Some time the woman does not even know about the problem. Even if she does, she has no means of going abroad or a visa to visit the foreign country to attend court proceedings abroad.
- v. Visa issues: The husband threatens his wife

with cancellation of her visa or Permanent Residence Pass or Dependent Pass if she complains or does not withdraw her complaints about his ill-treatment.

vi. No corresponding laws in case of child custody Child custody cases are governed by The Hague Convention and Civil Aspects of International Child Abduction, 1980. Although India is a signatory, it has yet to create corresponding laws. Formal arbitration in such cases may also not be permissible in many countries.

2.2. Challenges pertaining to Foreign Courts

i. Husband may file complaint against wife with immigration authorities: In case of a conflict, the overseas Indian husband files a complaint against the wife with the Foreign Immigration authorities or withdraws his sponsorship of the wife. As a result the wife's visa application or renewal is rejected. In such cases, the wife is stuck in India and the husband remarries in the foreign country.

ii. Information about husband cannot be obtained due to privacy laws: In many developed countries there are strict privacy laws, due to which information about any person living in foreign country, citizen or not, cannot be obtained without their written consent. Due to these provisions the abandoned Indian woman cannot obtain any information about the location or contact details of her overseas Indian husband.

iii. More lenient divorce grounds in foreign legal systems: Husbands take advantage of lenient divorce grounds in foreign legal systems, and obtain ex-parte decree of divorce in the foreign country through fraudulent

representations and/or without her knowledge, after he sends her or forces her to go back to India or even while she was still there.

3. MEASURES TO ADDRESS ISSUES

3.1 Checking the antecedents of the prospective spouse

i. Before a girl is engaged to marry an NRI / PIO, she or her family should ascertain through her network of family, friends, neighbours etc, the antecedents of her prospective husband, his marital status; authenticity of his job, salary, educational qualifications etc. If she is not able to verify this through her network of friends, relatives, she or her family may contact the local Indian associations/ bodies/ NGOs etc. in the country of the overseas Indian fiancé to seek help in checking details/background of the fiancé.

After the wedding, the marriage should be registered in the Registrar's Office. The marriage certificate should be kept in safe custody. A copy of the certificate should be available with the wife.

Before the husband leaves for the foreign country, the Indian wife should ensure that he files her visa application in the concerned foreign Embassy in India. She must also obtain a copy of his passport, ID card, visa status, and other documents which help establish his identity and antecedents in the foreign country.

3.2 NRI husband abandoning the wife:

i. In case the overseas Indian husband abandoned the wife in India, she can file a complaint with the police in the local police station in India as an FIR under CrPC.

ii. Offences committed outside India would be deemed to have been committed within the territory of India by virtue of Section 188 of the Cr. P.C. Therefore, the wife can lodge a complaint in India.

iii. The wife should not panic if her husband obtains divorce in the other country with or without her knowledge since it is not valid in India. It is valid in India only if she participates in that case.

3. 3 Husband demanding dowry in foreign country

If the overseas Indian spouse demands dowry, cash or property to stop her ill-treatment, abuse or desertion, she should approach the Indian Embassy/Consulate for assistance, and file a complaint with the foreign police etc.

3.4. Before leaving India after marrying NRI spouses

I. One must keep a list of contact details of neighbours, friends, relatives, employer,

police, ambulance, and the Indian Embassy or High Commission.

ii. The Indian woman must keep photocopies of all important documents including her passport, visa, bank and property documents, marriage certificate, wedding photos and phone numbers of parents, relatives, friends or trustworthy people in India or abroad.

iii. In case the original documents are lost/forcibly taken away/mutilated/destroyed by or at the instance of spouse or in-laws, the photo copies will come in handy; if possible, a scanned soft copy of all these documents should be kept with another known person outside the house so that they can be retrieved, if necessary.



How to address issues related to NRI Marriages

DO's & Don'ts

1. Is there any way through which I can check the background of my overseas Indian would be husband / wife (bride or groom) ?

Before you are engaged to or marry an overseas Indian, please verify through your network of family, friends, neighbours etc. (both in India and in foreign country), the following details:

Do's and Don'ts

1. Verify the status of the spouse as actually represented, especially with regard to the following particulars: (Do's)

- Check his marital status: whether single, divorced, separated
- Employment details: qualification and post, salary, address of office, employers and their credentials
- Immigration details: type of visa, eligibility to take spouse to the other country
- Financial status (to be verified with the employer)
- Criminal antecedents, if any
- Family background

2. Check the following documents relating to the spouse and keep a copy with you and your parents:

- Visa, passport
- Social security number

- Passport number
- Tax returns of the preceding 3 years
- Proof of Address in foreign country

If you are not able to verify this information through your network of friends, relatives, you may contact the local Indian associations/ bodies/ NGOs etc. in the country where the NRI/PIO fiancé is residing to seek help in checking his details/background of the fiancé.

3. Remember the following strict Don'ts in respect of NRI marriages: (Don'ts)

- Do not blindly trust any bureau, agents, touts or a middlemen.
- Do not ever agree to forge papers or enter into any fake transactions for any reason or on any pretext.

• Do not fall for any schemes to be able to migrate to another country, or promises for green card through marriage

• Do not finalize matters in secrecy. Publicizing and sharing the information about the NRI marriage amongst the near and dear ones, friends and close relatives could help you in getting vital information which you may not be able to collect otherwise.

• Do not agree to have only a registered

marriage or getting the marriage solemnized in a far off place.

· Do not agree to the marriage taking place in the foreign country.

My husband is demanding dowry and is ill-treating me after I moved with him to a foreign country. What should I do?

I. First and foremost, you must not come under pressure to accept the demand for dowry or any other unreasonable demand made by or on behalf of your NRI/ PIO husband to end your ill-treatment, abuse or desertion.

ii. You can approach the nearest Indian Embassy/Consulate for assistance/advice, to file a complaint with the local police about harassment, abandonment, ill-treatment, etc.

iii. The Indian Embassy/Consulate can assist in providing contact details of local NGOs, approach the local police, contact your family/friends, etc. who could help you.

iv. The Indian Mission can be contacted for initial legal/financial assistance to file a case against your husband in the foreign country.

Is registration of marriage compulsory in India?

Some of the states in the Indian Union have enacted legislations to make marriage registration compulsory; These states are Andhra Pradesh, Delhi, Goa, Gujarat, Himachal Pradesh, Karnataka, and Maharashtra.

Registration of marriage is optional in other states.

After you marry the PIO/NRI, you must register the marriage at the office of the

Registrar in India before you/your husband leave the country. The marriage certificate issued by the Registrars' office and a copy of it should be kept with you and your family in India.

Please keep adequate proof like marriage photographs, wedding invitation, copy of the husbands' passport driving license, any other ID proof issued by the foreign country, visa address proof of both bride and groom etc.

Please remember the following points

- Marriage registration certificate should be carried at all times.
- Doing all the paperwork for issue of visa and other required formalities at your end-keep all the original papers with yourself.
- Affidavit from the spouse stating present marital status.
- Visit with a health/comprehensive insurance policy before arriving in the foreign country.
- Keep your passport with you in the foreign country and at least one copy of the passport.

What are the other precautions one should take before leaving India after marrying to NRI spouses?

I. Keep a list of contact details of neighbors, friends, relatives, your husband's employer in the foreign country, police, ambulance, and the Indian Embassy or High Commission in the country where you are living with your husband.

ii. Please keep photocopies of all important documents including your passport, visa, bank and property documents, marriage certificate, wedding photos and other essential papers and

phone numbers with parents or other trustworthy people in India or abroad.

iii. In case these documents are lost/forcibly taken away /destroyed by your spouse or in-laws, the copies will be useful. If possible, keep an e- mail account, where you can save the copies of the scanned documents and also scanned soft copies of these documents with you or/and any person you trust.

My NRI husband has abandoned me. What should I do?

I. If your NRI husband has abandoned you in India, you can immediately file a complaint/ FIR on grounds of cruelty with the police in the local police station in the area where you were abandoned.

ii. Offences committed outside India would be deemed to have been committed within the territory of India by virtue of Section 188 of the Cr. P.C. Therefore, you can lodge a complaint for the same in India.

iii. If your husband has abandoned you in a foreign country or harasses you in any way, you may approach the local police. You may also immediately contact the following in case of an emergency/to seek assistance in the foreign country:

- Indian Embassy in the foreign country
- Contact details of the Indian Mission including phone numbers of officers incharge of Community welfare.
- Employer of the husband
- Local Indian associations and networks of Indian citizens in the area of the residence of your fiancé
- Friends and relatives in that country

What are the precautions a newly wed Indian woman can take in a foreign country?

- Try to open a bank account in the country of residence, so that you can withdraw money in emergency and be financially independent.
- Read and understand the laws of the foreign country and your rights there, especially against any form of abuse or neglect, including ill-treatment, domestic violence, how to get residence permit, etc.
- Keep in touch after marriage on phone and e-mail with friends and relatives in the foreign country.
- Wherever it is possible, learn the language of the country you reside in after marriage.

Other measures to assist distressed Indian nationals are:

i) Under the Indian Community Welfare Fund, Missions provide initial legal assistance, shelter and board & lodging to distressed Indian nationals, including women abandoned or cheated by their overseas Indian spouses.

ii) Many Indian Missions have designated 'Open House' meetings during which any distressed Indian national including women can approach Mission for assistance and guidance.

iv) Ministry is empowering aggrieved Indian nationals by providing information and guidance about procedures, mechanisms for serving judicial summons on the overseas Indian husband; filing a case in Indian courts or police station; issuing Look out Circulars; impounding and cancelling of Indian passport of the husband; lawyers and NGOs empanelled with Indian Missions etc. The information is also available on Ministry's website.

v) FAQs: Ministry has prepared FAQs in English and Hindi regarding problems faced by Indian women who are married to PIOs and NRIs and how they can be addressed. FAQs are available on the web-site of Ministry of External Affairs (<http://www.mea.gov.in/faq-hi.htm>).

vi) Ministry has compiled information about legal provisions prevailing in foreign countries with respect to various issues faced by aggrieved Indian women. This is also posted on the web-site of Ministry of External Affairs, (<http://www.mea.gov.in/faq-hi.htm> (in the same page of FAQs).

vii) Details of Organizations/NGOs registered with the Indian Missions/posts abroad to assist distressed Indian women deserted by their Overseas spouses is provided at weblink: <http://www.mea.gov.in/legal-and-financial-assistance.htm>

vii) OIA-II Division in Ministry also receives many such petitioners personally and counsels them about the legal options that are available to them, procedures to be followed, and nodal Ministries, etc, which they can approach to obtain various forms of redressal.



A Helping hand :

Legal & and Financial assistance to women deserted by NRI husbands

The Scheme is a welfare measure to support Indian women in distress through the mobilization of the local Indian community in the endeavor and with some financial assistance from the Government.

I. Objective:

The objective of the scheme is to provide some financial assistance to needy Indian women in distress who have been deserted by their overseas Indian / foreigner husbands for obtaining counseling and legal services. “Desertion” in the context of eligibility for providing financial assistance under the MEA Scheme would mean the voluntary abandonment of the wife by her husband. Also, if the husband - by his words-compels the wife to leave the matrimonial home or stay away without reasonable cause, he will be guilty of desertion, though the wife has seemingly separated from him. Desertion is frequently coupled with non-support, which is



a failure to provide monetary resources for those to whom such an obligation is due. The term “Overseas Indian” would include Non-Resident Indians (NRIs) and Persons of Indian Origin (PIOs). The counseling and legal services would be provided through credible Indian Women’s Organizations/Indian Community Associations/NGOs identified for providing such services and empanelled with the Indian Missions in the USA, UK, Canada, Australia, New Zealand, Malaysia and the Gulf countries. The Scheme is a welfare measure to support Indian women in distress through the mobilization of the local Indian community in the endeavor and with some financial assistance from the Government.

II. Scope of and Eligibility for the Scheme:

The scheme would be available to Indian

women who have been deserted by their overseas Indian / foreigner husbands or are facing divorce proceedings in a foreign country, subject to the following conditions:-

- (i) The woman is an Indian passport holder.
- (ii) The marriage of the woman has been solemnized in India or overseas with an overseas Indian or a foreigner.
- (iii) The woman is deserted in India or overseas within fifteen years of the marriage;

or

- (iv) Divorce proceedings are initiated within fifteen years of the marriage by her overseas Indian / foreigner husband.

or

- (v) An ex-parte divorce has been obtained by the overseas Indian / foreigner husband within twenty years of marriage and a case for maintenance and alimony is to be filed by her.
- (vi) The scheme would not be available to a woman having a criminal case decided against her, provided that a criminal charge of Parental Child Abduction shall not be a bar if the custody of the child has not yet been adjudicated upon. "Parental Child Abduction" for this purpose will be defined as the unauthorized custody by the mother, without the other parent's

agreement and contrary to family law ruling, which largely removes the child from care, access and contact of the other parent and family side and shall be deemed to be Parental Child Abduction. International child abduction occurs when a parent, relative or acquaintance of a child leaves the country with the child or children in violation of a custody decree or visitation order. Another related situation is retention of children when they are supposedly taken on vacation to a foreign country and are not returned." A criminal charge of Parental Child Abduction, in the context of this Scheme, would mean the framing of charge against the mother by the police authorities consequent on lodging FIR or its equivalent.

- (vii) The domicile of the Indian woman seeking relief under the Scheme is not relevant for allowing the benefit. The woman may be domiciled in the country of her overseas Indian / foreigner husband or in India at the time of making the application.
- (viii) Preference will be given to applicants on the basis of financial need.
- (ix) Assistance will be provided to meet the legal and other costs, by the Heads of Indian Missions/Posts overseas directly to the applicant's legal counsel empanelled with the concerned Indian

Mission/Post, or through the Indian Community Associations / Women's organizations / NGOs* acting on the woman's behalf in an overseas legal institution.

(x) The assistance will be limited to US\$ 3000 per case for developed countries and US\$ 2000 per case for developing countries and will be released to the empanelled legal counsel of the applicant or Indian Community Association / Women's organization / NGO concerned to enable it to take steps to assist the woman in documentation and preparatory work for filing the case.

(xi) The Indian Women's Organizations /

Indian Community Associations / NGOs will make efforts to enlist community advocates, preferably women advocates, to extend further legal assistance / appearance in court etc on a pro-bono basis.

Note: *NGOs would also include local NGOs that are empanelled with the Indian Missions/Posts abroad.



PROFORMA FOR ASSISTANCE

1.	Complete name of the Complainant : First Name -Middle Name - Surname	
2.	Date of Birth (DD/MM/YYYY)	
3.	Nationality: (Please attach signed undertaking about your Nationality)	
4.	Residential Address :	
5.	Pass port No and place of Issue: (copy to be enclosed)	
6.	Date and place of Marriage: (copy of Marriage certificate to be attached)	
7.	Number of children from your marriage to the overseas Indian: pl specify: Date of birth, Age & gender of the child	
8.	State the purpose for availing legal /financial benefits under the scheme (namely; I. Desertion/abandonment by spouse; ii. Getting maintenance order ; iii. restoration of conjugal rights; i. Prosecution of overseas spouse (for fraud/cheating – as he is already married); ii. Ill treatment /abuse by spouse and inlaws. iii. Custody of children	
9.	Details of spouse: i. Complete name/ Nationality / Passport No.: ii. Complete residential address: H.NO: Street: City: State: Country: Telephone No.: iii.. If employed; position in company: Employer's address : (with area code, Country code:	

	and telephone number) iv. Any other relevant details:	
10.	Date of desertion /date of initiation of divorce proceedings / date of exparte divorce (if any) by overseas spouse; a) Details of case(s) filed by you, against Overseas Indian Spouse in India and abroad : b) Period of your residence in the country of spouse : c) Present status of the court case, if any, in India /abroad:	
11.	Are you presently employed. If so; i. Name of Employer/Company: ii. Your position in Company/Org. : iii. Complete address of the Employer : iv. Monthly income from salary/ employment (INR) v. Any other source of income, please specify: vi. Are being supported financially by parents/family/relatives.	
12.	Financial assistance being received by the applicant, from any other authority/NGO (approx. amount per month in INR).	
13.	Please give signed undertaking about average annual income in Indian Rupees.	
14.	Any criminal charges pending or contemplated against the applicant.	
15.	Additional facts/information relevant to the case, if any	

UNDERTAKING

I have gone through the Ministry of External Affairs Scheme for giving legal and financial assistance to deserted Indian women. I authorize the Indian Mission at _____ to take up my case as per the provisions of the scheme.

Date:

Name (in capital letters) :

Address :

Signature:

LIST OF NGO's for Assistance

Sr.No	Indian Mission	Indian Women's Association /NGOs empanelled with the Indian Missions /Posts
1	Embassy of India, Washington DC, USA	ASHA (Asian Women's Self –help Association) , Post Box 2084, Rockville, MD 20847-2084
2	Consulate General of India, San Francisco. ,USA	(i) MAIRI, 234 , East Gish Road, Suite 200, San Jose, CA 95112 (ii) NARIKA Post Box NO. 14014, Berkeley, CA 94714 (iii) SevA Legal Aid 37053 Cherry Street # 207 Newark, CA 94560 Email: anu@worldwideibs.com
3	Consulate General of India, New York, USA	(i) SAKHI, New York. Sakhi For South Asian Women NewYork, Post Box 20208, New York, NY 10001 (212) 714-9153. (ii) AWAKE, (Asian Women's Alliance for Kinship and Equality).AWAKE,130 North Main Street, New City, New York 10956. email: awakeall@awakealliance.org (iii) MANAVI, New Jersey Manavi Inc.P.O. Box 3103 New Brunswick, NJ 08903. email: manavi@manavi.org (iv) SEWAA(SERVICE AND EDUCATION FOR WOMEN AGAINST ABUSE) Philadelphia SEWAA,P.O. Box 1591 Havertown, PA 19083. email: sewaapa@gmail.com (v) INTERNATIONAL INSTITUTE OF BUFFALO 864 Delaware Avenue Buffalo, New York 14209. email: iib@iibuff.org (vi) Asian Women's Safety Net,US Highway 1 South, Suite 106 Princeton, NJ 08540. Email:info@asianwomenssafety.net.com



Sr.No	Indian Mission	Indian Women's Association /NGOs empanelled with the Indian Missions /Posts
		(vii) Sneha Inc; Post Box No. 271650, West Hartford, CT-06127
4	Consulate General of India Chicago, USA	APNA GHAR INC (OUR HOME), 4753, North Broadway, Suite,632, Chicago, IL 60640. email: info@apnaghar.org
5	Consulate General of India, Houston, USA	Daya Inc., 5890 Point West Dr, Houston TX 77036
6	Embassy of India , Doha, Qatar	Indian Community Benevolent Fund (ICBF) , PO Box 2788, DOHA (QATAR)
7	High Commission of India, Canberra, Australia	Federation of Indian Communities of Queensland Inc, (FICQ), Brisbane ,PO Box 157, Spring Hill, Qld 4004(23 Stralock St, Chapel Hill, Qld 4069)
8	Consulate General of India, Melbourne	(i) The Indian Welfare & Resources Centre (IWRC), the Welfare wing of Federation of Indian Association of Victoria, Melbourne . (ii) Federation of Indian Associations of Victoria INC (FIAV), PO Box 696, Glen Waverley, Vic 3150, 3/85, Foster Street, Dandenong, Vic – 3175. email : president@fiav.asn.au
9	Consulate General of India, Sydney, Australia	(i) United Indian Association Inc; Post Box 575, Strathfield, NSW 2135
10	High Commission of India, Ottawa , Canada	(i) Indian Canada Association 1301 Prestone Drive, Ottawa, ON K1E , 2Z2 (ii) Ottawa Community Immigrant Services Organization , 959 Wellington Street West, Ottawa, ON K1Y 2X5. (iii) National Association of Canadians of Indian Origin, 24 Saint-Paul East, Suite 201. Montreal , QC H2Y 1G3.

Sr.No	Indian Mission	Indian Women's Association /NGOs empanelled with the Indian Missions /Posts
		(iv) AWIC Community & Social Services 3030 Don Mills Road, Peanut Plaza , Norht York, ON M2J 3C1.
11	Indian Embassy, Bahrain	Migrant Workers Protection Society (MWPS) PO.Box 5561 Flat no.2, Ground Floor, Building 647, Road 3625, Adliya, Area 326,Kingdom of Bahrain
12	High Commission of India, Wellington , New Zealand	Shakti Community Council Inc., 5A Jordan Avenue, Onehunga, Auckland, PO Box 24448, Royal Oak, Auckland email scc@shakti.org.nz
13	High Commission of India, London, U.K	(i) Good Human Foundation , 42 Eaton House, 39-40 Upper Grosvenor Street, London W1K2NG. (ii) Sangam Association of Asian Women, 210 Burnt Oak Broadway, Edgware, Middlesex HA8 OAP, U.K. Email : info@sangamcentre.org.uk



Know the legal provisions in foreign countries

• United States of America

S. No.	Problems faced by Indian women married to Overseas Indians	Current Legal and other provisions in the foreign country
1	Mechanisms to verify background of PIO/NRI in foreign country prior to marriage-education, job, salary, marital status, etc.	Informed candidates can get the information through open source available on Internet. However, there is no mechanism to verify such details in USA due to privacy law.
2	Unregistered marriage of Indian women with Overseas Indian spouse (only social marriage)	In USA, marriages are always registered. Hence, the consulate has not come across any social marriages.
3	Dowry demanded by spouse/parents-in-law who are living abroad	Dowry demand is totally prohibited in USA.
4	Overseas Indian hides the fact that he is already married in the foreign country	Suppressing of facts hidden is serious offence. One can legally challenge the case.
5	Finding out location or whereabouts of husband in foreign country	Privacy act of the country does not allow them to share the information; However legal course can be perused to find the details through the court. Information can also be ascertained through his/her employer or from foreign government immigration etc.
6	Disappearance of spouse/ Abandonment of Indian women by overseas Indian husbands (NRI/PIO /foreign spouse)	Once we receive complaint about missing/ abandoned spouse we try to help them through our empanelled NGO's and local Indian communities support. An NGO-ASHA can be contacted for legal and financial assistance.
7	Providing shelter to abandoned woman/children abandonment by overseas Indian	Same as point 7. Along with this, there are some other organizations located in USA who provide shelter for women without consideration of race, immigration status and nationality. A list of such organizations in California can be found at www.cpedv.org . a list of organizations in USA can be seen at http://www.thehotline.org/

8	Grant of permanent residency to Indian women/children abandoned by Overseas Indian spouse in India	Permanent residency is provided to the Indian women/ children if the spouse is a USA citizen or permanent residence. Govt. of USA is very supportive to the victims of domestic Violence. Other than this, (according to an NGO-‘Maitri’) there are few visa categories that individuals undergoing domestic violence may be eligible for: Removal of Conditions on Permanent Residency Residency option for battered spouses of US citizens or permanent residents (VAWA Self Petition) U visa for victims of crimes (Applicable in crimes in the US) Trafficking visa for Spouses in limited cases
9	Property Rights for aggrieved Indian wife in property of Overseas Indian spouse in foreign country	Aggrieved Indian wife has the claim to the husband’s property in USA provided they are married for more than 3 years, with a child from the same marriage and wife is unable to work or earn livelihood due to physical/educational deficiency. Moreover, as per ‘Maitri’, for any family law case (Protective Order, divorce, separation etc), there is an option for asking for alimony depending on the circumstances and property rights in few cases. The Wife may not need to be present if she hires an attorney to work with her.
10	Abuse/Domestic violence/III-treatment of wife by the NRI/ PIO husband	The Govt of USA provides legal/financial unemployment benefits to the victims provided the husband is a USA citizen or permanent residence. Moreover, an NGO-ASHA for women can be contacted for legal and financial assistance.
11	Child abduction/Charges on wife by overseas Indian husband	As any child that is born in USA is a citizen of USA. If parent take their child/children to India without notifying the other parent illegally the law and justice system takes a serious note about it. Accordingly judgment is delivered. The US State Department has 2 employees dedicated for South Asian cases of Abduction out of which one full time and a part time employee deal with Indian cases.

12	Child Custody sought by Indian woman when children, spouse are based abroad	Same as point 12.
13	Ex parte decree/divorce in foreign country	Divorce either mutual or in absence of the Indian spouse in the country is possible through legal means or with help of NGOs.
14	How much money is required to file a case in such matters	The legal costs may vary from case to case and can range from \$10 to \$50, 000. Legal fees are very high and mostly hourly basis in USA.
15	Look out circular of Overseas Indians sent by GOI to foreign government	Execution may be facilitated through Mutual Legal Assistance Treaty (MLAT)
16	Legal assistance by foreign government to the aggrieved woman to file case against overseas Indian	It is possible to seek the legal assistance from the foreign government provided the spouse is a USA citizen/permanent residence.
17	Foreign government/court recognising the jurisdiction of Indian courts	All legal issues are dealt under the arrangement of Mutual Legal Assistance Treaty (MLAT)
18	Serving summons/arrest warrants order by Indian court on Overseas Indian spouse who lives abroad	Summons/ arrest warrants are sent to the accused through regular post by this consulate. US state department discourages us to send these through them.
19	Extension of Visa of aggrieved Indian wife (as dependent) of overseas Indian spouse even after she is abandoned in India/ ill-treated by spouse	Yes, but it is done on case to case basis.
20	Payment of Maintenance for Indian wife by Overseas Indian spouse	The USA courts pass order to provide maintenance to the spouse and the amount depends on several criteria.

• Canada

S.No.	Problems faced by Indian women married to Overseas Indians	Current Legal and other provisions in the foreign country
1	Mechanisms to verify background of PIO/NRI in foreign country prior to marriage-education, job, salary, marital status, etc.	It is submitted that under the strict provisions of Privacy Act, the Canadian authorities do not share any information on any matter, including marriage-related issues, about any person, whether Canadian or otherwise, living in Canada without the written consent of the person in question. Hence, it is not possible for this Mission to verify the background relating to the education, job, salary, marital status of the PIO/NRI in Canada prior to marriage.
2	Unregistered marriage of Indian women with Overseas Indian spouse (only social marriage)	The Canadian authorities do not share with the Consulate any personal information about a person, whether Indian or otherwise, in view of the strict privacy laws. Therefore, it would not be possible for this Mission to know the number of unregistered marriages of Indian women with overseas Indian spouses.
3	Dowry demanded by spouse/parents -in-law who are living abroad	The Mission has no locus standi to approach any Canadian authority or any person in Canada to inquire about the dowry demanded by any NRI/PIO spouse or his/her family living in Canada. One has to take recourse to the provisions of the Mutual Legal Assistance Treaty (MLAT) between the two countries for redressal of grievances.
4	Overseas Indian hides the fact that he is already married in the foreign	As already mentioned, the Canadian authorities do not share any information with the Consulate or any country third person about the marital status of a PIO/NRI, in view of the strict privacy laws. The only way to know the marital status of an Indian national is checking of their PRIDE data which again cannot be said to be a true proof.
5	Finding out location or whereabouts of husband in foreign country	Owing to strict Privacy laws, it is not possible for this Mission to approach any Canadian authority or private persons to find out the whereabouts of an Indian NRI/PIO spouse in Canada.

6	Disappearance of spouse/ Abandonment of Indian women by overseas Indian husbands (NRI/PIO/foreign spouse)	There is no way this Mission can trace in Canada a fugitive spouse who has abandoned his/her Indian spouse.
7	Providing shelter to abandoned woman/children abandonment by overseas Indian	The local Canadian social services authorities do provide shelter and food to abandoned woman/children though they do not share such information with this Mission.
8	Grant of permanent residency to Indian women/children abandoned by Overseas Indian spouse in India	The Canadian authorities grant permanent residency only to those women and children who are sponsored by the Indian NRI/PIO spouse.
9	Property Rights for aggrieved Indian wife in property of Overseas Indian spouse in foreign country	An aggrieved Indian wife can file a case in Indian court for 50% of the foreign owned property of her spouse. However, the Canadian authorities do not recognise the court orders of India in such cases. She can also approach a lawyer in Canada after reaching here even on visitor visa, sponsored by anybody (not necessarily her husband).
10	Abuse/Domestic violence/III- treatment of wife by the NRI/PIO husband	The Mission also received complaints of abuse/ domestic violence/ill-treatment by Indian wives at the hands of their NRI/PIO husbands. However, the Mission cannot take up the matter with the concerned local police authorities as it has no locus standi in the matter due to strict privacy laws. In such cases, only the distressed Indian women can seek the assistance of local police/other authorities directly.
11	Child abduction/Charges on wife by overseas Indian husband	Normally the Canadian immigration authorities ask for the consent letter if the child is travelling alone or with one parent. The HCI on its part also require the consent of both the parents at the time of issuing Indian visa to the minor child. Even if the mother is able to abduct a minor child holding Canadian nationality to India, the Canadian authorities file a court case and vigorously follow the matter with the concerned foreign authorities. In such cases, Consulate is not kept in the loop.

12	Child Custody sought by Indian woman when children, spouse are based abroad	The aggrieved Indian wife will have to seek the help of the local Canadian court. The custody of the child (who may be having Canadian nationality) can be given to the mother, who may even be holding Indian nationality.
13	Ex parte decree/divorce in foreign country	There have been many cases where the local courts have taken Ex parte decisions favouring Canadian citizens. However, it happens when the Indian women is not represented in the court case.
14	How much money is required to file a case in such matters	The legal cost in Canada is huge and the amount may vary from case to case. If the divorce case is with mutual consent, it may be decided within six months - one year at a cost of Canadian \$ 2000. However, if it is contested and goes for trial, the legal costs may be anywhere between Canadian \$ 50,000 and beyond.
15	Look out circular of Overseas Indians sent by GOI to foreign government	As regards Servicing of judicial documents in Canada, including court orders/summons/show cause notices, it is regulated by reciprocal arrangements with Canada finalized and notified by the Ministry of Home Affairs, New Delhi, as per statutory provisions of the Criminal Procedure Code (Section 105). MHA, which is the nodal Ministry and Central Authority for seeking and providing the Mutual Legal Assistance in Criminal Matters, receives all kinds of such requests, examines them and take appropriate action including taking up the matter with the Canadian Department of Justice, Ottawa. If the judicial documents are not sent under MLAT, the Canadian authorities do not take any action. Comprehensive guidelines in this regard can be seen on the website of the Ministry of Home Affairs (http://www.mha.nic.in).
16	Legal assistance by foreign government to the aggrieved woman to file case against overseas Indian	The local government provides free legal aid to aggrieved Indian women, if she is resident in Canada.

17	Foreign government/court recognising the jurisdiction of Indian courts	Canadian Courts do take cognisance of the orders issued by the Indian courts only when these are forwarded to the Canadian Department of Justice, Ottawa by the Ministry of Home Affairs for further action under the MLAT.
18	Serving summons/arrest warrants order by Indian court on Overseas Indian spouse who lives abroad	It is not possible to serve summons/arrest warrants issued by an Indian court against an NRI/PIO spouse living in Canada. The Canadian courts and other authorities do not take cognisance of such orders unless these are forwarded by MHA under MLAT to the Canadian Department of Justice.
19	Extension of Visa of aggrieved Indian wife (as dependent) of overseas Indian spouse even after she is abandoned in India/ill-treated by spouse	The visa cannot be extended unless so requested by the PIO/NRI husband.
20	Payment of Maintenance for Indian wife by Overseas Indian spouse	In almost all the cases, the distressed Indian wife who is located in India do not get any maintenance from her PIO/NRI husbands. If she is resident in Canada, she can take up the matter for maintenance with the Canadian Superior Court (Family branch).

वैचारिक घुसळणीची संधी



विजया रहाटकर

अध्यक्षा, महाराष्ट्र राज्य महिला आयोग.

महाराष्ट्र राज्य महिला आयोग आता पंचविशीत आला आहे. पंचविशी म्हणजे शिक्षणाची शिदोरी गाठीशी बांधून, आई-वडिलांच्या छायेतून बाहेर येऊन कर्तृत्व गाजविण्याचे, उमेदीचे, धडाडीचे वय. आयोगाचीही स्थिती अशीच आहे. पूर्वसुरींनी रचलेल्या पायावर कळस चढविण्याचे काम मी आणि माझ्या सहकाऱ्यांना करायचे आहे. आमच्या परीने ही जबाबदारी पार पाडण्याचा पूरेपूर प्रयत्न आम्ही करूच, पण या प्रयत्नांसाठी आम्हाला समाजाकडूनही साथ हवी आहे.

आयोगाच्या गेल्या पंचवीस वर्षांतील वाटचालीकडे आणि त्या बरोबर बदलत गेलेल्या समाजाकडे नजर टाकली तर असे लक्षात येते की, सन २०००नंतर आपला समाज खूप बदलला आहे. त्याबरोबरच त्याच्यासमोरील समस्याही बदलल्या आहेत.

त्यामुळेच राज्य महिला आयोगाचे काम, त्याचे स्वरूप आणि आमच्यासमोरील समस्यांतही बदल झाला आहे. आपल्या पारंपरिक समाजरचनेत स्त्रीची काहीशी उपेक्षा झाली, हे नाकारता येणार नाही. पण, त्यातून भारतीय स्त्री बाहेर पडली, सावित्रीबाई फुले, रमाबाई रानडे, पंडिता रमाबाई आदी अनेक स्त्रियांनी केलेल्या प्रयत्नांच्या जोरावर स्त्री शिक्षित झाली, कर्तृत्ववान झाली. घराचा आधारस्तंभ झाली. आजची स्त्री तर कल्पना चावला, सुनीता विल्यम्सच्या रूपाने अगदी थेट अवकाशात पोहोचली आहे. अवनी चतुर्वेदी, भावना कांत आणि मोहना सिंह यांच्या रूपाने ती लढाऊ वैमानिक बनली आहे. एकीकडे प्रगतीची नवनवी शिखरे ती पादाक्रांत करीत असताना तिच्यासमोरील आव्हानेही बदलत आहेत.

पारंपरिक रचनेत हुंडाबळी, कौटुंबिक छळ, मारहाण अशा अत्याचारांना स्त्रीला तोंड द्यावे लागत होते, मात्र आता त्यात नव्याने काही भर पडली आहे. त्यात परदेशस्थ किंवा अनिवासी भारतीयांबरोबर विवाह करणाऱ्या स्त्रियांना तोंड द्याव्या लागणाऱ्या समस्या तसेच मानवी तस्करी यांचे प्रमाण मोठे आहे. या दोन क्षेत्रांवर राज्य महिला आयोगाने लक्ष केंद्रित केले

आहे. बरोबर एक वर्षापूर्वी २७ जुलै २०१७ रोजी राज्य महिला आयोगाने महिला आणि बालकांची तस्करी रोखण्यासाठी एक आंतरराष्ट्रीय परिषद आयोजित केली होती. तिची वर्षपूर्ती होत असतानाच यंदा नवी दिल्ली येथे दुसरी परिषद होत आहे, हा एक अपूर्व योग म्हणावा लागेल.

मानवी तस्करी : मानवतेला काळिमा

समाजात स्त्री विविध समस्यांना तोंड देत असते. कधी कुटुंबाचा, पतीचा आधार तुटल्यामुळे तिला एकाकी जीवन जगावे लागते, मुलांचा सांभाळ एकटीने करावा लागतो. शिक्षणाचे प्रमाण कमी असल्यास अगदी नेमकी पार्श्वभूमी तयार होते आणि अशा स्त्रिया मानवी तस्करीच्या शिकार बनतात. जगभरात दरवर्षी मानवी तस्करीच्या माध्यमातून १५० अब्ज डॉलरची उलाढाल होते. जगभरात तस्करी केल्या जाणाऱ्या महिलांपैकी ५५ टक्के महिला आशिया-प्रशांत क्षेत्रातील असतात. यावरून या गुन्ह्याचे गांभीर्य लक्षात यावे.

भारतापुरते बोलायचे तर सन २०१६मध्ये भारतातून सुमारे २० हजार महिला आणि बालकांची तस्करी केली गेली, अशी आकडेवारी केंद्र सरकारच्या महिला आणि बालकल्याण मंत्रालयाने प्रसिद्ध केली आहे. सन २०१५च्या तुलनेत २०१६मध्ये तस्करीत २५ टक्क्यांची वाढच झाली होती आणि तस्करीला सर्वाधिक बळी पडणाऱ्या महिला पश्चिम बंगालमधील होत्या.

राज्य महिला आयोगाने या तस्करीविरोधात पावले उचलली आहेत. मी येथे आनंदाने आणि अभिमानाने नमूद करू इच्छिते की, आयोगाने नव्यानेच सुरु

केलेली सुहिता हेल्पलाइन या दृष्टीने अतिशय उपयुक्त ठरते आहे. अंबरनाथच्या फरीदा खान एका एजंटमार्फत ओमानमध्ये रोजीरोटी मिळविण्यासाठी गेल्या. मात्र, तेथे त्यांचा पासपोर्ट काढून घेऊन छळ करण्यात आला. फरीदा यांचा कुटुंबाशी संपर्क तुटला होता. त्यांच्या पतीने आयोगाच्या सुहिता हेल्पलाइनवर मदत मागितली. त्यानंतर आयोगाने परराष्ट्रमंत्री सुषमा स्वराज यांच्याकडे मदत मागितली. त्यांनीही तत्परतेने हालचाली करून फरीदा यांची सुटका केली आणि त्यांना कुटुंबाकडे सुखरूप पोहोचवले.

आहे मनोहर तरीही...

माहिती तंत्रज्ञान, बँकिंगसह इतर क्षेत्रांतून नोकरी-व्यवसायासाठी परदेशी जाण्याचे प्रमाण गेल्या काही वर्षांत खूप वाढले आहे. आपल्या मुलीलाही एखादा परदेशस्थ पती मिळावा, अशी इच्छा आई-वडिलांची असते. मुलींनाही या परदेशस्थ स्थळांविषयी मोठे आकर्षण असते. याचा गैरफायदा घेण्याची प्रवृत्तीही बळावते आहे. ही अनिवासी भारतीय मंडळी भारतात येऊन येथील मुलींशी विवाह करतात आणि त्यानंतर या मुलींचा छळ सुरु होतो. या छळाचे काही ठळक प्रकार पुढे आले आहेत.

१) भारतात लग्न केल्यानंतर पत्नीला परदेशी घरी न नेता येथेच ठेवले जाते. कित्येकदा पत्नी गरोदर असते, पण पतीशी संपर्क पूर्णपणे तुटलेला असतो. सुनेला सासू-सासरेही मदत करीत नाहीत.

२) पतीसोबत परदेशी गेल्यानंतर पत्नीची मानसिक, शारीरिक, आर्थिक छळवणूक केली जाते. या छळाला कंटाळून पत्नी मायदेशी निघून तरी येते वा

तिला जबरदस्तीने परत पाठवले जाते.

३) लग्नापूर्वी वा लग्नानंतरही पतीकडून किंवा त्याच्या घरच्यांकडून पत्नीच्या माहेरी जबर हुंड्याची मागणी केली जाते. तिच्या पूर्ततेवरच विवाहाचे भवितव्य अवलंबून असते.

४) पत्नीला परदेशात परागंदा अवस्थेत सोडून दिले जाते.

५) भारतीय मुलीशी विवाह केला असला तरी प्रत्यक्षात त्या मुलाचे परदेशात एखादे लग्न झालेले असू शकते.

काही ढोबळ अडचणींचा उल्लेख येथे केला आहे. अशा अनेक अडचणी आहेत. परदेशात गेलेल्या मुली अनेकदा असहाय असतात. (साऱ्याच तशा नसतात, याचाही उल्लेख आवर्जून केला पाहिजे.)

या अडचणी दूर करण्यासाठी राष्ट्रीय महिला आयोगाने काही शिफारशी केल्या आहेत. त्यांची अंमलबजावणी सुरु झाली आहे. एनआरआय विवाहांची नोंदणी ४८ तासांत करणे केंद्र सरकारने बंधनकारक केल्याची घोषणा केंद्रीय महिला आणि बालकल्याण मंत्री मनेका गांधी यांनी नुकतीच केली आहे. या नियमामुळे मुलींचे शोषण थांबण्यास नक्कीच मदत होणार आहे. केंद्र सरकारचे परराष्ट्र मंत्रालय आणि महिला आणि बालकल्याण मंत्रालय यांचा अमूल्य सहभाग आणि

सहकार्य आम्हाला लाभते आहे. परराष्ट्रमंत्री सुषमा स्वराज आणि महिला आणि बालकल्याण मंत्री मनेका गांधी यांनी राज्य महिला आयोगाला वारंवार सहकार्य केले आहे. त्यांच्या सहकार्याखेरीज मानवी तस्करीला पायबंद घालणे आणि एनआरआय विवाहांतील धोके कमी करणे या दोन्ही गोष्टी साध्य होणाऱ्या नाहीत.

या सर्व बाबी लक्षात घेता राज्य महिला आयोगाने नवी दिल्लीत या विषयावरील परिषद भरविण्यामागे राष्ट्रीय पातळीवर वैचारिक घुसळण करण्याचा हेतू आहे. महिला आणि बालकल्याणाबाबत केंद्र सरकार, राज्य सरकारे, विविध स्वयंसेवी संस्था, महिला आयोगांसारख्या विविध निमसरकारी यंत्रणा यांच्यात सुसंवाद घडविण्याची संधी या निमित्ताने राज्य महिला आयोगाला उपलब्ध होत आहे.



ही काळजी घ्या...



// स्वीयस्मिन्नुत्वा सरा //

खबरदारीचे उपाय :

- 1) कोणताही निर्णय घाईगडबडीने घेऊ नये आणि कोणाच्याही कोणत्याही दबावाला बळी पडू नये
- 2) केवळ फोन किंवा ई मेलवरील संभाषणांमधून कोणताही अंतिम निर्णय घेतला जाऊ नये
- 3) कोणतीही संस्था, कक्ष, मध्यस्थ किंवा दलालावर डोळे झाकून विश्वास ठेवू नये
- 4) कोणत्याही खात्रीशिवाय किंवा कोणत्याही गोष्टीची खातरजमा न करता कोणत्याही कागदपत्रांवर सहाय्य करू नयेत किंवा कोणतेही व्यवहार करू नयेत
- 5) ग्रीन कार्ड किंवा नागरिकत्व किंवा अन्य तत्सम योजनांच्या प्रलोभनांना बली पडू नये
- 6) कोणताही निर्णय खासगीत किंवा गुप्तता बाळगून घेऊ नका. तुमचे जवळचे नातेवाईक, मित्र किंवा हितचिंतक कदाचित तुम्हाला अशी माहिती देऊ शकतील की जी तुम्हाला माहिती नसेल. त्यामुळे अशा गंभीर विषयांबाबत तुम्ही तुमच्या जवळच्या व्यक्तींशी चर्चा करून निर्णय घ्या

मुलाची चोख माहिती गरजेची :

- 1) मुलगा प्रथम वर आहे, घटस्फोटित आहे की विभक्त
- 2) नोकरी व्यवसाय : शिक्षण, हुद्दा, नोकरीचे ठिकाण, त्याचा पत्ता, संबंधित कंपनीविषयीची माहिती
- 3) इमिग्रेशनचा दर्जा : व्हिसाचा प्रकार कोणता आहे, तो पत्नीला आपल्याबरोबर परदेशात नेऊ

शकतो का

- 4) आर्थिक परिस्थिती
- 5) भारतात असलेली स्थावर, जंगम मालमत्ता आणि त्याचा पत्ता
- 6) गुन्हेगारी पार्श्वभूमी किंवा एखाद्या गुन्हाशी संबंध
- 7) कौटुंबिक माहिती, पार्श्वभूमी

मुलाची खालील कागदपत्रे पडताळावीत :

- 1) पासपोर्ट, व्हिसा
- 2) मतदान ओळखपत्र किंवा तत्सम ओळखपत्र
- 3) सोशल सिक्युरिटी नंबर
- 4) मागील तीन वर्षांची प्राप्तिकर विवरणपत्रे
- 5) बँक खात्याचा तपशील
- 6) मालमत्तेची कागदपत्रे

मदतीसाठी उपयुक्त ठरणारी माहिती :

- 1) परदेशातील भारतीय दुतावास
- 2) स्थानिक भारतीय मंडळे आणि त्यांचे संपर्काचे जाळे
- 3) स्थानिक पोलिस आणि अन्य साहाय्यभूत यंत्रणा

खालील बाबींची पूर्तता केलीच पाहिजे

- 1) विवाहनोंदणी केलीच पाहिजे
- 2) व्हिसा व अन्य तत्सम बाबींची कागदपत्री पूर्तता पतीने नव्हे, तर पत्नीनेच केली पाहिजे
- 3) आपल्या मॅरितीयल स्टेटसची माहिती देणारे मुलाचे अॅफिडेव्हिट
- 4) मुलाचा व्हिसा आणि पासपोर्टबाबतची माहिती मिळवण्यासाठी माहिती अधिकाराचा वापर करणे



// स्वीयस्मिन्नुत्वा सरा //

Preface



In September of 2017, the Global Estimate on Modern slavery reported that presently 40.3 million people are being denied the basic human right to freedom globally. Trafficking of women and children in its multiple forms is considered not only a social evil, but a crime.

A majority of women and children are trafficked, sex trafficking is one of the biggest reasons of trafficking, and bonded labour is another. Traffickers prey on vulnerable families, deceiving them and their daughters, bringing young girls into the big city or aboard, on the pretext of getting jobs, but eventually selling them to brothels or domestic work. The victims are sexually exploited, their innocence and their dignity robbed. Once trafficked, both families and innocent young girls are unable to break free of the violent cycle of abuse, shackled and broken for the rest of their foreseeable lives. They are paid miniscule amounts of money for their work, making it nearly impossible for them to live a life of dignity. The children never go to school. The traffickers continue to make money off of their vulnerability.

Experts estimate that traffickers make billions of dollars as profits by preying on innocent women and children. In the Global March against Child Labour report, Kailash Satyarthi said, “360 billion USD or 21 lakh crores Indian rupees are generated by enslaving young girls in brothels and homes. This shocking revelation is an eye opener to the devastation caused by Human Trafficking, it is worse than a natural disaster.

The government has enacted laws to provide justice to these victims of violent crime including Indian Penal Code and The Immoral Traffic (Prevention) Act, 1956, The Bonded Labour System (Abolition) Act, 1976 of India and The Child and Adolescent Labour (Prohibition and Regulation) Act of 1986 provide for the rescue and rehabilitation of victims of trafficking. The Central government has taken many progressive steps like dialogue with countries like Bangladesh, Nepal and other countries to deal with trafficking of women and children.

The government of India is, even now, working towards legislation that would protect people from the gross violations of human rights, emphasizing the issues of trafficking of women and children. Being protected by the law means that the law is non-discriminately enforced and upheld for all citizens. All branches of the justice system must be informed, prepared, and equipped to use the law to protect all the citizens of India.

On this day of the “National Conference on NRI Marriages and Trafficking of Women and Children” on 27th July 2018, the Maharashtra State Women’s Commission is happy to release this book. This book contains articles on various topics and solutions on trafficking of women and children. I hope that you will find this resource material useful as well as insightful.

Vijaya Rahatkar,
Chairperson, Maharashtra State
Women's Commission.



INDEX

Sr. No.	Topic	Page No.
1	The Challenge of Human Trafficking	3
2	Fighting for the Oppressed: Freedom, Justice and restoration through Partnerships	7
3	Child Bonded Labour - A National Scourge	11
4	Modern - Day Slavery : Protection of its Youngest Victims	14
5	Sustaining Justice - Preserving Humanity	17
6.	Supreme Court urges All to Protect India's Children	20
7.	The Rise of Online Sexual Abuse of Children	23
8	आव्हान मानवी तस्करीचे	27
9	संवेदनशीलचे दर्शन!	30

The Challenge of Human Trafficking



Vijaya Rahatkar,
Chairperson, Maharashtra State Women's Commission.

Studies show that the interstate trafficking forms about 90% in the overall human trafficking in the country while trafficking from foreign land is 10%. The states of West Bengal, Assam, Rajasthan, Gujarat, Maharashtra, Tamil Nadu, Uttar Pradesh and Delhi come in descending order in this crime.

Vijaya Rahatkar,
Chairperson, Maharashtra State Women's Commission.

- 20 millions - Number of women and children in the country falling prey to human trafficking
- 2 million - The number of women being forced into sex trade every year
- 65,000 - Number of children disappearing due to

One is numbed to see these dark statistics of human trafficking in the country. While the

country is scaling many peaks of progress on one hand, the human trafficking on the other hand is acquiring menacing form with each passing day. The issue of illegal human trafficking has become an issue of concern for the world. Today, human trafficking is placed at third spot in the worldwide organized crimes following the drugs and arms sale. Its menacing nature becomes clear from this. The impact of these organized crimes on the society and the women is extremely dangerous.

In fact, human trafficking is a stigma for the human race. It involves dragging those in vulnerable and precarious situation in the trap and selling them sometimes by cheating them or forcing them. Nobody knows what happens to innocent people falling prey to this nor are any specific attempts made in that direction. Significantly, such cases continue to be discussed for few days and the world moves on. The plight of women and children suffering from this remain as they are. The



way out can be found only through the stricter law enforcement, enlightenment of the society and deliberations for the resolution of these issues on different platforms. With this in mind, the Maharashtra State Women's Commission and the Ministry of External Affairs have jointly organized an international workshop on July 27 in New Delhi. Trafficking of women and children as also various problems faced in the marriages of foreign based Indians as also way of resolving them will be discussed on the occasion. External Affairs Minister Sushma Swaraj and Maharashtra's Chief Minister Devendra Fadnavis will be present at the inauguration ceremony while the workshop will conclude in the presence of Vice President of India Venkaiah Naidu. National and international experts working in this field will be present on the occasion and put forward their thoughts.

In our country that is progressing day by day, 65 thousands children go missing every year even today. That means a child disappears every eight minutes. The mind becomes numb after reading this. Some of these children are found later but one cannot even imagine how severe an impact all this makes on their mind. The statistics tell us that no clue is found of at least 11 thousand children every year. Even



imagining as to what happens to these children is horrifying. This is certainly not a matter of pride for any civilized society. Many of these children face sexual abuse while many are employed as child labourers. Some are used for begging.

There is not a single sector in the country today where the women have not left their mark. They are making her contribution to the progress of the nation in their own way. Women have proven their capabilities in every field. And yet, they are the ones who suffer most in the human trafficking. The proportion of women's trafficking is about 60% in the overall trafficking. None has the right to destroy another's life. It's one way to impose slavery on other. Well-meaning serious efforts are necessary worldwide to put an end to this. According to National Criminal Investigation Department's report in 2016, more than 8,000 cases of

human trafficking have come to light and 2300 people including 182 foreigners have been rescued in them. In the previous year, there were 6877 such cases in 2015. Kidnapping of below 16 years child form the most cases among them.

Studies show that the interstate trafficking forms about 90% in the overall human trafficking in the country while trafficking from foreign land is 10%. The states of West Bengal, Assam, Rajasthan, Gujarat, Maharashtra, Tamil Nadu, Uttar Pradesh and Delhi come in descending order in this crime. The reason why West Bengal occupies top spot in the trafficking is that its borders are along the Bangla Desh, Nepal and Bhutan. The amount of trafficking is more there. Although similar crimes have taken place in remaining states, the police record say that they were not significant.

Under the law of our country, human trafficking is a serious offense. Mainly children, girls and women fall prey to this. The never-ending poverty and constant penury are the main reasons for human trafficking. There are many instances where parents have sold their sons and daughters in the fear of poverty never going away. Women are cheated with the lure of marriage or work in the city. Many unfortunate women who dream of coming out of poverty and earning money are trapped in this vicious net of trafficking and



their entire life is obscured. The poor girls from small villages are taken to cities with the lure of jobs and forced into sex trade. Many girls do not even resist this with the false hope that they could send some money to their families and the trafficker profit from this. Many girls also blindly trust the smugglers enticed by the promise of marriage. At times, such persons marry them off to another person. The person with whom she is married sells the girl. The rich men habituated to the prevalent consumerism today are the reals customers of these smugglers. Similarly, single men living thousands of kilometres away from home for jobs also become customers for them. Thus, this chain of smugglers continues forever.

It is not that the women's trafficking is done only for the sex trade. Many a times, women are smuggled to get cheap labour also. These women are given raw treatment as a cheap labourer. Today millions of women are being exploited in the labor

market of the world in this way. Overall, humans are smuggled sometimes with enticement, lure, force or sometimes by terror. Later on, they are used for nefarious activities like sale, begging, to commit different crimes, spying, smuggling or drugs trade.

The union cabinet headed by Prime Minister Narendra Modi has approved tabling of Human Trafficking (Prevention, Protection and Rehabilitation) Bill, 2018 in the parliament. This bill resolves the problem of trafficking with the viewpoint of prevention, protection and rehabilitation. For the first time ever, a Rehabilitation Fund has been created under

it. It will be used for the victim's physical, mental and social care. It will include the victim's education, skill development, healthcare, mental support, legal aid and safe shelter. Special court will be set up in district for faster hearing of human trafficking cases. There is provision for ten years of rigorous imprisonment to life imprisonment for the convicts of human trafficking offenses and the minimum fine is Rs. 1 lakh. We have an uphill task to bring the proportion of human trafficking under control first by social awakening and then rigorous measures.

* * *



Fighting for the Oppressed

Freedom, Justice and Restoration through Partnerships

India is a source, destination, and transit country for women and children subjected to forced labor and commercial sexual exploitation. We have observed that roughly 90% of trafficking in India is from among the most vulnerable - the low caste Dalit and tribal communities, religious minorities, and women from excluded groups.

There are around 8 million trafficked persons in India today. The most current available data from the National Crime Records Bureau (NCRB) indicates that most of India's human trafficking is internal and predominantly carried out for the purposes of forced/bonded labor, child labor, and commercial sexual exploitation (CSE).

In India, the definition of human trafficking is interpreted and based on Indian laws such as Section 370 of the Indian Penal Code along with other constitutional articles and



legislations that prohibit trafficking of persons. Specifically, the Immoral Traffic Prevention Act (ITPA, 1956) addresses trafficking for sexual exploitation while the Bonded Labor Act (1976) addresses trafficking for exploitative labor purposes.

India is a source, destination, and transit country for women and children subjected to forced labor and commercial sexual exploitation. We have observed that roughly 90% of trafficking in India is from among the most vulnerable—the low caste Dalit and tribal communities, religious minorities, and women from excluded groups. To provide an effective response to the menace of human trafficking, various government departments have come forward to work in collaboration with local NGOs. However, it is often observed that the government and the local NGOs working in source and destination areas lack proper resources as well as legal and casework experience to effectively help those trapped. Additionally, government and private rehabilitation facilities are often

without capacity and legal expertise to ensure that survivors receive access to government welfare and benefits.

Solution(s)

JVI understands that to effectively counter an organized crime like human trafficking through a comprehensive and nuanced strategy, it is imperative that there be strong partnerships with government and non-government entities as well as inclusion of survivors as key stakeholders. Building on its proven casework model and strong existing partnerships, JVI focuses its efforts on the following initiatives in high-prevalence trafficking source and destination areas:

- JVI and Civil Society Organization (CSO) partners document trafficking cases of commercial sexual exploitation and bonded labor for intervention.
- JVI assists government and law enforcement bodies' in rescue intervention to secure freedom for trafficked victims, rehabilitation services, and safe repatriation.
- JVI attorneys provide legal casework services to secure justice on behalf of trafficked survivors and ensure accountability for perpetrators by assisting public justice system officials in

prosecution process.

- JVI strengthens government systems through capacity-building training programs for government officials on legal procedures and resource development related to human trafficking.
- JVI strengthens institutional capacity of CSO partners on anti-trafficking laws and programs.
- JVI empowers source-area communities by informing them of their rights and access to legal aid programs.
- JVI develops grassroots-based legal aid programs in close cooperation with state/district legal services authorities.

A Success Story

Case Background: Tulsi*, a 26 year old widow with two children residing in a remote village in West Bengal, was searching for a job to



[2016 Global Slavery Index](#)

National Crime Records Bureau's [Crime in India 2016 Statistics, Ministry of Home Affairs \(2017\)](#), p. 512-518.



support her family. Jamal, a family acquaintance, heard of Tulsi's plight. He gained her trust and convinced her that he would arrange a tailoring job with a salary of Rs. 6000 per month, including boarding and lodging facilities in Mumbai.

On the pretext of giving Tulsi a job, Jamal sent her with his wife to a red-light area in Pune where she was sold at Rs. 40,000 for prostitution under the strict supervision of four traffickers and pimps. Tulsi attempted to escape but she was threatened and was demanded to pay the amount of money for which she was bought for if she wanted to be released. Feeling trapped and harassed, she contacted her parents who then reached out to our partner organization. With the help of the local police, we rescued Tulsi and arrested four accused persons who are currently in police custody.

After the rescue, the victim was safely placed at a shelter home in Pune where her needs for legal assistance and aftercare were provided for. She was also provided with counseling, medical aid, and additional support. Five months later, Tulsi was repatriated back to her family in West Bengal.

Outcomes: To curb the most dubious organized crime, we seek to achieve the following:

- Work with government and non-government stakeholders and partners to strengthen their awareness and technical capacities on the laws and procedures of

human trafficking and further improve holistic casework interventions (includes rescue, prosecution, and aftercare). For instance, prior to Tulsi's rescue, JVI trained its partner organization on surveillance and casework intervention. With the new set of knowledge and skills, our partner organization was approachable and prepared to do the groundwork in collecting crucial intelligence on the victim's situation from



sources that enabled the police to find Tulsi's location. Moreover, our trained partner organization was better equipped to assist the victim's parents in following formalities with regard to filing a complaint at the police station and in providing additional support to the rescued victim and her family. JVI shares educational information to promote good practices and tools as well as provides technical support to concerned authorities in sensitizing them on the protection of trafficked victims while ensuring that

perpetrators are held accountable for their crimes.

- By working closely with trafficked victims, JVI ensures that their needs are prioritized and catered to through a victim-centered approach. As a result, victims are able to assist the public justice system by providing testimonies that help build watertight cases to stand the test of a trial and result in increased conviction rates. With the help of Tulsi, we were able to identify and rescue four Bangladeshi victims, one of whom was a minor, and raid three more brothels with the police. Most importantly, Tulsi's recorded testimony further enabled the police to capture and arrest one of the accused who absconded at the time of her rescue.
- After victims are rescued from trafficking, JVI provides regular aftercare services for survivors and their families for two years, with the objective of enabling them to be self-reliant and thus prevent them from being re-trafficked.
- JVI's aftercare staff works at the grassroots level by:
 - Conducting home visits with survivors and their families,
 - Following-up with government officials to secure victims' compensation, release certificates, and welfare benefits,
 - Assisting survivors in



applying for various government schemes to gain welfare benefits,

- Enrolling children in schools and providing opportunities in skill development, and
- Advocating with the government for livelihood support for rescued survivors.

At present, Tulsi is re-married and has three children; two of them are enrolled at a local school and the youngest is in an Integrated Child Development Scheme (ICDS) government funded welfare program. JVI continues to visit Tulsi on a regular basis and has been providing psycho-socio-medical support to the trafficked survivor.

• * * * *

**(Contribution by :
Justice ventures international
india project)**

* The actual name has been changed to protect identity.



Child Bonded Labour A National Scourge

The unofficial figures of child bonded labour go up to 60-115 million, where 15 million work as virtual slaves. Uttar Pradesh has the most number of child labourers followed by Maharashtra and Bihar .



sums of money or those working to pay off the inherited debts of their fathers.” Other than parental debt, the driving forces for bonded labour may also be customary or caste-based practices, but more often than not it results from the insatiable greed of those who perpetuate the practice.

What is Child Bonded Labour?

As the Supreme Court recently reiterated, children are our nation's greatest asset. Raised well, these children grow to be healthy and productive members of our society. Child bonded labour, which occurs when a child is forced to work in servitude in order to pay off a real or imagined debt (often with little practical hope of actually paying off said debt), is a scourge that needlessly and maliciously devours these children's hopes, dreams, potential and dignity. Bonded children are those “who have either been pledged by their parents for paltry

Bound by the debts incurred by their parents, guardian or relatives, children live miserable lives in the heat and isolation of stone quarries, brick factories, rice mills, cracker making factories, zari industries, rose farms, silk worm farms, fields, or performing menial labour as domestic helpers. They earn little or nothing, are starved, mistreated and often physically and sexually abused. More importantly, they are robbed of their childhood and the opportunity to obtain an education. By adulthood, they contract serious health issues and physical deformities. As per the 2011 census, India has 35.38 million working children. The unofficial figures go up to 60-115 million, where 15 million work as

1. The small hands of slavery: Bonded Child Labour in India Human Rights Watch Children's Right Project available at <https://www.hrw.org/sites/default/files/reports/india969.pdf>.
2. National Commission for the Protection of Child Rights: Abolition of Child Labour: Recommendations to Eleventh Five Year Plan
- 3) <http://ncpcr.gov.in/showfile.php?lid=69>
<http://ncpcr.gov.in/showfile.php?lid=930>.
- 4) Id. at 2
- 5) Know Your Rights: Bonded Labour, National Human Rights Commission, <http://nhrc.nic.in/Documents/Publications/KYR%20Bonded%20Labour%20English.pdf>.



virtual slaves. Uttar Pradesh has the most number of child labourers followed by Maharashtra and Bihar (NCPCR, 2015).

Characteristics of Bonded Labour:

Bonded labour is based on the existence of a creditor-debtor relationship. It is characterized by torture, violence, expropriation and exploitation of the child labourer by the employer.

The employer neither pays the child labourer the government agreed remuneration, nor lets them engage in any other employment or education, ultimately destroying their ability to lead a dignified life.

The employer restricts the freedom of the child to move from one part of the territory of India to another.

The child labourer is denied their right to sell at market value any of their property, product of their labour, or the labour of a member of their family.

Additional industries and Sectors where Child Labour is found:

There is a high incidence of bonded child labour in industries like beedi, silver, synthetic gem stone, silk, leather, agriculture, carpet weaving, and brick kilns.



Legal Framework for Combatting Child Bonded Labour

Art. 4 of the Universal Declaration of Human Rights (UDHR) prohibits slavery, the slave trade and servitude in all forms.

Art. 32 of the Child Rights Convention, 1989 requires the State to protect children from economic exploitation harmful to a child's wholesome development.

Art. 35 requires the state to prevent the sale or trafficking of children.

Art. 36 prohibits all other forms of exploitation of children.

Art. 1 of the United Nations Supplementary Convention on Slavery, the Slave Trade and Institutions and Practices similar to Slavery, 1956 abolishes debt bondage and child servitude among others.

Art. 21 of the Constitution of India ensures every person the right to life and personal liberty. Art. 23 prohibits the trafficking in

human beings and forced labour and Art. 24 prohibits the employment of children in factories.

Section 4 of the Bonded Labour System (Abolition) Act, 1976 abolishes bonded labour in all its forms and practices.

S. 5 declares that any custom or agreement which promotes the same in any form shall be void. S. 6 extinguishes the liability to repay bonded debt.

S. 23 makes engaging in bonded labour practices punishable with imprisonment up to three years and a fine of two thousand rupees.

The Child Labour (Prohibition and Regulation) Act, 1986 regulates the hours and working conditions for child labourers who have not completed fourteen years of age. It prohibits the employment of children in twenty -five hazardous industries.

Under S. 17, the Central and State governments have to appoint inspectors to ensure the compliance of the Act.

As per S. 2(1) (14) of Juvenile Justice (Care and Protection) Act, 2015, a child who is found working in contravention of the existing labour laws in force is a child in

need of care and protection and a Child Welfare Committee is entrusted with the responsibilities of such a child.

Supreme Court and High Court Cases:

Peoples Union for Civil Liberties v. State of Tamil Nadu & Ors

The Apex Court issued a few guidelines to the State Governments and Union Territories on combatting bonded labour, such as constituting vigilance committees, making proper arrangements for released bonded labourers, sensitization of District Magistrates and other Statutory Authorities about their duties under the Bonded Labour System (Abolition) Act, 1976.

Sageer & Ors. v. State of U.P. & Ors

The Allahabad High Court acknowledged the need to sensitize the District Magistrates and other concerned government officials for the effective implementation of the Bonded Labour System (Abolition) Act, 1976. The Act abolishes and penalizes bonded labour in all forms and provides for the constitution of vigilance committees. High Court emphasized that the court and government should ensure the satisfactory rehabilitation of the released bonded labourers.

6) Child Labour (Prohibition and Regulation) Act, 1986, Section 17

7) W. P. No. 3922/1985, 2013 (1) SCC 585.

8) W. P. No. 70403/2011, 2012 (91) ALR 59.



Modern Day Slavery

Protection of its Youngest Victims

It is becoming increasingly clear that the one factor binding most victims of modern day slavery is poverty. In many cases the trafficker preys upon the vulnerability of an economically poor person by promising them a way out, and in so doing the trafficker ensures that the victim languishes in the cyclical process of oppression.

Children are the future of our nation. An investment in preserving and protecting the rights of children will drastically improve the cultural, socio-economic and political landscape of a country. The notion of children and childhood today, is starkly different from ancient times where they were considered mere property with no real identity.

Today, international legal consensus has accorded children with basic rights aimed at survival, such as minimum standards of food, shelter and clothing, the right to live with dignity, protection from violence, neglect and all kinds of abuse, the right to participate in decisions affecting him/her and the right to mental, physical and emotional development. It is encouraging to note that the rights of the child are the most ratified human rights, yet still one in four victims of modern slavery is a child.



Modern day slavery, distinguishes itself from its more ancient predecessors in that it goes far beyond simply subjecting a person to servitude. Modern day slavery includes within its ambit forced labour, bonded labour, child marriage, trafficking and descent based slavery. The global effort to contain and eradicate this phenomenon is prominent.

UN Sustainable Development Goal 8.7 calls on countries to, “[t]ake immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.” Set with expectations of witnessing the end of modern slavery in this lifetime, Mr. Guy Ryder, ILO Director-General, has observed that “the world won't be in a position to achieve the Sustainable Development Goals unless we dramatically increase our efforts to fight these scourges.”



The mere intention to provide children with a safe and secure environment in which to flourish may fall short if the issues that plague and threaten their safe existence are not better understood. The root causes of the problem may have been identified, yet the existence of the exploitation of children on a daily basis and in large numbers, begs one to ask the question of whether our strategic engagement with the problem is accurate and whether the solutions are appropriate and effective.



It is becoming increasingly clear that the one factor binding most victims of modern day slavery is poverty. In many cases the trafficker preys upon the vulnerability of an economically poor person by promising them a way out, and in so doing the trafficker ensures that the victim languishes in the cyclical process of oppression. More overtly, those trapped in poverty are taken advantage of on an everyday basis through robbery, coercion, deception, rape, blackmail, assault and mental and physical torture. This is everyday violence that mostly goes undetected but is omnipresent in the lives of the poor. Promises of better opportunities and freedom to live life without debt and worry are ironically used to trap the victims in a world of hopelessness. Modern day

slavery exists largely due to poverty, and every day violence is itself a major cause of poverty.

Anthropologically, man has made great attempts to pin down the causes, sources and remedies for poverty. Laws, social action, welfare schemes and benefits are humble attempts to empathetically provide relief and recourse to better standards of living and protection to those in need. However, the success of these measures are based on the accessibility of the same by the targeted masses. There lies a huge gap in the reachability of the needy to these initiatives, thereby hampering the success of the efforts to vanquish poverty.

The repeated commission of offences of modern day slavery and burgeoning of the crime, the perceived notion of impunity of

1) http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_574717/lang-en/index.htm

the perpetrators and the victimization of scores of people including children, necessitates the need to revisit our visualization of the problem with deeper insights and wisdom. It is time to gauge the relationship between everyday violence and poverty which plays a major role in the perpetration of modern day slavery. Theoretical efforts and solutions, while may look good on paper, may not be effective in curbing the challenges faced on ground. Welfare schemes for children and women will be fruitless if these women and children do not feel safe to step out of their houses in the first place to acquire the benefit of these services, or are robbed upon receipt of the services.

It is time to take note of the invisible violence meted out to the poor on a daily basis. Subjugation resulting from coercion, deception, rape, abduction, physical and

mental threat – are all factors leading to the bigger crimes of trafficking, forced labour etc. Identifying the key issues and strengthening the criminal justice system to mete out situationally appropriate responses, aimed at strengthening the poor and providing rehabilitation for victims already entrapped in the system, can go a long way in sustainably ending heinous crimes such as modern day slavery. Blanket responses may not be ideal. Unlearning and re-learning our understanding of the issues related to violence against the poor in relation to poverty is crucial. The end result would justify it a thousand times over, especially when it would entail the protection of the most vulnerable-children.

* * *



Sustaining Justice : Preserving Humanity



Mr. Sanjay Macwan

Regional Director, North India,
International Justice Mission India

In India, the patriarchal mindset and consideration of women as second-class citizens – reinforced by cultural, societal and traditional norms - have aggravated the abuse faced by women. The problem of sexual violence is even more rampant amidst the poor.

Globally, the outpour against sexual harassment and sexual violence have effortlessly bound souls in a camaraderie transcending geography, language, religion and politics. The movement has no leader but only voices and shared experiences of violations of dignity and humanity. It has obliterated the differences in the backgrounds of various women and unified their attempts to valiantly narrate common tales of shame, fear and helplessness brought upon by their perpetrators. All evidence of how pervasive, commonplace and universal the phenomenon of sexual violence really is.

Injustice is meted out by one exerting power or control over the victim, preying on their vulnerability and exploiting their weaknesses. Commonalities faced by almost all victims is

self-doubt on his/her role in the exploitation and the fear of retaliation by the perpetrators. Society's additional stigmatization and judgment, further isolates victims and has forced silence on the matter for decades. Today, the focus is shifting onto the offenders. The message is clear: zero-tolerance.

In India, the patriarchal mindset and consideration of women as second-class citizens – reinforced by cultural, societal and traditional norms - have aggravated the abuse faced by women. The problem of sexual violence is even more rampant amidst the poor. A deeper exploration of this problem reveals that it is in fact a sub-set of the mammoth issue of violence faced by the poor on an everyday basis. Over the last decade, I have witnessed first-hand the exploitation and violence experienced by the poor. My work has enabled me to support victims of human trafficking and in almost all cases the victims were from destitute backgrounds and had been tricked into slavery.

In all known human history and in every



combatting everyday violence is an efficient and effective criminal justice system. A justice system that is empowered by strong laws, equipped with necessary resources and skills, efficient in enforcement and effective in its outcomes, ends impunity and creates deterrence to realize safe and secure society, especially for women, children and the vulnerable. The pillars of police, prosecution, court and social services are the lifeline to the poor. A robust criminal justice system exists when the state (nation) prioritizes, strengthens, and infuses will into these pillars.

Further, the onus is greater on the criminal justice system to treat victims as victims. Creating institutional sensitivity - within judiciary, law enforcement and social services - would help the victims of sexual violence break out from veils of shame and fear. The responsibility must be shared collectively by the criminal justice system and civil society to also examine societal values and principles that's justify the secondary treatment of women. For if we do not, the system would continue creating barbarians that could irreconcilably reverse any notion of advancement of man by perpetrating heinous violations of dignity.

“Most poor people do not live under the shelter of the law, but far from the protection

of the law.” The realness and truth behind this statement from a UN Report is yet to be comprehended fully. Not poverty alone, but the lethal combination of violence and poverty have clipped India from flying higher and faster. The parameters of India's development indices – economic, human, gender, governance and others will struggle to climb higher if we turn a blind eye to the hidden but ever rising phenomenon of violence.

Our country can boast of reaching its greatest potential only when our poorest brother is secure and when he can rely on the criminal justice to protect him. While the intentions to provide justice by various actors in the system are in the right place, much is needed to be done, fast, to ensure the safety and well-being of the vulnerable. It is the need of the hour to apply tomorrow's solution today and day after's solution. tomorrow.



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- 1) Global Slavery Index, 2016 P.25
 - 2) Economics Behind Forced Labour Trafficking, Comprehensive Case Studies of Child Domestic Labour and Commercial Sexual Exploitation, P. 35
 - 3) Economics Behind Forced Labour Trafficking, Comprehensive Case Studies of Child Domestic Labour and Commercial Sexual Exploitation, P. 35

SC to Nation : Protect India's Children

The crux of the Supreme Court's judgement in *SampurnaBehura v. U.O.I.* is that while India undeniably has laws on the books which seek to protect that “supremely important asset” that is our children and to give them the opportunity to grow into productive citizens, such laws are meaningless if they are not acted upon, if they are never made more than ink on paper.

The Supreme Court in *Sampurna Behura v. Union of India* recently took in a long hard look at how this country treats its children, particularly those who come through the legal system. The Court concluded that “it is time for the State to strongly and proactively acknowledge that, “children in our country have fundamental rights and human rights and they need to be enforced equally strongly.”

The root of the Supreme Court's analysis is that children “deserve dignified treatment and merely because they have no voice in the affairs of State, it does not mean that they are inconsequential members of society who can be compelled to live in conditions that are



uncomfortable (to say the least) and who have little or no access to justice.”

Resting in this bedrock principle, the Apex Court once again confirms that which we all know to be true, but which we sometimes forget; that “[t]he nation's children are a supremely important asset. Their nurture and solicitude are our responsibility. Children's programmes should find a prominent part in our national plans for the development of human resources, so that our children grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with the skill and motivations needed by society. Equal opportunities for development of all children during the period of growth should be our aim, for this would serve our large purpose of reducing inequality and ensuring social justice.”

It is heart-wrenching to consider how much human potential has already been lost to the suffocating violence and fear facing our Nation's children. But consider the converse – how many leaders, heroes and visionaries can be raised up if we simply start protecting and investing in these children? What happens when we begin to treat all of India's children as our own children, when we remove from them the anchors of violence and injustice





that threatens to drag them down, and when we break the cycle that causes scared and oppressed young children to grow up to commit the same crimes that were once perpetrated against them?

This is the fork in the road at which India now stands, and the Supreme Court knows it. While many different stakeholders in the broader public justice system (the courts, the police, the National and State Commissions for the Protection of Child Rights, the District Child Protection Units, Juvenile Justice Boards, Child Welfare Committees, Social Workers, the Childcare Institutions, the various levels and branches of government, NGOs and many others) have much work to do to move India down the correct path, the Supreme Court does not equivocate in reminding us that “the judiciary has a constitutional obligation to ensure that everybody acts in the best interests of the child.” Yet, in truth, the judiciary now faces so much more than an obligation; our country is at an inflection point, a moment in time in which India has before it one of the greatest opportunities facing any nation on earth, and all that is required is that every one of us not only stops and takes stock of what we can do

to help, but that we then commit to doing it.

Thankfully, the Supreme Court has taken the first step down this path by considering the question of what each of us can do to help our children. To wit, the Supreme Court's broad answer is that every stakeholder in the public justice system must implement the “true spirit” of the Juvenile Justice (Care and Protection of Children) Act, 2000 and the Juvenile Justice (Care and Protection of Children) Act, 2015.

While the Supreme Court has many suggestions for how each stakeholder in the public justice system can implement the true spirit of these acts, two stand out for the judiciary. First, protecting and nurturing our children is a priority and the legal system's allocation of resources directed towards this goal should reflect that. Of all the resources available to the court, perhaps none are more valuable than the courts' time, energy and influence. In this the Supreme Court urges “each High Court and the Juvenile Justice Committee of each High Court [to] continue [] its proactive role in the welfare of children in their State.” Moreover, the Supreme Court directs “the Chief Justice of every High Court to register proceedings on its own motion for the effective implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015 so that road-blocks if any, encountered by statutory authorities and the Juvenile Justice Committee of the High Court are meaningfully addressed after hearing the concerned governmental authorities.” Thus, the judiciary is to be a champion for this cause and should use its influence in whatever way it can to ensure that all children – victims or



those in conflict with the law – are being protected and nurtured.

Second, every interaction with children in the public justice system, regardless of whether they are a victim or in conflict with the law, should be guided by the desire to rehabilitate and reintegrate that child into society. Put another way, every participant in the public justice system should ensure that their attitude and approach towards children in the system, and the decisions they make affecting those children, makes it more likely that the children will develop into healthy, robust and productive members of our society. In that sense, the Apex Court specifically states that all should become sensitized to the unique needs of children. We must move beyond viewing the children as burdens or troublemakers, and our goals for these children should be much more than mere physical survival or detainment.

As an example of what sensitized means in this context, the Supreme Court offers the specific suggestion that each court should endeavor to create a child friendly ambience and environment. Indeed, those in the legal profession quickly become accustomed to being in court and we sometimes miss how scary and overwhelming it can be for a child to be involved in legal proceedings for the first time. The Supreme Court admits as much, stating that “the experience in our courts of a juvenile accused of an offence or the victim of a sexual offence is traumatic.” Because of this,

all stakeholders should “act with a high degree of sensitivity, care and empathy for the [child] victim and juvenile in conflict We need to have some compassion towards them – even juveniles in conflict with law, since they are entitled to the presumption of innocence - and establishing child friendly courts and vulnerable witness courts is perhaps one manner in which the justice delivery system can respond to ease their pain and suffering.” There are innumerable ways in which the court's posture of empathy and sensitivity towards the children can manifest, including expediting cases involving children, allowing children to testify via video conferencing or using partitions in live testimony to block the view of the accused from the children, and providing in depth explanation of any custodial decisions made to the children.

The crux of the Supreme Court's judgement in *SampurnaBehura v. U.O.I.* is that while India undeniably has laws on the books which seek to protect that “supremely important asset” that is our children and to give them the opportunity to grow into productive citizens, such laws are meaningless if they are not acted upon, if they are never made more than ink on paper. We all have our part to play; the time is now for all to turn our words to action and catalyze a sea change in how our children are protected and nurtured.

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1) *SampurnaBehura v. UOI &Ors.*, Civ. W.P. No. 473 of 2005,2018(2)SCALE209, para. 2.

2) *Id.* at para. 42.

3) *Id.* at para. 22.

4) *Id.* at para. 11.

5) *Id.* at para. 95(16).

6) *Id.* at para. 96.

7) *Id.*



The Rise of Online Sexual Abuse of Children



The emerging threats in India include Cyber Bullying, Online Sexual Abuse, Online Sexual Exploitation, Cyber Radicalization, Online Attacks and Frauds and Online enticement.

A 13 year old from Tirupur was recently lured and raped in Chennai by a 21 year old man who befriended her on Facebook. Unfortunately, this is not an isolated incident and is not the only danger the internet poses to our Nation's youth. In 2017, India had 331.77 million internet users. With the growing age of technology and access to internet, offline forms of crime and violence against children are finding new forms of expression in the online world. While it may not be at the forefront of our minds, non-contact or virtual abuse can be just as harmful for children as in-person physical abuse. Adopting an anonymous identity and masquerading online allows perpetrators to commit vicious and depraved offences with perceived impunity. In a written reply to Rajya Sabha, Minister for Electronics and IT, Ravi Shankar Prasad in

2016 said that, as per the data revealed by the National Crime Records Bureau (NCRB) in 2015, 1,540 cases of online child sexual abuse had been registered between 2013 and 2015. Given the anonymity provided by the internet and the difficulty in tracking such crimes, this is understood to be the lower limit of the actual number of instances of online abuse.

While developing technology often proves to be a boon for young minds, providing developmental and educational benefits, the access to the internet also exposes them to the potential risk of online abuse and exploitation. The emerging threats in India include Cyber Bullying, Online Sexual Abuse, Online Sexual Exploitation, Cyber Radicalization, Online Attacks and Frauds and Online enticement.

Types of Online Sexual Abuse and Impact

Online Sexual Abuse of Children (OSEC) relates to the online distribution of sexually explicit and violent content which involves children. OSEC includes production, distribution and use of Child Sexual Abuse Material (CSAM) and includes child pornography, 'sextortion', revenge pornography. This abuse is extremely difficult to track and



quantify as there has not yet been a comprehensive survey relating to online child abuse. Further, as per Aarambh India, an initiative against online sexual exploitation of children, there has not yet been a documented case of webcam sex tourism in India. This is not to say that the problem does not exist. Just as India continues to grapple with stopping child abuse in other areas, such as in-person sexual abuse (through sex trafficking, for example) or bonded labour, it is certain that online abuse is an issue that must similarly be dealt with. In fact, NCRB data says there has been a 140% increase in the number of criminal cases booked under the sections governing child pornography. More generally, amongst experts there is a rising concern regarding the increase in the circulation of sexually explicit material online within India.

Existing Legislation

Not only is the online exploitation of children repugnant and reprehensible, India's laws make clear that such conduct is illegal. Article 39(f) of the Constitution directs the State to develop policies securing that children are given opportunities and facilities to develop in a healthy manner in conditions of freedom and dignity, and that childhood and youth are protected against exploitation and moral and material abandonment. The Convention on the Rights of the Child (CRC) 1989 was ratified by India on 12th November 1992 and specifies that in all actions concerning children the best interests of the child shall be a primary consideration [Article 3 (1)]. India has also signed and ratified the Optional



Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography in 2004. Similarly, the Protection of Children from Sexual Offences Act (POCSO), 2012 is a step forward in providing special procedures for children who are survivors of sexual violence.

In prosecuting offences pertaining to OSEC cases, the Information Technology Act, 2000, and the Information Technology (Amendment) Act, 2008 (Section 67B) are often invoked. These acts specifically punish involvement in sexually explicit online or electronic content depicting children, as well as the cultivation, enticement or inducement of children to online relationships with other children for a sexual act. Punishment for the first conviction includes imprisonment which may extend to 3 years and fine of up to 5 lakh rupees, and for subsequent offences, imprisonment may extend to 5 years and a fine of up to 10 lakh rupees.

Further, the provisions of the Information Technology Act have been fortified by the Protection of Children from Sexual Offences Act, 2012 which deals with several online offences against children, including child

pornography and grooming (preparing a child for engaging in sexually explicit conduct). Section 11 makes it illegal for a person to create or entice a child to create any sort of sexual content. Punishment for this crime is imprisonment up to three years and a fine. Section 13 criminalizes the use or transmission of real or simulated images of a child for pornographic purposes. Similarly, section 15 penalizes the possession of child pornography, which is punishable by up to three years imprisonment and a fine.

Conclusion

There is a rising tide of online sexual violence being perpetrated against our Nation's children which can only met by a swift and forceful response. It is no time to duck our collective heads in the sand and pretend that nothing is wrong; the safety and security of our children is at stake. Thankfully, it appears that many, including the judiciary, are beginning to take notice of this. In fact, the Supreme Court of India recently took a suo moto action on a letter written by Prajwala, a Hyderabad based NGO addressed to the Chief Justice which highlighted the issue of massive circulation of two videos of sexual violence over the internet and internet based

messaging platforms by seeking response from the concerned ministries and states. As a result of which a Committee was setup by the Ministry of Home Affairs to take the cognizance of the issues related to cyber-crimes and to suggest a road map for tackling its various facets. The Committee recommended two schemes viz the Scheme for setting up of Indian Cyber Crime Co-ordination Centre and the Scheme for setting up of Cyber Crime Prevention against Women and Children (CCPW).

Keeping in consideration these developments, it is critical that children and adults are educated to exercise caution in order to save children from various forms of exploitation and reduce the chances of their vulnerability. Moreover, all stakeholders in the broader public justice system (judges, public prosecutors, law enforcement, social services, NGOs, etc.) should be aware of the new crimes enabled by the rise of the internet. Because of this, all should remain vigilant against this scourge, and be sensitive to the child victims. These children are our future and their security and development should be our primary concern.

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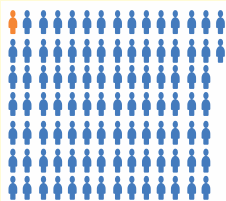
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 - 5) UNICEF(2016).Child Online Protection in India, New Delhi, India. Retrieved from: http://unicef.in/Uploads/Publications/Resources/pub_doc11 5.pdf
 - 6) Retrieved from: <http://lawandpracticeblog.com/cyber-pornography-india-in-re-prajwala-case/>
 - 7) The latter was approved by the government with the sanctioning of the budget too. Now the government has been directed by SC to submit a report on the implementation of these recommendations, which widely remains a big question.



Human Trafficking is a crime

The International Labour Organization estimates that there are 20.9 million victims of human trafficking globally.

- 68% of them are trapped in forced labour.
- 26% of them are children: 5.5 million child victims.
- 55% are women and girls



1.2%
PERCENTAGE OF VICTIMS RESCUED



0.001%
PROPORTION OF EUROPEANS INVOLVED IN TRAFFICKING THAT ARE CONVICTED

- **1.2 million children in India are subjected to commercial sexual exploitation.** (Free a Girl ECPAT 2014)
- **9,104 trafficked children in 2016, a 27% increase from 2015** (National Crime Records Bureau)
- **An increase of 25.8% under crimes against Human Trafficking registered between 2015-2014** (Crime in Report India)
- **27994 Women and 23699 Children were rescued from human trafficking during 2014-2016** (Crime in Report India)
- **More than 19000 women & children reported**

Laws that ensure freedom for all

The Constitution of India

Article 21 Right to Life: Protection of life and personal liberty

Article 23 Prohibition of traffic in human beings and forced labour

- Article 23(1) of the Indian Constitution bans "beggar" and other forms of forced labour.
- The Acts that enforce these rights are:
 - The Indian Penal Code
 - Immoral Traffic Prevention Act, 1956
 - Bonded Labour System (Abolition) Act 1976
 - Child Labour (Prohibition and Regulation) Act 1986
 - Transplantation of Human Organs Act 1994.

The Bonded Labour System (Abolition) Act, 1976

The act renders all bonded labour systems (agreements, pacts, tradition, custom, etc) to be null and void and hence frees all bonded labours from their debt to the creditors. It also bans any person shall pursue or compel a person to enter into forced labour or a bonded labour system. Victims of bonded labour are not liable to repay their debt, and any property that was taken from the bonded labourer is to be restored. All legal proceeding against bonded labourers for inability to repay their debt or abide by the bonded system are dismissed. As per the law, the bonded labour can not be evicted from his home even when the bonded system has been dissolved. Creditors are not permitted to accept any payments and those who do are punishable up to three years of imprisonment and fine.

The Child Labour (Prohibition and Regulation) Act 1986

The Act prohibits the employment of children below the age of 14 years in hazardous occupations identified in a list by the law. The list was expanded in 2006, and again in 2008. In 2016, the Act was amended (not in force as of 30 July 2016) to prohibit employment of child below 14 years in all occupation (except for helping in non-hazardous family business and of child artists in the entertainment industry and sports).

The Indian Penal Code , 1860

- Section 366 – Kidnapping a woman to compel intercourse.
- Section 366A – Procuration of a minor girl.
- Section 366B – Importation of a girl from a foreign country.
- Section 370- Trafficking of person (depending on the crime punishment for 7 to 10 years of imprisonment and in some cases life)
- Section 370A- Exploitation of a trafficked person (depending on the crime punishment for 3 to 7 years of imprisonment and fine)
- Section 371- Habitual dealing in slaves (depending on the crime punishment up to 10 years of imprisonment and fine)
- Section 372 and 373- Selling and buying a minor for the purposes of prostitution (depending on the crime punishment up to 10 years of imprisonment and fine)
- Section 374- Unlawful compulsory labour (up to 1 year imprisonment and fine)

◆ The Immoral Traffic (Prevention) Act 1956

- Section 3(1) - Managing or keeping a brothel or assisting in either
- Section 3(2) - Knowingly allowing premises to be used as a brothel
- Section 4(1) - Knowingly living on the earnings of a major prostitute
- Section 4(1) – Knowingly living on the earning of a minor prostitute
- Section 5 – Trafficking
- Section 6 – Detaining a person in a brothel
- Section 7(1) – Carrying on prostitution in a public place
- Section 7(1-A)–Carrying on prostitution in a public place with a minor
- Section 7(2) – Keeper of public place allowing prostitution
- Section 9 – Seduction of a person in custody
- Article 23(1) of the Indian Constitution bans "beggar" and other forms of forced labour.
- The Acts that enforce these rights are:
 - The Indian Penal Code
 - Immoral Traffic Prevention Act, 1956
 - Bonded Labour System (Abolition) Act 1976
 - Child Labour (Prohibition and Regulation) Act 1986
 - Transplantation of Human Organs Act 1994.

आव्हान मानवी तस्करीचे

विजया रहाटकर

अध्यक्षा, महाराष्ट्र राज्य महिला आयोग.



विजया रहाटकर

अध्यक्षा,

महाराष्ट्र राज्य महिला आयोग.

खरं तर मानवी तस्करी हा माणुसकीला लागलेला कलंकच आहे. परिस्थितीने गांजलेल्या, अडचणीत सापडलेल्यांना पद्धतशीर आपल्या जाळ्यात ओढून, कधी फसवून तर कधी जबरदस्ती करून, त्यांची विक्री करण्याचा उद्योग यात केला जातो. यात सापडलेल्या निष्पाप लोकांचे पुढं काय होतं याचा कुणालाच पत्ता लागत नाही आणि त्यादृष्टीने फारसे प्रयत्नही केले जात नाहीत.

* २ कोटी - मानवी तस्करीत शिकार झालेले देशातील महिला व मुले

* २० लाख - दरवर्षी धमकावून देहविक्री करण्यास भाग पाडल्या जाणाऱ्या महिलांची संख्या

* ६५,००० - मानवी तस्करीत गायब होणारी मुले देशातील बेकायदा मानवी तस्करीची ही काळीकुट्ट आकडेवारी पाहून मन सुन्न होते. एका बाजूने देश प्रगतीची अनेक शिखरे सर करत असताना दुसऱ्या बाजूला मानवी तस्करी दिवसेंदिवस उग्र स्वरूप धारण करत आहे. जगाच्या दृष्टीने बेकायदा मानवी तस्करी चिंतेचा विषय बनला आहे. आज जगात संघटित गुन्हेगारीमध्ये अमली पदार्थ, शस्त्रास्त्र विक्री

खालोखाल तिस-या क्रमांकावर बेकायदा मानवी तस्करीचा समावेश केला जातो. यावरून याचे आक्राळ विक्राळ स्वरूप स्पष्ट होते. या संघटित गुन्द्यांचा समाजमनावर आणि महिलांवर होणार परिणाम अत्यंत घातक आहे.

खरं तर मानवी तस्करी हा माणुसकीला लागलेला कलंकच आहे. परिस्थितीने गांजलेल्या, अडचणीत सापडलेल्यांना पद्धतशीर आपल्या जाळ्यात ओढून, कधी फसवून तर कधी जबरदस्ती करून, त्यांची विक्री करण्याचा उद्योग यात केला जातो. यात सापडलेल्या निष्पाप लोकांचे पुढं काय होतं याचा कुणालाच पत्ता लागत नाही आणि त्यादृष्टीने फारसे प्रयत्नही केले जात नाहीत. विशेष म्हणजे अशा प्रकरणांची चार दिवस चर्चा होत राहते आणि नंतर पुन्हा जगरहाटी सुरू होते. यात होरपळलेल्या महिला व मुलांचे प्रश्न तसेच राहतात. कायद्याची कठोर



अंमलबजावणी, समाजप्रबोधन, वेगवेगळ्या व्यासपीठांवर या प्रश्नांच्या सोडवणुकीसाठी सतत विचारविमर्श या साऱ्यांतूनच मार्ग निघण्याची शक्यता आहे. हे विचारात घेवून महाराष्ट्र राज्य महिला आयोग आणि केंद्रीय परराष्ट्र मंत्रालय यांनी संयुक्त विद्यमाने नवी दिल्लीत २७ जुलै रोजी आंतरराष्ट्रीय कार्यशाळेचे आयोजन केले आहे. महिला व मुलांची तस्करी तसेच परदेशस्थ भारतीयांच्या विवाह दरम्यान येणाऱ्या विविध समस्या तसेच त्या कशाप्रकारे सोडवता येतील यावर यावेळी साधकबाधक चर्चा हाईल. केंद्रीय परराष्ट्रमंत्री सुषमा स्वराज, महाराष्ट्राचे मुख्यमंत्री देवेंद्र फडणवीस उद्घाटन सोहळ्याला उपस्थित राहणार असून उपराष्ट्रपती वेंकय्या नायडू यांच्या उपस्थितीत या कार्यशाळेचा समारोप होणार आहे. या क्षेत्रात काम करणारे राष्ट्रीय, आंतरराष्ट्रीय तज्ञ या परिषदेत उपस्थित राहून आपले मौलिक विचार मांडणार आहेत.

दिवसेंदिवस प्रगतीच्या दिशेने आगेकूच करणाऱ्या आपल्या देशात आजही दरवर्षी पासष्ट हजार अल्पवयीन मुले गायब होतात. म्हणजेच दर आठ मिनिटांला एक मुलगा बेपत्ता होतो. हे वाचून मन सुन्न होते. यातील काही मुले सापडतात पण त्यांच्या मनावर किती मोठा आघात होत असेल याची कल्पनाच न केलेली बरी. दरवर्षी किमान अकरा हजार मुलांचा काहीच थांगपत्ता लागत नाही अशी आकडेवारी सांगते. या मुलांचे पुढे काय होत असेल या कल्पनेनेच मन धास्तावून जाते. कोणत्याही सुसंस्कृत समाजासाठी ही नक्कीच अभिमानास्पद बाब नाही. यातील अनेक मुलांचे लैंगिक शोषण होते. तर अनेकांना बालकामगार म्हणून राबवले जाते. काहींना भीक मागण्यासाठी वापरले जाते.

देशात आज असे एकही क्षेत्र नाही की जेथे महिलेने आपल्या कामाचा ठसा उमटवलेला नाही. आपापल्या परीने ती देशाच्या प्रगतीत खारीचा वाटा उचलत आहे. आज प्रत्येक क्षेत्रात महिलांनी आपले कर्तृत्व सिद्ध केले आहे. असे असले तरी मानवी तस्करीत सर्वाधिक होरपळ होते ती महिलांचीच. एकूण तस्करीत महिलांच्या तस्करीचे प्रमाण जवळपास साठ टक्क्यांच्या आसपास आहे. एखाद्याचं आयुष्य उद्ध्वस्त करण्याचा अधिकार कोणालाच असत नाही. तो एक प्रकारे पारतंत्र्य लादण्याचाच प्रकार असतो या प्रकाराला पुरता पायबंद घालण्याच्या दृष्टीने जागतिक पातळीवर पुरेशा गांभीर्याने प्रयत्न होण्याची आवश्यकता आहे. राष्ट्रीय गुन्हे शोध खात्याच्या २०१६ च्या अहवालानुसार मानवी तस्करीचे आठ हजारांहून अधिक गुन्हे घडल्याचे उजेडात आले. त्यात १८२ विदेशी व्यक्तींसह २३०० जणांची सुटका करण्यात यश आले आहे. त्यापूर्वीच्या वर्षात २०१५ मध्ये ६८७७ गुन्हे अशा प्रकारात घडले. यात सोळा वर्षांच्या खालील वयोगटातील मुलांचे अपहरण झाल्याची सर्वात जास्त नोंद आहे.

देशातील एकूण मानवी तस्करीत विविध राज्यांदरम्यान होणारे तस्करीचे प्रमाण जवळपास ९० टक्के आहे. तर परदेशातून होणारे तस्करीचे प्रमाण दहा टक्के असल्याचे अभ्यास सांगतो. पश्चिम बंगाल, आसाम, राजस्थान, गुजरात, महाराष्ट्र, तामीळनाडू, उत्तर प्रदेश, दिल्ली या राज्यांचा या गुन्ह्यात उतरता क्रम आहे. पश्चिम बंगालमध्ये तस्करीचे प्रमाण जास्त असण्याचे कारण म्हणजे या राज्याची सीमा बांगालदेश, नेपाळ, भूतान या देशांना लागून आहे. तेथून होणारे तस्करीचे प्रमाण जास्त आहे. उरलेल्या राज्यांतही असे गुन्हे घडले असले तरी ते लक्षणीय



नाहीत अशी पोलीस नोंद आहे.

आपल्या देशातील कायदानुसार मानवी तस्करी हा मोठा अपराध आहे. यामध्ये प्रामुख्याने लहान मुले, मुली, स्त्रीया होरपळल्या जातात. अठरा विश्वे घरात असलेले दारिद्र्य आणि कधीही पाठ न सोडणारी गरिबी हे मानवी तस्करीचे प्रमुख कारण आहे. गरिबी कधीच जाणार नाही या भितीने अनेक वेळा आई, वडिलच आपल्या मुलामुलींची विक्री केल्याची अनेक उदाहरणे आहेत. विवाहाचे, शहरात नोकरीचे आमिष दाखवून महिलांना फसविले जाते. आपली गरीबी संपेल, चार पैसे मिळतील या आशेने स्वप्ने रंगवणाऱ्या अनेक अभागी स्त्रिया पुढे या तस्करीच्या जाळ्यात अडकात व त्यांचे सारे जीवन अंधकारमय होवून बसते. नोकरीच्या आमिषाने छोट्या खेड्यातील गरिब मुलींना शहरात नेले जाते व पुढे त्यांना देहविक्री करण्यास भाग पाडले जाते. यातून आपल्या घरच्यांना चार पैसे तरी पाठविता येतील या खोट्या आशेपोटी अनेक मुली पुढे याला नंतर साधा प्रतिकारही करत नाहीत आणि तस्करांचे फावते. लग्नाच्या खोट्या आमिषापोटीही अनेक मुली तस्करांवर डोळे मिटून विश्वास ठेवतात. काही वेळा तर अशा व्यक्ती त्यांचे लग्न दुसऱ्याशी लावून देतात. ज्यांच्याशी लग्न झालेले असते ती व्यक्ती पुढे संबंधित मुलीची विक्री करतो. आज फोफावलेल्या चंगळवादी संस्कृतीला चटावलेले धनाढ्य पुरुष हे या तस्करांचे खरे ग्राहक असतात. त्याचप्रमाणे नोकरीनिमित्त गावांपासून हजारो किलोमीटर दूर शहरात एकटे राहणारे पुरुषदेखील ग्राहक बनतात. त्यामुळे तस्करीची हा साखळी कायम चालत राहते.

महिलांची तस्करी केवळ देहविक्रीसाठीच केली जाते अशातला भाग नाही. अनेकदा स्वस्तात मजूर मिळावे

म्हणूनही महिलांची तस्करी होते. या महिलांना अल्प मोबदल्यात मजूर म्हणून हीन वागणूक दिली जाते. जगातील श्रमबाजारात आज कोट्यवधी महिला अशा कारणासाठी नाडल्या जात आहेत. एकूणच कधी फूस, लालच, धमकी, मारझोड तर कधी भीती दाखवून मानवी जिवांना पळवून नेण्यात येते. नंतर त्यांचा वापर विकण्यासाठी, भीक मागण्यासाठी, निरनिराळे गुन्हे घडवून आणण्यासाठी, हेरगिरीसाठी, चोरट्या आयात-निर्यातीसाठी, नशिल्या पदार्थांचा व्यापार अशा खोट्या धंद्यात केला जातो.

पंतप्रधान नरेंद्र मोदी यांच्या अध्यक्षतेखाली केंद्रीय मंत्रिमंडळाने मानवी तस्करी (प्रतिबंध, संरक्षण आणि पुनर्वसन) विधेयक, २०१८ संसदेत सादर करायला मंजुरी दिली आहे. हे विधेयक प्रतिबंध, संरक्षण आणि पुनर्वसन दृष्टीने तस्करी समस्येचे निराकरण करते. यात प्रथमच पुनर्वसन निधी स्थापन करण्यात आला आहे. याचा उपयोग पीडित व्यक्तीच्या शारीरिक, मानसिक आणि सामाजिक देखभालीसाठी होईल. यात त्याचे शिक्षण, कौशल्य विकास, आरोग्य देखभाल, मानसिक पाठिंबा, कायदेशीर मदत आणि सुरक्षित आसरा यांचा समावेश आहे. मानवी तस्करीच्या खटल्यांच्या जलद सुनावणीसाठी प्रत्येक जिल्ह्यात विशेष न्यायालया स्थापन करण्यात येणार आहे मानवी तस्करीच्या गुन्ह्यांत दोषी आढळल्यास दहा वर्षे सश्रम कारावास ते जन्मठेप अशी शिक्षा देण्याचे प्रावधान आहे आणि किमान दंड एक लाख रुपये आहे. प्रथम सामाजिक प्रबोधन आणि नंतर कडक उपाययोजना करून देशातील मानवी तस्करीचे प्रमाण आटोक्यात आणण्याचे मोठे आव्हान आज आपल्या समाजापुढे आहे.

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संवेदनशीलतेचे दर्शन!

सरकारी काम म्हणजे रुक्षच असणार, असाच बहुतेकांचा समज असतो. परंतु, ते सत्य नाही. त्यापलीकडेही माणुसकी जपणारी आणि वेळप्रसंगी त्यासाठी जिवाचे रान करणारी माणसंही प्रशासनात असतात, याचे दर्शन फरिदा खान यांच्या सुटकेच्या निमित्ताने सर्वांना घडले. राज्य महिला आयोगाच्या कामकाजातील संवेदनशीलतेचे हे दर्शनही मनाला आनंद व उभारी देणारे आहे.

परदेशात नोकरी किंवा व्यवसायासाठी जाणे आता नवी बाब नाही. उच्च शिक्षण घेतलेली तरुणाई आकाशाला गवसणी घालण्यासाठी, आपल्यातील क्षमतांचा कस लावण्यासाठी हे पाऊल उचलते. त्याचवेळी घरची गरिबी किंवा अन्य कौटुंबिक कारणांमुळे परदेशात जाऊन रोजगार करण्याची गरजही अनेकांना परदेशात घेऊन जात असते. परदेशात जाणाऱ्या प्रत्येकाला संपन्नतेचा अनुभव येतो, असेही नाही. काही वेळा अनवस्था प्रसंगालाही तोंड द्यावे लागते, तर काहींना आपले जिमे अक्षरशः गुलामीत कंठावे लागल्याच्या घटनाही पुढे आल्या आहेत. अंबरनाथमधील फरिदा खान यांना असाच विदारक अनुभव घ्यावा लागला. राज्य महिला आयोगाच्या



विजया रहाटकर यांच्या समवेत फरिदा खान

प्रयत्नाने आणि परराष्ट्र मंत्रालयाच्या मदतीमुळे फरिदा खान यांना अशा भयानक नरकयातनांतून सुटकेचा मार्ग मिलाला आणि आज त्या आपल्या कुटुंबासमेवत आनंदाने आपले आयुष्य जगत आहेत. परदेशात व विशेषतः आखाती देशांत नोकरी मिळवून देण्याचे आमिष दाखवून देणारे काही भामटे एजंट आहेत. घरची गरिबी किंवा अन्य कारणांमुळे गरजू अशा एजंटंच्या जाळ्यात फसतात. अंबरनाथमध्ये राहणाऱ्या फरिदा खान अशाच गरजू होत्या. आखाती देशात नोकरीचे आमिष इम्रान या एजंटाने त्यांना दाखवले. कुटुंबाचा चरितार्थ चलवण्यासाठी फरिदा खान नोकरीसाठी एजंटमार्फत दुबईला गेल्या. तेथे इमानइतबारे काम करून होणाऱ्या कमाईतून कुटुंबाला चांगला आधार मिळेल, अशीच फरिदा खान यांची भावना होती. तशीच स्वप्ने घेऊन त्या २७ जानेवारीस दुबईला गेल्या. पण काही काळानंतर कुटुंबाशी असलेला त्यांचा संपर्कच तुटल्याने फरिदा

खान यांचे कुटुंब अस्वस्थ झाले.

फरिदांचा शोध कसा लावावा, असा प्रश्न या कुटुंबापुढे उभा ठाकला होता. अशाच उलघातील असताना फरिदा खान यांचे पती अब्दुल अजीज खान यांना महिला आयोगाच्या 'सुहिता' (७४७७७२२४२४) या हेल्पलाईनबाबत माहिती मिळाली. अब्दुल अजीज खान यांनी या हेल्पलाईनवर फोन करून आपली व्यथा सांगितली. महिला आयोगातील संवेदनशील सदस्यांना या प्रकरणाचे गांभीर्य चटकन उमगले आणि आयोगाची यंत्रणा तातडीने हलू लागली. अब्दुल अजीज खान यांना ६ एप्रिल रोजी आयोगाच्या कार्यालयात पाचारण करण्यात आले. त्यांच्याकडून फरिदांबाबतची माहिती पुन्हा एकदा जाणून घेतली गेली. फरिदा प्रारंभी दुर्बईस गेल्या होत्या. तेथून त्यांना ओमानची राजधानी मस्कतला पाठवण्यात आले होते. मात्र, त्यानंतर त्यांच्याशी असलेला संपर्क तुटल्याची माहिती अब्दुल अजीज खान यांनी दिली.

ही माहिती मिळाल्यानंतर आयोगाच्या अध्यक्षा विजया रहाटकर यांनी परराष्ट्रमंत्री सुषमा स्वराज यांच्याशी तातडीने संपर्क साधून, त्यांना या घटनेची माहिती दिली. तसेच, फरिदा यांच्या सुटकेसाठी मदतीची मागणीही विजया रहाटकर यांनी सुषमार्जीकडे केली. सुषमार्जीनीही जातीने या प्रकरणात लक्ष घातले आणि मस्कतमधील भारतीय दूतावासास या प्रकरणात लक्ष घालण्याचे आदेश दिले. मस्कतमधील दूतावासानेही तातडीने हालचाल केली. तेथील एजंटंकडे फरिदा खान यांच्याबाबत चौकसी करून त्यांचा शोध लावला आणि त्यांना १ मेच्या रात्रीच मुंबईच्या विमानात



मस्कतमधून मायदेशी मुंबईत परतलेल्या फरिदा खान यांनी पती अब्दुल अजीज खान यांच्यासह विजया रहाटकर यांची आवर्जून भेट घेतली.

बसवूनही दिले. मस्कतहून अल्पावधीतच फरिदा खान मुंबईत दाखल झाल्या आणि कुटुंबीयांना भेटल्या. महिला आयोगाच्या सुहिता हेल्पलाईनवर तक्रार नोंदवल्यानंतर अवघ्या तीन आठवड्यांत खान कुटुंबीयांच्या अडचणी सोडवल्या गेल्या. फरिदा खान पुन्हा मायदेशी परतल्या. या सर्व प्रकरणात महिला आयोगाची संवेदनशीलता आणि आयोगातील सर्वच घटकांनी घडवलेले माणुसकीचे दर्शन अनोखे म्हणावे असेच होते.

मुंबईत परतल्यानंतर फरिदा खान आणि त्यांचे पती अब्दुल अजीज खान यांनी विजया रहाटकर व आयोगाच्या अन्य सदस्यांची आवर्जून भेट घेतली आणि सर्वांचे मनापासून आभारही मानले. परदेशी गेल्यानंतर फरिदांना कोणते अनुभव आले, याची माहिती विजया रहाटकर यांनी जाणून घेतली. फरिदांना मस्कतमध्ये जिथे कामासाठी पाठवण्यात

आले होते, तेथे त्यांचा अमानुष छळ होत होता. २२..२२ तास त्यांना उपाशी ठेवले जात होते. तसेच, बहुतेक वेळा त्यांना घोटभर पाण्यावरच राहावे लागत होते. त्यांचा पासपोर्ट व अन्य कागदपत्रे मालकाने काढून घेतल्याने त्यांचे मायदेशी परतण्याचे सर्व मार्गही बंद झाले होते. मायदेशी परतण्याचे तर सोडाच, पण त्यांना कोणाशी भेटण्या..बोलण्यासही मज्जाव होता. त्यामुळे त्या कुटुंबाशी संपर्कही साधू शकत नव्हत्या. अक्षरशः गुलामीचे जिणे त्यांच्या वाट्याला आले होते. आता यातून आपली सुटका नाही, अशीच त्यांचीही धारणा झाली होती. मात्र, महिला आयोगाने वेळीच हालचाल केल्याने फरिदांची या गुलामगिरीतून सुटका झाली आणि आज पुन्हा त्या आपल्या कुटुंबात परतू शकल्या आहेत. विजया रहाटकर यांना भेटताना व त्यांच्यासी बोलताना फरिदा व अब्दुल अजिझ यांच्या डोळ्यांत आलेले अश्रूच सर्व काही सांगून जात होते. राज्यातील व देशातील अनेक महिला आजही दुबई, मस्कत व अन्य आखाती देशांत असेच गुलामीचे जिणे जगत असून, त्यांच्या सुटकेसाठी महिला आयोगाने पुढाकार घ्यावा, अशी विनंती फरिदा यांनी रहाटकर यांच्याकडे केली. महिला आयोग त्या महिलांची नक्की सुटका करेल, हा फरिदांचा विश्वासच महिला आयोगाच्या कामाची पावती देणारा आहे.

फरिदांच्या सुटकेनंतर खरेतर हे प्रकरण एखाद्या फायलीत बंद झाले असते. परंतु, महिला आयोगाने हा विषय तेवढ्यावरच सोडून दिला नाही. महिला किंवा गरीब, गरजूंना फसवून परदेशी पाठवणाऱ्या एजंटंचा शोध घेण्याच्या सूचना आयोगाने पोलिसांना

केल्या आणि त्याचा पाठपुरावाही केला. त्याचे फलित पुढे महिनाभरातच दिसले. फरिदांना दुबईस पाठवणाऱ्या इम्रान या एजंटाला पोलिसांनी पकडले असून, त्याची चौकशीही केली जात आहे. अशा आणखी एजंटंचा शोध घेण्यासाठीही आयोग पोलिसांकडे पाठपुरावा करत असून, आखातात अडकलेल्या महिलांच्या सुटकेसाठी प्रयत्नशील आहे.

फरिदा खान परत आपल्या २ मुली आणि पतीसोबत राहत आहेत, याचा आम्हाला आनंदच वाटतो आहे. तथापि, आमची लढाई अद्याप संपलेली नाही. भविष्यात अशा घटनांचा महिलांना सामना करावा लागू नये यासाठी आयोग परराष्ट्र मंत्रालयासोबत काम करणार आहे, असे विजया रहाटकर यांनी स्पष्ट केले आहे.

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