

CHAPTER – II

THE NATIONAL COMMISSION FOR WOMEN - A BRIEF HISTORY

In India, women have come a long way from Vedic age to the modern age through several phases and through different sectors of society. Today, such as in the armed forces, arts, information technology, politics and a number of similar sectors which have traditionally been male dominated, the women are doing a commendable job while simultaneously balancing the roles of wife, mother and daughter. While, Indian women have fought against the patriarchal Indian society and triumphed at many levels, cases of rape, dowry deaths, female infanticide, sexual harassment at workplace, female illiteracy and similar problems are still rampant in Indian society. It was in this backdrop, that the Committee on the Status of Women in India (CSWI) the National Commission for Women was established to fulfil the surveillance functions and to facilitate redressal of the grievances and to accelerate the socio-economic development of women¹.

The principle of gender equality as enshrined in the Indian Constitution, viz. the Preamble, promotes “equality of status and of opportunity”. The Fundamental Rights in Part III of the Indian Constitution and Directive Principles are enshrined to promote gender equality². The Constitution not only grants equality to women, but has also made special provisions for ensuring equality. Thus, as per the recommendations of CSWI and in order to uphold the mandate of the Constitution, in January, 1992, the National Commission for Women (NCW), was set up as a statutory body under the National

¹ Aakarsh Kamra, “The National Commission for Women, its Constitutional Powers and Functions”, The Lex Warrior, December, 2010.

² P.D Mathew, Fundamental Rights in Action, (New Delhi: Indian Social Institute, 2006), pp.33-35.

Commission for Women Act, 1990 (Act No.20 of 1990 of Government of India) to carry out the mandate set up by the Act as well as CSWI³.

In this context, this chapter deals with the Constitution of the Commission, its mandate, structure and administration of the Commission.

The National Commission for Women was set up as statutory body in January 1992, under the National Commission for Women Act 1990, (Act No. 20 of 1990 of Govt. of India) in order to:

- review the Constitutional and Legal safeguards for women
- recommend remedial legislative measures
- facilitate redressal of grievances and
- advise the Government on all policy matters affecting women⁴.

In keeping with its mandate, the Commission initiated various steps to improve the status of women and worked for their economic empowerment during the years of the study. The Commission completed its visits to all the States, UTs except Lakshdweep and prepared Gender Profiles to assess the status of women and their empowerment. It received a large number of complaints and acted suo-moto in several cases to provide speedy justice. It took up the issue of child marriage, sponsored legal awareness programmes, Parivarik Mahila Lok Adalats and reviewed laws such as Dowry Prohibition Act, 1961, PNDT Act 1994, Indian Penal Code 1860 and the National Commission for Women Act, 1990 to make them more stringent and effective. It organized workshops, consultations, constituted expert committees on economic empowerment of women, conducted workshops, seminars for gender awareness and took up publicity campaign against female foeticide, violence against women, etc. In

3 Committee on State on Women in India Report, 1990.

4 NCW Act, 1990.

order to generate awareness in the society against these and to empower and provide protection to women⁵.

The Committee on the Status of Women in India (CSWI) recommended nearly two decades ago, the setting up of a National Commission for women to fulfil the surveillance functions to facilitate redressal of grievances and to accelerate the socio-economic development of women.

- Successive Committees, Commissions and Plans including the National Perspective Plan for Women (1988-2000) recommended the constitution of an apex body for women.
- During 1990, the central government held consultations with NGOs, social workers and experts, regarding the structure, functions, powers etc. of the Commission proposed to be set up.
- In May 1990, the Bill was introduced in the Lok Sabha.
- In July 1990, the Human Resource Development Ministry organized a National Level Conference to elicit suggestions regarding the Bill. In August 1990, the government moved several amendments and introduced new provisions to vest the commission with the power of a civil court.
- The Bill was passed and received assent of the President on 30th August 1990.
- The First Commission was constituted on 31st January 1992 with Mrs. Jayanti Patnaik as the Chairperson. The Second Commission was constituted on July 1995 with Dr. (Mrs.) Mohini Giri as the Chairperson. The Third Commission was constituted on January 1999 with Mrs.

5 NCW Annual Report, 1994-95.

Vibha Parthasarathy as the Chairperson. The Fourth Commission was constituted on January 2002 and the government had nominated Dr. Poornima Advani as the Chairperson. The Fifth Commission has been constituted on February 2005 and the government has nominated Dr. Girija Vyas as the Chairperson. The sixth Commission was constituted on August 2011 with Mrs. Mamta Sharma as the Chairperson. The seventh commission has been constituted in 2014 with Ms. Lalitha Kumaramanglam as Chairperson⁶.

Importance of the Commission:

Women as a class neither belong to a minority group nor they are regarded as a backward class. India has traditionally been a patriarchal society and therefore, women have always suffered from social handicaps and disabilities. Thus, became necessary to take certain ameliorative steps in order to improve the condition of women in the traditionally male dominated society. The Constitution does not contain any provision specifically made to favour women as such. Though Art. 15 (3), Art. 21 and Art. 14 are in favour of women, they are more general in nature and provide for making any special provisions for women, while they are not in themselves such provisions. The Supreme Court through its interpretive processes has tried to extend some safeguards to women. Through judgments in cases such as Bodhisattwa Gautam v. Subra Chakraborty (AIR 1996 SC 922) and the Chairman Rly Board v. Chandrima Das (AIR 2000 SC 988) where rape was declared a heinous crime, as well as the landmark judgment in Visakha v. State of Rajasthan, (AIR 1997 SC 3011). the courts have tried to improve the social conditions of Indian women. But these have hardly sufficed to

⁶ NCW Annual Report, 2014-15.

improve the position of women in India⁷. Thus, in light of these conditions, the Committee on the Status of Woman in India as well as a number of NGOs, social workers and experts, who were consulted by the Government in 1990, recommended the establishment of a apex body for woman.

The lack of constitutional machinery and social interest formed the impetus and need for the formation of the National Commission for Women. It is apparent from the prior mentioned conditions and problems that women in India, though in a better position than their ancestors, were handicapped to a great extent, in the early 1990s and these handicaps and injustices against the Indian women prompted the Indian Government to constitute the first National Commission for Women in 1992⁸.

The Constitution of the Commission

The National Commission for Women Act, 1990 (Act No. 20 of 1990 of Government of India) constituted the National Commission for Women as a statutory body. The first commission was constituted on 31st January 1992 with Mrs. Jayanti Patnaik as the Chairperson⁹.

The Act of 1990 under Section 3 provides for the constitution of the commission. This section lays down that the commission will consist of one Chairperson, who is committed to the cause of women, five members from various fields and a member secretary who shall be an expert in the fields of management, organizational structure, sociological movement or a member of the civil service of the Union. All the members of the commission are nominated by the Central Government.

Each person holds office for a period of five years or till he attains the age of seventy. At least one member of the Commission must belong to a Scheduled Caste or

7 Sahalu Nigam, "Rights of Women in India and National Commission for Women", Legal News and Views, Vol.21, No.3, 2006.

8 Aakarsh Kamra, op.cit.

9 NCW Annual Report, 1994-95.

Scheduled Tribe. In addition to the above mentioned members of the Commission, the Commission has the power to set up committees with members from outside the Commission¹⁰.

The Mandate of the Commission

Section 10(1) of the Act of 1990 provides a fourteen-point mandate for the National Commission for Women. A general overview of the mandate has been provided¹¹ and a few significant clauses have been discussed below. Broadly speaking, the Commission's mandate can be divided under four heads – (a) to safeguard of rights of women granted by the constitution and laws, (b) to study problems faced by women in the present circumstances and make recommendations to eradicate these problems, (c) to evaluate the status of Indian women from time to time (d) to fund and fight cases related to women's rights violations.

(a) To safeguard Rights of Women

These are enshrined in sub clauses (a) to (e) of Section 10 (1) of the Act. They expect the Commission to examine the safeguards for women provided by the law and the Constitution. The Commission is to submit report about these safeguards and make recommendations about the implementation of the same. The Commission is also expected to review these safeguards periodically to identify and remedy any lacunae and inadequacies. The Commission is also empowered to take up cases involving the violation of the cases.

(b) To study of problems faced by women

These are mainly enshrined in sub clauses (g) to (i) of Section 10 (1) of the Act. According to these sub clauses, the Commission is to carry out studies involving the problems arising out of discrimination against woman and provide remedies for these

10 NCW Act, 1990.

11 Ibid.

problems. As per this part of the mandate, the Commission is also expected to advise the government about the socio – economic development of women based on these studies.

(c) To evaluate the status of Indian women

Sub clauses (j) to (n) of the aforementioned section of the Act deals with these responsibilities of the Commission. The Commission, according to these guidelines, has the responsibilities of the evaluating the status of Indian women under the Union Government and State Governments. It is to inspect and evaluate the conditions of detention homes and other such facilities in which women may be detained and deal with the appropriate authorities in order to improve the condition of such places. These evaluations are to be submitted to the Government through periodic reports and recommendations.

(d) Funding and Fighting cases related to women’s rights violation

Certain clauses in the mandate also empower the Commission to take up cases related to discrimination against women, women’s right violation and fund cases which involve the rights of a large number of women. Sub clause (f) of Section 3 of the Act of 1990 empowers the Commission to take suo moto notice of matters relating to women’s right deprivation, non – implementation of laws enacted to protect women and non – compliance of policies and guidelines for mitigating hardships of women, in such matters, the Commission is empowered to approach the appropriate authorities and seek remedies¹².

Strategies of the NCW to empower women

- Economic Empowerment
through building up skills and securing access to gainful employment.

¹² NCW Annual Report, 1996-97.

- Political Empowerment
through awareness, training and mobilization for equitable representation in all fora.
- Prevention of violence and discrimination against women
inside and outside the home through legal reform and sensitive enforcement.
- Amelioration of conditions of disadvantaged women
namely :
 - Physically challenged women including those who are visually disabled or mentally affected.
 - Socially challenged women including muslim women, SC/ST women, widows and prostitutes.
- Prevention of indecent representation of women in the media through legal and social sanctions¹³.

Programmatic Agenda :

- State level consultations and public hearings to evolve measures for rehabilitation of victims of globalisation.
- Securing a gender friendly banking regime
- National and local level campaigns for reservation of women
- Investigations into focus areas of discrimination
- Visit to jails, Nari Niketans, Mental Asylums, Mahila Hospitals etc.
- Hearing of complaints and *suo-moto* enquiry into non implementation of enacted legislations and non-compliance of policy recommendations for equality and welfare.
- Review of gender related laws.
- Introduction of gender sensitization modules in training curricula of police, administrative and judicial services.

¹³ Rashtra Mahila, Vol.1, N0.73, April, 1998.

- Gender profiling of states and gender budgeting.
- Parivarik Mahila Lok Adalats and empowerment camps.
- Campaigns against social evils like Bal Vivah, Female Foeticide , Dowry, etc.
- Dealing with problems of women in organised and unorganised sectors (including agricultural industry) as well as socially disadvantaged women (including SC,ST and Muslim women).
- Dealing with problems of women in industry
- Interacting with women in governance in all spheres including legislature, civil services, local self government and public sector undertakings.
- Interacting with women in legal profession including judiciary¹⁴.

Complaint and Counselling Functions

As violence and discrimination against women is multi – faceted in nature, the Commission has adopted a multi – pronged strategy to combat the problem. This strategy is broadly divided into three categories – the counselling, the legal and the research functions of the Commission.

The “core” unit of the Commission is considered to be the Complaint and Counselling Cell and it processes the complaints received oral, written or suo moto under Section 10 of the NCW Act. The complaints received relate to domestic violence, harassment, dowry, torture, desertion, bigamy, rape and refusal to register FIR, cruelty by husband, derivation, gender discrimination and sexual harassment at work place. During 1999, the Commission received 4329 complaints related to the above types of crimes against women.

This cell adopts a three-point method to deal with the mentioned problems:

- Investigations by the police are expedited and monitored.

¹⁴ NCW Resolutions, 1997.

- Family disputes are resolved or compromised through counselling.
- In case of serious crimes, the Commission constitutes an Inquiry Committee, which makes spot enquiries, examines various witnesses, collects evidence and submits the report with recommendations. Such investigations help in providing immediate relief and justice to the victims of violence and atrocities. The implementation of the report is monitored by the NCW. There is a provision for having experts/lawyers on these committees.

A number of such inquiry committees have been set up over fourteen years in order to combat many serious problems. Committees were set up to investigate the alleged police atrocities and misbehaviour with girl students of Kurukshetra University the case of rape of a 30 year old woman in Safdarjung Hospital, the case of a gang rape of 15 years old girl at Lucknow and other such serious and heinous crimes against women.

The number of complaints registered with this cell has increased from a total of 4293 in 1999- 2000 to a total of 5462 in 2003-04. This increase may be interpreted as a positive sign and one signalling the success of this wing of the Commission. It also indicates the increasing trust that women are investing the Commission as a whole¹⁵

Legal Interventions

The Commission's mandate is related to legal research for safeguards of women, legal interventions, recommendations on bills and similar matters relating to the legal system of India. The legal cell of the Commission was set up in order to deal with these functions. The activities of this cell can be divided into three categories: (a) legal amendments proposed (b) new laws and bills proposed and (c) court interventions. (a) Legal Amendments: the Commission's mandate requires that it analyze and improve

¹⁵ NCW Handbook, 2000.

existing laws from time to time. The Commission has proposed sixteen amendments till date. The commission has sought to amend the Indian Penal Code, 1860 in order to curb the sale of minor girls; the Hindu Marriage Act, 1955, in order to omit epilepsy as grounds for divorce; the Dowry Prohibition Act of 1961, in order to bring the problems of Dowry deaths in to the lime light and deal with them appropriately and the NCW Act, 1990, in order to gain greater autonomy and jurisdiction within the country. In addition to these there are a number of other Acts and Bills, which the Commission has sought to, amend but due to the paucity of space the researcher is unable to discuss them here.

(b) New Bills Proposed: in the course of fourteen years the Commission has proposed a total of seven bills and has drafted one convention for SAARC relating to trafficking of women and children. Amongst other bills the Commission proposed the Marriage Bill, 1994; the Criminal Laws (Amendment) Bill, 1994 (with reference to child rape); the Criminal Laws (Amendment) Ordinance, 1996 and the Domestic Violence to Women (Prevention) bill, 1994. The Protection of Women from Domestic Violence Bill was passed in 2005.

(c) Court Intervention: the Commission has intervened in numerous court cases, in order to help women whose rights have been violated, of these cases the researcher will only be able to mention few of the more prominent ones. The Commission intervened in Bhateri gang rape case and supported the victim and provided for her protection. In the Maimon Baskari's Nuh case the Commission fought for the right of the victim to marry a person of her own choice and against out dated customs. In the matter of Fakhruddin Mubarak Shaik v. Jaitunbi Mubarak Shaik the Commission intervened to seek maintenance beyond the Iddat period for Muslim women. The Commission was

also partly responsible the actions taken in the Imrana and Marine Drive rape cases¹⁶.

To study and Research about Women Problems

The research cell of the Commission is that organ of the Commission that looks into the emerging problems of Indian women due to discrimination and gender bias. This cell is also responsible for educating women about their rights through a variety of seminars, workshops, conferences and public hearings. This cell has also organized various special studies and set up expert committees to look into and suggest remedies for problems, which have evolved recently. Currently the cell is dealing with issues related to Gender and Law Enforcement, Impact of Displacement of Women, Sexual Harassment at Workplace, Issues concerning Prostitution and Political Empowerment of Women¹⁷.

The three aforementioned organs of the Commission have been quite successful in carrying out the mandate which the Commission was given by the Act of 1990. Amongst the three cells, it is perhaps the Counselling cell which has been most successful because it is that cell of the Commission which is in direct contact with the people. The other cells, while equally successful, deal more with the different agencies of the Government and are thus not so widely acclaimed.

Problem of violence against women is multifaceted. NCW has adopted a Multi-Pronged strategy to tackle the problem in the following ways:

- To generate legal awareness among women, thus, equipping them with the knowledge of their legal rights and with a capacity to use these rights.
- To assist women in redressal of their grievances through Pre- litigation services.

¹⁶ NCW Annual Report, 2010-2011.

¹⁷ Ibid.

- Facilitating speedy delivery of justice to women by organizing Parivarik Mahila Lok Adalats in different parts of the country.
- To review the existing provisions of the Constitution and other laws affecting women and recommending amendments thereto, any lacunae, inadequacies or short comings in such legislations.
- To take up cases of violation of the provisions of the Constitution and of other laws.
- To organize promotional activities to mobilize women and to get information about their status and recommend paradigm shift in the empowerment of women.
- To look into complaints and take suo moto notice of matters related to deprivation of women's rights.
- To conduct special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women.
- To undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement.
- To advice on the planning process of socio-economic development of women.
- To evaluate the progress of the development of women under the Union and any State.
- To inspect or cause to inspected a jail, remand home, women's institution or other places of custody, where women are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary.
- To fund litigation involving issues affecting a large body of women.¹⁸

¹⁸ Rashtra Mahila, Vol.1, No.86, June, 2000.

The NCW Cells

The following are the cells of the NCW through which it carries out its functions:

Complaints and Investigation Cell

The Complaints and Investigation Cell of the commission processes the complaints received in oral, written or suo moto under Section 10 of the NCW Act.

The complaints received relate to domestic violence, harassment, dowry, torture, desertion, bigamy, rape, refusal to register FIR, cruelty by husband, deprivation, gender discrimination and sexual harassment at work place.

The above kinds of complaints are tackled as below :

- Investigations by the police are expedited and monitored.
- Family disputes are resolved or compromised through counselling.
- For serious crimes, the Commission constitutes an Inquiry Committee which makes spot enquiries, examines various witnesses, collects evidence and submits the report with recommendations. Such investigations help in providing immediate relief and justice to the victims of violence and atrocities. The implementation of the report is monitored by the NCW. There is a provision for having experts and lawyers on these committees. The State Commission, the NGOs and other experts are involved in these efforts.

The complaints received shows the trend of crimes against women and suggests systemic changes needed for reduction in crimes. The complaints are analyzed to understand the gaps in routine functioning of government in tackling violence against women and to suggest corrective measures. The complaints are also used as case studies

for sensitization programmes for the police, judiciary, prosecutors, forensic scientists, defense lawyers and other administrative functionaries.

As per the 1997 Supreme Court Judgment on Sexual Harassment at Workplace, (*Vishakha Vs. State of Rajasthan*) every employer is required to provide for effective complaints procedures and remedies including awarding of compensation to women victims. In sexual harassment complaints, the concerned organization are urged to expedite cases and the disposal is monitored.

The statistical overview of complaints, enquiry committee reports and success stories of the Commission are described in this section of NCW¹⁹.

Legal Cell

Some provisions of the NCW Act specifically requires the commission to :

- Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws.
- Present to the Central Government annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards.
- Making such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union or any State.
- Review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislation.

¹⁹ NCW Annual Report, 1998-99.

- Take up the cases of violation of the provision of the Constitution and of other laws relating to women with appropriate authorities.

The primary mandate of the Commission is to review the constitutional and legal safeguards provided for women, recommend remedial legislative measures, felicitate redressal of grievances and advice the Government on all policy matters affecting women.

Besides the above mentioned, the Legal Cell has information regarding the new bills, laws proposed by the commission, important court interventions by the Commission and important court judgements also²⁰.

Research and Studies Cell

The Research and Studies Cell is responsible for issues related with socio-economic conditions of women in the country and calls for special studies or investigations into specific problems or situations arising out of discrimination against women and undertakes promotional and educational research so as to suggest ways of ensuring rights.

Social mobilization, maintenance and divorcee women, Panchayati Raj in action, women labour-under contract, gender-component in the various Commissions' reports for women, violence against women, women's access to health and education in slums etc. to help in formulation of NCW's policies for recommendations.

The Cell evaluates the progress of the development of women for which clear gender profiles of different States are being prepared. This Cell also conducts seminars and workshops in collaboration with State governments for understanding the various

²⁰ Guidelines to Legal Cell, NCW Annual Report, 1996-97.

problems faced by the women and to suggest action plan and remedial measures to resolve these problems²¹.

Research and Studies Cell Activities

- Notification for guidelines for grant of Financial Assistance for the purpose of Research / Studies, Seminars / Conferences / Workshops, Public Hearings, Legal Awareness Programmes and Parivarik Mahila Lok Adalats.
- List of Minutes of the meeting of the Screening Committee or List of Sanctioned proposals.
- Issues / Topics / Priority Areas of the Commission for conducting Seminars / Research Studies / Awareness Programmes.
- Important office order for ceasing of the date for receiving proposals conducting Seminars, Workshops, Research Studies and Awareness Programmes.
- Revised issues / Topics / Priority Areas of the Commission for conducting Seminars / Research Studies / Awareness Programmes.
- Important office orders for Organization (NGOs).
- Legal Awareness Programmes.
- Parivarik Mahila Lok Adalat.
- Public Hearings.
- Special Studies.
- Expert Committees.
- Format of Bank Guarantee Bond.
- ECS form for payment.²²

21 Expert Committee Guidelines to NCW, 1998.

22 NCW Annual Report, 2008-09.

Public Relation Cell

The National Commission for Women is committed to the protection of the rights of women in the country and to their welfare and development. To attain these aims, the Commission organizes countrywide campaigns, workshops and consultations. The PR Cell throws light on the activities under taken by the Commission to fullfill its mandate to participate, advice on the planning process of socio-economic development of women and to evaluate the progress of the development of women under the Union and the State Governments. The Public Relations Cell also manages the following:

- Press Releases
- News Clippings in Commission's website
- Subscription for monthly e- newsletter of the Commission²³.

RTI Cell

The Right to Information Cell has the following details:

- Right to information ACT, 2005.
- RTI Manuals & Guidelines
- RTI Officers Details
- Organizational Chart
- Salary Description of NCW staff
- Delegation of Power of NCW Officers
- Notifications Issued And Rules Framed Under The National Commission For Women Act, 1990 (Act No. 20 Of 1990)
- List of RTI Applicants
- Frequently Asked Questions (FAQ's)
- Notification (Hindi) (English)

²³ NCW Manuals and Guidelines, 1999.

- Information under Section 4(1)(b) of the RTI Act, 2005
- Annual Return Forms²⁴

NRI Cell

- National Commission for Woman has been nominated as the Co-ordinating agency at the National level for dealing with issues pertaining to NRI marriages through Ministry of Overseas Indian Affairs order dated 28th April 2008.
- Based on the recommendations of the Parliamentary Committee on Empowerment of Woman (14th Lok Sabha) on the subject plight of Indian Woman deserted by NRI husbands which was discussed and deliberated upon the Inter Ministerial Committee meeting held on 7th July, 2008.

Notwithstanding the fact that some of the gravest rights violations happen within the sacrosanct of four-walls of the homes. This dilemma, coupled with the sensitive and delicate nature of matrimonial relationships per se are largely responsible for making the entire gamut of matrimonial disputes one of the most challenging and complex areas for legal intervention within any system. What makes it further complex particularly in the Indian context is the fact that in the absence of uniform civil laws, the personal laws of each religious community, continue to be different in this country, thus, making the matrimonial disputes, especially in inter-religious marriages, even more difficult to deal with.

In this already complex scenario where matrimonial disputes are placed, the legal complications get multiplied manifold when a marriage steps out of the borders of a country and therefore the boundaries of the countries legal system in a phenomenon that has come to be known as the NRI marriages. These marriages have to then enter the domain often called the maze - of private international law that deals with the interplay

24 NCW RTI Manual and Guidelines, 2005.

and conflict of laws of different countries, which makes the issues therein that much more complex.

Even though this is a gender-neutral term, typically the NRI marriages, as generally understood, are between an Indian woman from India and an Indian man residing in another country (thus NRI Non-Resident Indian), either as Indian citizen (when he would legally be an NRI) or as citizen of the other country (when he would legally be a (PIO) Person of Indian Origin). With the characteristic Indians penchant for migration to foreign countries, such alliances are seen as the most coveted ones in the Indian society, promising greener pastures for not just the woman but her entire family.

In the eagerness not to let go of such lucrative marriage proposals, the families totally ignore even the common cautions that are observed in traditional matchmaking. They also ignore that in case of things going awry in an NRI marriage, the woman's recourse to justice is greatly constrained by the reason that such marriage are not governed any more by the Indian legal system but by the far more complex private international laws involving the legal system, of the other countries. They even ignore the plain and simple fact that just logistically for a woman to negotiate her way to justice across thousands of miles would be a thoroughly exasperating experience. The aggravated risks in such marriages, the woman being isolated far away from the home in an alien land, inevitably facing constraints of language, communication, lack of knowledge of local criminal justice, police and legal systems, lack of support network of friends and family to turn to, lack of immediate and readily available monetary support and a place to take shelter in are issues that no one likes to talk or hear about at the time of marriage. It is therefore, hardly surprising that there is growing evidence today that even as the number of NRI marriages is escalating by thousands every year,

with the increasing Indian Diaspora, the number of matrimonial and related disputes in the NRI marriages have also risen proportionately²⁵.

Issues that arise in NRI marriages

- 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 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 ill treated 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 never turn up at all.

²⁵ NCW Annual Report, 2009-2010.

- 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 has no means.
- 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, with 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 other countries for maintenance or divorce are repeatedly encountered technical, legal obstacles related to jurisdiction of courts, service of notices orders, or enforcement of orders or her husband commencing simultaneous retaliatory legal proceedings in 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 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 jurisdictions in such cases.
- Woman who had to fight nasty legal battles for custody of her children and for the 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 women have also approached the Commission seeking redressal of their grievances having been deserted by their NRI Spouses²⁶.

The inception of NRI Cell of the NCW and the success stories

National Commission for Woman was nominated as the Coordinating agency at the National level for dealing with issues pertaining to NRI marriages by Government of India vide Ministry of Overseas Indian Affairs.

In furtherance of this, the NRI Cell was formally inaugurated on the 24th of September, 2009. NRI Cell deals with complaints received from India and abroad resulting due to cross country marriages wherein there is any deprivation of women's rights or any issues involving grave injustice to women. Since its inception hundreds of cases have been registered.

²⁶ Rashtra Mahila, Vol.1, No.186, April, 2009.

Achievements of the NRI Cell of the NCW are:

1. The complaints are attended to, in co-ordination with concerned Embassies/ Consulates/ Ministries and Public Authorities, who also respond.
2. Ministry of Law and Justice is being approached for execution of warrants of arrest or orders given by the Indian courts.
3. The issue of feasibility of dual passport to women who marry NRIs/PIOs was taken up with Ministry of External Affairs and Ministry of Law and Justice. However, under the existing Passport Act, 1967, the same is not feasible, the MEA has assured the following:

1. If a wife is harassed and deserted and is without her passport and if the original passport is valid and the husband has put her in his custody, she can make an application to the Passport Office and a new passport will be given after verifying passport particulars from the original Passport issuing authority, in case, she does not have any record or photocopy of her old passport.
2. If the wife has the photocopy and record of the old passport, a new passport will be issued fairly fast after cancelling the old one. Registration of FIR is not essential in such cases.
3. In case she is on a dependent visa and the visa has been cancelled, the matter will have to be taken up with the concerned country.
4. In the case Non-Bailable Warrants (NBWs) have been issued, application may be made directly to the Passport Authority for revocation of the passport of the person against whom such Non-Bailable Warrants have been issued, since it is a discretionary power of the Passport Office.

5. Action Taken Report received from Police Authorities, about the action taken or the reason for inaction in respect to respective complaints.
6. Ministry of Home Affairs were given approximately 100 copies of the Brochure of Dos and Don'ts for onward submission to all State Governments.
7. Maintaining a data bank record of cases registered for further references and guidelines²⁷.

Functions of the NRI Cell

- a. Shall be the coordinating agency to receive and process all the complaints related to the Indian Women deserted by their Overseas Indian husbands.
- b. Shall render all possible assistance to the complaints including conciliation, mediation between the parties and advising the complainant on related issues.
- c. Associating, networking with NGOs ,community organizations in India and abroad and State women Commissions for wider area of coverage so as to facilitate easy reach and provide support services.
- d. Shall endeavor towards a coordinated response amongst various Government agencies organizations, such as State Governments, the National Human Rights Commission, Indian Embassies and Missions and concerned Ministries etc.
- e. Providing assistance to the aggrieved woman in litigation and other issues pertaining to the complainant/case.
- f. Shall maintain a data bank record of cases registered.
- g. Seek reports from the State Governments and other authorities on the complaints filed and action taken thereon.

²⁷ NCW Annual Report, 2010-11.

- h. Shall advice and recommend the government on any policy or issues relating to the NRI marriages.
- i. Analyse various legal treaties on the issue and advice the Government on the subject, wherever required.
- j. Shall constitute a Advisory Committee panel of reputed advocates NGOs, both in India as well as in abroad, which shall periodically review the functioning of the cell, cases filed and policy issues.
- k. Shall constitute a panel of experts to assist the aggrieved wife and rendering legal services and other assistance , including mediation and conciliation
- l. Planning of training modules and carrying out training on sensitization on the subject to the various agencies entrusted with the task of providing justice, viz. Judiciary, police, administration, etc.
- m. Shall carry out awareness campaigns for the masses on the related issues. For this, all the available media services would be utilized by the cell.
- n. Shall encourage and support research and studies in the related fields, like issues of grievances associated with dual citizenship, enactment of new legislations or signing of international treaties, marriage laws of other countries, etc .
- o. Shall look into complaints and take suo-moto notice on any issue brought to the notice of the NRI Cell in accordance with Section 10 (1)(f) of the National Commission for Women Act , 1990 read with sub-section 4 of Section 10 and Section 8 of the Act.
- p. The cell shall regulate it's own procedures in accordance with the National Commission for Women Act 1990

- q. Perform any other functions as assigned to it by the Commission or Central Government²⁸.

Procedures for the Redressal of the Grievances of the NRI Women

- **Receipt and Registration of Complaint :** The complaint received would be required to be properly receipted, registered and expeditiously acknowledged. The complainant would be given a receipt bearing the complaint number which would be in consonance with the File number, for ready reference.
- **Examination of the Complaint:** Subsequent upon registration of the complaint, the consultant would cause for the verification of the complaint so as to ascertain the veracity of the same and may seek further information from the parties if so considered necessary.
- **Action Proposed to be taken :** Once the merits of the case have been established, the cell would take the following action:
 - a. **Counselling:** Counselling services would be provided to the aggrieved and would be told about the status of law and various options available to her.
 - b. **Resolution of the conflict through mediation or conciliation:** The cell through it's panel of experts would arrange for the mediation between the spouses via Video or Audio conferencing or in person, if possible, depending upon the complainants request.
 - c. **Arrive at a settlement of the matter :** Through divorce to the wives satisfaction and the husbands capability. This can be followed by legal action for divorce in India or in other countries, depending upon the situation on mutuality. In the event of failure of mediation or mutual

²⁸ NCW Manual and Guidelines, 2009.

settlement, the aggrieved wife may be told about her legal rights and if she wishes, assist her in initiating legal proceedings. The cell at the same time would take the following action:

- To take up the issue with the State Governments and local police administration for initiating legal process.
- To request the concerned State Commission for Women for necessary follow up, monitoring and reporting the latest developments in the case.
- To take up the case with Missions and NGOs Abroad, Counselling , Mediation, Shelter, Protection, etc of the aggrieved woman abroad
- To recommend the issuance of Look out Corner Notices
- To recommend Issuance of summons abroad
- To recommend action under Section 188, 285, etc of Cr.P.C., Passports Act and other laws²⁹.

The NRI Cell also contains information regarding

- Whom to contact
- Addresses/contact details of Indian Missions /Embassies
- Networking with NGOs
- Important case laws
- Dos and Don'ts
- Book NRI Marriages
- Abandoned Indian Women Trapped in NRI Marriages - The Way Out

²⁹ Expert Committee Guidelines to NCW, 2009.

- The Scheme for Legal And Financial Assistance to Indian Women Deserted by their Overseas Indian Spouses - The detailed information about the Scheme is available on the website of The Ministry of Overseas Indian Affairs
- List of Indian Women's Organizations / Indian Community Associations / NGOs Empanelled With the Indian Missions / Posts Abroad to Provide Legal / Financial Assistance to Indian Women Deserted by Their Overseas Spouses.
- National Domestic Violence Helpline in USA.
- Complaint format³⁰.

North East Cell

North Eastern Region comprises the following States:

1. Arunachal Pradesh
2. Assam
3. Manipur
4. Meghalaya
5. Mizoram
6. Nagaland
7. Sikkim
8. Tripura



National Commission for Women has constituted a North East Cell in the Commission to address problems being faced by the North East women in India and to take special steps for the development and empowerment of them. In addition, NE Cell, has been created to enhance the focus on the women of NE and their special problems, challenges and also to intervene with State and Central Governments whenever required.

³⁰ NCW Annual Report, 2009-10.

The Functions of the North East Cell of the Commission

1. To process all the complaints received from the North East States received through online registration or by post.
2. To take suo-moto cognizance in respect of cases related to North East States.
3. To process the proposals of Research Studies, Seminars, workshops and Legal Awareness Programs received from the North East States.
4. To deal with all other issues and matters with regard to legal review, administrative and organizational issues brought to the notice of this cell relate to the North East Region.³¹

Activities of North East Cell

Visit of National Commission for Women to Manipur

To give wide publicity to the creation of a separate NE Cell in NE region and to interact with local women, a delegation of National Commission for Women led by Smt. Mamta Sharma, Chairperson of National Commission for Women, visited Manipur. During the visit, the following programmes were organised in collaboration with Manipur State Commission for Women:-

Interactive Meeting of National Commission for Women with the Chairpersons of State Commissions for Women.

The NCW had a session with State Commissions for Women of the region to develop strong network with and to get the feedback on the work being done by the State

Commissions on following points:-

- I. How safeguards are provided for women under the various laws are working in the State.

³¹ NCW Manual and Guidelines, 2013.

II. Recommendations for effective implementation of safeguards for improving the conditions of women in the state.

III. To advice on improvements in the planning process for socio-economic development of women in the North East Region.

IV. Methodology, plan and proposals for State Women Commission to undertake promotional and educational research, within house collaboration with Universities or local reputed NGOs.

The NCW booklets published to prevent gender based violence and to provide opportunity to work on genders issues which states that problems of women can vary from State to State and region to region but deprivation of women's right is ubiquitous and specifically, mentioned about valor, political activism of women in North East in all fields of life. And also felt for regular interactions to reach women up to the village level to empower and sensitize them about their rights.

The NCW is seized of their specific problems and challenges in their own States, as well as in pan India. Therefore, the NE Cell has been created to enhance the focus on the women of NE and their special problems, challenges and also to intervene with State and Central governments whenever required.

Also emphasized the need for regular interactions with SCWs who are an important arm for reaching out to the grassroots level.

State Commissions for Women expressed their inability to do productive and meaningful work as per the mandate because of following common problems faced by them:

- i. SCWs have very small budgets ranging from Rs 25 lakhs to Rs 50 lakhs and is not sufficient to cater to the needs of women in the area.

- ii. Funds are grossly insufficient for holding Legal Awareness Programmes because NE region is a difficult area due to its terrain, lack of infrastructure etc.
- iii. Salaries or honorarium of Chairperson and Members of the SCW are extremely low and ranges from Rs 2,000 to Rs 15,000 per month
- iv. Police sensitization is needed to ensure pro-active and co-operation from their personnel.
- v. More Fast track courts are needed to provide much needed justice to women
- vi. Compulsory self defence training for girls to be introduced so that girls protect themselves.
- vii. More Shelter homes for girls are required
- viii. Gender budgeting should be introduced in these States budget to ensure dedicated flow of fund for women related issues and programmes³².

ix. Recommendations of SCWs in North East

- i) NCW may take up the issue of providing uniform status to SCW with the State Governments.
- ii) To construct and set up more shelter homes for women. State Commissions for Women may submit proposals to NCW who will take up help from the Public Sector Undertakings to access funds available for CSR activities.
- iii) State Commissions for Women may submit media plans to NCW for collaboration to prepare material for generating awareness among people and specially women.
- iv) State Commissions for Women in association with Police, Judicial and Academies are to submit proposals to NCW for organizing capacity building and training programmes of implementing officers³³.

³² NCW Annual Report, 2012-13.

³³ NCW Manual and Guidelines, 2013.

The Major Problems of North East Women

- i) No medical facilities for pregnant women are available. A few have been reported to die on the way.
- ii) Water available in the area is not good for drinking.
- iii) The Hill Tribal Council and Meitei Council decide on the law and community associations and take care of the issues like rape and other social issues.
- iv) Many NGOs are working on problems of women and drugs, HIV/AIDs etc
- v) Government should offer some alternative livelihood for economic upliftment.
- vi) No proper facilities for garbage disposal and women have to sweep and clear the garbage³⁴.

Publications

To meet the information needs of the Commission and various interested individuals and organisations, the National Commission for Women formally inaugurated and started its own Library on 27th May, 1994. It has now evolved as Resource Centre for Research Scholars and Activists with a collection of nearly Twenty three hundred books covering different issues relating to women's advancement.

Besides, the library's collection includes important reference books, like Encyclopaedias, Directories of NGO's as well as the complete set of Halsbury's Laws of England. The library is open on all working days for consultation by Research Scholars. It subscribes 25 daily newspapers in different languages and 35 periodicals and professional journals. The library has a regular system of documenting newspaper clippings on women's issues.

³⁴ Rashtra Mahila, Vol.1, No.273, 2011.

NCW publishes its own books from time to time. It also sponsors research studies on various aspects concerning women issues and published nearly hundred publications, both in English and Hindi.

The Publication division provides the following:

- Reports published by the commission
- Meeri Didi Se Poocho (ask my sister) (Hindi) (English)
- Rashtra Mahila- Monthly magazine in English and Hindi
- Annual Reports of the Commission

NCW Posters³⁵.

Further, the archives of NCW provides the details of all the activities of NCW since its inception. The activities are like various visits of NCW chair persons and its members to various prisons and such other places where women are lodged (viz. Special homes, Old age home, Orphanages...). It also has the details of awareness programmes on women rights, Seminars, Symposiums, Workshops, Discussions, Consultation, Training, Internship and Sensitisation programmes. Further, the archives has the details about various foreign visitors and NCW's collaboration with various institutions³⁶.

A 'Help line' is available in the NCW. The women in distress can contact the NCW immediately through this toll free 24x7 helpline number. The number is displayed in its website and also displayed at all the state commission for women offices, district police headquarters and in all women police stations. The NCW website

³⁵ ncw.nic.in/from_publications.aspx

³⁶ ncw.nic.in/from_archievs.aspx

provides all the contact details from chairperson to section officer in the Commission. The site map provides us the NCW's administrative set up in a skeleton form³⁷.

The common people can also express their opinion and feed back about the functions of its cells to NCW through a portal in its website³⁸.

The Objectives, organizational structure and administrative set up of NCW clearly show the relevance of its existence and its significance. The functioning of its various Cells are discussed and analysed in the following chapters.

³⁷ ncw.nic.in/from_directory.aspx

³⁸ ncw.nic.in