

Representation at Consulate General of India at San Francisco

Ref. No: 20070928/MOIA-1030

Subject: MOIA's unconcerned disposition towards the Impact of Indian Gender Biased Laws on NRIs

Dear Sir,

We, at Rakshak, would like to thank MOIA for organizing this meeting, thereby providing an opportunity to the NRIs to meet with the Secretary and Director of MOIA and share the concerns of thousands of Overseas Indians.

As you are aware, on several occasions in the past, Rakshak members have met with the Honorable Minister and MOIA officials in person, presented important material on NRI issues, corresponded with and apprised the Minister and MOIA of NRI concerns regarding Indian **gender biased** laws (particularly marriage law, dowry harassment law and domestic violence law) that have been affecting the daily lives and livelihood of thousands of NRIs around the globe.

NRIs are more Vulnerable in failed and fraudulent marriage

NRIs are presumed to be wealthy and marriage with an NRI provides the easiest and fastest means to immigrate to foreign shores. Unfortunately, these perceptions make NRIs more vulnerable to fraudulent marriages. Gender Biased Laws, notably the anti-dowry law – section 498A of IPC, in India are becoming a potent weapon to harass and blackmail innocent NRIs. **We have received hundreds of complaints from duped, harassed and abandoned grooms from a number of countries including USA, Canada, United Kingdom, Australia, Japan, Germany, France, Russia, China, Singapore, New Zealand, Switzerland, Botswana, South Africa, Saudi Arabia, UAE, Oman, Qatar, Kuwait and Indonesia.**

Impact of Misuse of Section 498A IPC on NRIs

The misuse of these laws has led to disastrous consequences for thousands of innocent NRIs.

1. **Revocation of Passports** – Ministry of External Affairs has impounded and cancelled the passports of many falsely accused NRIs.
2. **Interpol Red Corner Notices (IRC/N)** – Falsely accused NRIs are branded international criminals when IRC/N are issued against them.
3. **Visa & Immigration Issues** – Due to false criminal cases like IPC 498A, NRIs face tremendous difficulties while renewing their visas.
4. **Employment Issues** – Due to the Interpol Red Corner Notices issued on the basis of a false complaint, many NRIs lose their jobs.
5. **Divorce & Child Custody Issues** - Frequently, women abduct the children and flee to India, after losing litigation abroad.
6. **Family Issues** – NRI's family in India faces harassment at the hands of law enforcements agencies.

The social, financial and emotional trauma that the innocent NRIs go through is tremendous. A complete description of the NRI problems is mentioned in the memo submitted to your ministry on 25th July 2007 and is attached for reference.

The magnitude of this problem is so enormous that it has begun to affect the public image of India in the world as even the foreign governments, notably the Govt. of United States, have started taking note of this malpractice and have issued advisories on their official websites. The Canadian Govt. has issued similar advisories.

MOIA's Apathy regarding the Exploitation of NRI Husbands and their families

Overseas Indians trapped in false criminal cases expend their valuable time, effort and money to fight their cases that drag on for several years. Their extended families go through enormous pain and suffering. This trend is impeding the progress of extremely talented, intelligent and resourceful young Indians abroad. MOIA's policies on NRI marriages have consistently failed to acknowledge the plight of hundreds of NRI Grooms and their Families.

We are pained to observe that several attempts by Overseas Indians to draw their attention to the exploitation due to the misuse of anti-dowry law and related gender biased laws have been summarily ignored by MOIA:

1. On June 29th 2006 and July 6th 2006 in a meeting with Mr. Vayalar Ravi, Minister MOIA, at Los Angeles and New York, – **No Action**

2. On May 15th, 2006, Mr. Prabhat Kumar Singh, San Francisco Consul, forwarded the concerns to Mr. Malay Mishra, Joint Secretary, MOIA, about the misuse of 498A against Overseas Indians. We did not hear any response from Mr. Mishra. **No response**
3. Before Pravasi Bhartiya Divas in January 2007, our members sent several e-mails to MOIA officials to take cognizance of crime against NRI husbands/families and to include this in their seminar chaired by Mrs. Girija Vyas (Chairman, NCW). **No response**

It has been more than 2 years since we have started raising these issues. We strongly feel that MOIA has failed to address this extremely pertinent and pressing issue that needs immediate attention.

Highly Gender Biased Advisory Booklet released by MOIA despite appeals for Gender Neutrality

MOIA has released a highly gender biased marriage advisory booklet. Rakshak members have, on several occasions (including representation to the Minister about this), raised the issue that this booklet presents an extremely prejudiced and distorted view of NRI men. A close look at this booklet reveals how the booklet is against NRI grooms and is sort of a 'legal preparation' booklet for bride(s) looking to harass the husband and his extended family while exiting from an unhappy marriage. MOIA instead should have made efforts to make the booklet gender-neutral.

The MOIA booklet makes the following blatant generalizations against Overseas Indians:

1. Only NRI husbands and their families are responsible for failed and fraudulent marriages to Indian women.
2. NRI husbands physically and financially harass their wives frequently.
3. NRI husbands get married for dowry and abandon/divorce their wives after a short honeymoon.
4. NRI husbands and their family hide/lie about their marital status, job, visa status etc.
5. There are countless cases of Indian wives of NRI husbands harassed and tortured by NRI families

The above statements make a mockery of justice and a careful reading of the booklet only indicates that instead of sound reasoning, prejudice has been the motivation for arriving at such unfounded statements. Rakshak created its own version of the advisory booklet which was sent to your ministry.

Biased MOIA's policies are based on Dubious Statistics

MOIA has been primarily focusing on issues pertaining to women, and that too, based on unsubstantiated, uncorroborated and inflated statistics about abandoned brides. Several MOIA officials have 'officially' quoted the NRI abandoned brides in India as 30,000 on various occasions (including the official MOIA booklet, "Pravasi Bharatiya", that is sent to all NRIs world wide – July 2006 Volume 1 Issue no. 7, Page 9). However, while answering questions in the Parliament (more than half a dozen times between 2005 and 2007) MOIA has quoted the number to be around 100 only (As per Unstarred Question No 2542 in Rajya Sabha, the total number of complaints received by MOIA, as of 6th September 2007, are 173,). This seems to convey the impression that MOIA is deliberately propagating false statistics in official communications and in the media. Rakshak fails to understand the motivation of the Ministry given the fact that the very purpose of the Ministry is to look into the issues and interests of the NRIs and facilitate their relationship with India.

Ministry must Acknowledge the Plight of Duped and Abandoned NRI Grooms

The phenomenon of Abandoned Grooms has been largely ignored and unacknowledged by MOIA. Many Indian women marry NRI men to secure immigration benefits. Once the NRI husband has been used for these purposes, he is abandoned or divorced and a false dowry case in India is registered. Countless stories have been highlighted in Indian & western media about duped Indian grooms. Some case studies highlighting the suffering that these hapless NRIs go through have been documented in the case studies booklet attached with this communication.

Suggestions to help NRIs and Overseas Indians

Following steps are proposed to prevent misuse of law and protect innocent NRIs:

1. Permission to return to place of employment abroad when NRIs come to fight their cases in India.
2. No revocation/ impounding of Passport / No Lookout Cards / No Interpol Red Corner Notices in dowry or matrimonial cases.
3. Expedient investigation and time bound trial.
4. Establish Consular Cells for formally receiving feedback from NRIs and for the acceptance and speedy redressal of their grievances.
5. Assistance in Legal representation in India including Trial through Video-conferencing.
6. No arrest of NRI's family members under 498a unless undeniable prima facie evidence exists against them.
7. Actively involve Rakshak in discussions while formulating policies affecting NRIs.
8. In PBD'08, organize a special session on the issue of harassment of NRI families by the misuse of gender biased Indian laws.

Will MOIA stand up for the Interests of Overseas Indians?

All of our efforts to get MOIA/MEA to acknowledge/act on/understand our concerns for past several months have been unanswered. We would urge MOIA to establish proper channels -

- To be heard by Indian Government officials at MOIA.
- To ensure that MOIA responds to NRI requests and complaints in a effective and time sensitive manner
- For Grievance addressing mechanism which is quantifiable and accountable.
- To be heard by Indian Ambassador and Indian Consulate Generals at the consulates in United States.
- To ensure that NRI concerns are not overlooked by MOIA when discussing the issues relating to overseas Indians.

We sincerely hope that MOIA realizes the gravity of the issue at hand and takes appropriate measures to protect innocent NRIs.

We look forward to a positive response from the Ministry in this regard.

Thanking you and with regards,

The Rakshak Team

CC:

Smt. Pratibha Patil, President of India

Dr. Manmohan Singh, Prime Minister of India

Mr. Vayalar Ravi, Minister, MOIA

Shri Pranab Mukherjee, Minister of External Affairs

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Enclosures:

- a) Memorandum on NRI Marriages submitted to MOIA on 25th July, 2007
- b) Case Study Booklet highlighting the cases of several NRI families being devastated due to the misuse of gender biased laws.
- c) International Media Coverage on the plight of NRI grooms.
- d) Information Booklet on the abuse of Gender Biased Laws
- e) Statistics about misuse of 498A