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**COMMITTEE
ON EXTERNAL AFFAIRS
(2019-2020)**

SEVENTEENTH LOK SABHA

MINISTRY OF EXTERNAL AFFAIRS

**THE REGISTRATION OF MARRIAGE OF NON-RESIDENT
INDIAN BILL, 2019**

THIRD REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

MARCH 2020/PHALGUNA, 1941 (Saka)

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NON-RESIDENT INDIAN BILL, 2019**

*Presented to Lok Sabha on 13 March, 2020
Laid on the Table of Rajya Sabha on 13 March, 2020*



**LOK SABHA SECRETARIAT
NEW DELHI**

MARCH 2020/PHALGUNA, 1941 (Saka)

COEA NO. 143

Price : Rs.

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Published under Rule 382 of the Rules of Procedure and Conduct of Business
in Lok Sabha (Eleventh Edition) and Printed by

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^{\$} Shri Neeraj Shekhar, Member, Rajya Sabha had resigned from the membership of the Committee *w.e.f.* 31.1.2020 and Shri Shamsheer Singh Manhas, Member, Rajya Sabha nominated *w.e.f.* 4.2.2020.

INTRODUCTION

I, the Chairman, Committee on External Affairs (2019-2020) having been authorized by the Committee to submit the Report on their behalf, present this Third Report (Seventeenth Lok Sabha) on “The Registration of Marriage of Non-Resident Indian Bill, 2019”.

2. ‘The Registration of Marriage of Non-Resident Indian Bill, 2019’ was introduced in the Rajya Sabha on 11 February 2019. It was referred by the Speaker (Sixteenth Lok Sabha) to the Committee on External Affairs (2018-19) on 19 February, 2019 for examination and Report. After constitution of Seventeenth Lok Sabha, the Bill was re-referred by the Speaker, Lok Sabha to the Committee on External Affairs (2019-20) on 4 October, 2019 for examination and Report.

3. In the process of examination of the Bill, the erstwhile Committee on External Affairs (2018-19) took preliminary briefing by the representatives of the Ministry of External Affairs on 01.03.2019. When the Bill was re-referred, the Committee on External Affairs (2019-20) took briefing by the representatives of Ministries of External Affairs, Women and Child Development, Home Affairs and Ministry Law & Justice (Department of Legal Affairs) on 18.11.2019. Further, the Committee took oral evidence of representatives of these Ministries and Ministry of Law and Justice (Legislative Department) on 02.12.2019 and 27.01.2020. The Committee also sought written responses on various aspects of the Bill from the Ministry of External Affairs.

4. The Committee considered and adopted this Report at their Sitting held on 12 March, 2020. The Minutes of the Sitzings of the Committee are appended to the Report.

5. The Committee wish to express their thanks to the representatives of Ministries of External Affairs, Women and Child Development, Home Affairs and Ministry of Law & Justice (Department of Legal Affairs and Legislative Department) who appeared and placed their considered views before the Committee and also for furnishing written notes and information as desired by the Committee in connection with the examination of the Bill.

6. For facilitation of reference and convenience, the Observations and Recommendations of the Committee have been printed in bold in the body of the Report.

NEW DELHI
12 March, 2020
22 Phalguna, 1941 (Saka)

P.P. CHAUDHARY,
Chairperson,
Committee on External Affairs

CHAPTER-I

Introductory

‘The Registration of Marriage of Non-Resident Indian Bill, 2019’ was introduced in the Raya Sabha on 11 February 2019. It was referred by the Speaker (Sixteenth Lok Sabha) to the Committee on External Affairs (2018-19) on 19 February, 2019 for examination and Report. After formation of Seventeenth Lok Sabha, the Bill was re-referred by the Speaker, Lok Sabha to the Committee on External Affairs (2019-20) on 4 October, 2019 for examination and Report.

1.2 The Bill seeks to provide for registration of marriage of Non-Resident Indian and further to amend the Passport Act, 1967 and the Code of Criminal Procedure, 1973 and for matters connected therewith or incidental thereto.

1.3 The Statement of Objects and Reasons in the Bill inter-alia reads as under:

“There have been several reports of Indian women being trapped in fraudulent marriages with Non-Resident Indians. This has indeed emphasised the persistent need to build safeguards in order to protect those spouses from such situations. Therefore, it is necessary that the marriage solemnized or otherwise in India or outside India shall be registered within a period of thirty days from the date of marriage. It has been decided to bring in legislation to provide for compulsory registration of marriage for better enforcement of right of the deserted spouse under various family laws.

2. Accordingly, The Registration of Marriage of Non-Resident Indian Bill, 2019 proposes to provide for compulsory registration of marriage by a non Resident Indian within a period thirty days from the date of marriage. It also seeks to amend the Passport Act, 1967 and the Code of Criminal Procedure, 1973.

3. The proposed amendment of the Passport Act, 1967 empowers the passport authority to impound or cause to be impounded or revoke a passport or travel document of a Non-Resident Indian, if it is brought to his notice that the Non-Resident Indian has not registered his marriage within a period of thirty days from the date of marriage.

4. The proposed amendments to the Code of Criminal Procedure, 1973 would also empower the Courts for issuance of summons, warrants through the specifically designated website of the Ministry of External Affairs of the Government of India. It further provides for attachment of the properties, both movable and immovable, belonging to a proclaimed offender.

5. This Bill seeks to achieve the above objectives.”

Background

1.4 As regards the background work done in the context of bringing this legislative proposal, the Ministry informed the Committee that an Expert Committee headed by retired Judge, Mr. Justice

Arvind Kumar, was set up in May 2017 to identify legal and regulatory hurdles faced by Indian women married to NRIs and to propose amendments in the existing Acts, registration process, or new policies, laws and regulations. In its report on 23 August 2017, the Expert Committee had *inter alia* recommended several measures including:-

- (i) To make the registration of marriages compulsory by amending the Registration of Births and Deaths Act 1969;
- (ii) The creation of an integrated nodal agency within the Union Government with branch nodal agencies and missions abroad;
- (iii) Empowering family courts to issue lookout circulars;
- (iv) Revocation or impounding of passport;
- (v) To create a website for NRI marriages that might be linked to the port of MEA and the Ministry of Women and Child Development;
- (vi) For making appropriate amendments with regard to service of summons, warrants or proclamations in the relevant provisions of the CPC and the Criminal Procedure Code.

1.5 When asked whether the recommendations of the Expert Committee have been accepted in toto, Foreign Secretary during the course of briefing on 18 November, 2019 submitted:

“Most of the recommendations have been accepted and some of them have already been implemented. There are some other recommendations which are still being examined and which we hope to implement in the coming period of time”.

1.6 The details of recommendations made by the Expert Committee are given below:

- i) Make the registration of marriages compulsory by amending The Registration of Births & Deaths Act, 1969.
 - Heavy fine, punitive and imprisonment for violation / non registration of marriage.
 - Special columns for registration of marriages where any of the spouse is an NRI
 - Amendments in other relevant statutes regarding the registration of marriage of Christian, Parsis, Sikhs etc. with focus on consequences of non-registration.
- ii) Creation of Integrated Nodal Agency-INA with officials of Ministry of External Affairs, Ministry of Home Affairs and Ministry of Women & Child Development alongwith representative of National Commission for Women.
 - Branch Nodal Agencies – BNA to be set up in Indian Embassy/ High Commission

- iii) Training modules/ sensitization of local police station / women cells and incorporation in their induction / refresher courses.
- iv) Training courses/ modules for Judicial Officers, particularly family courts.
- v) It is recommended that the amount of said assistance may be enhanced from US \$ 4000 to US \$5000.
- vi) To take up the issue with reciprocal countries incorporate special category of visas in Bilateral Treaties to extend the stay of wife in foreign country in the event of sponsorship/ withdrawal by the husband.
- vii) Convention with foreign countries – with an idea to sensitize them regarding the issue & seeking cooperation to address the malice.
- viii) Empowering family courts to issue LOC.
- ix) Revocation/ impounding of passport
- x) Deportation
- xi) Extradition-provisional arrest and Red Corner Notice
- xii) Improvising / incorporating provisions to re-writing specially deal with such cases – NRI Marriage disputes and the concessions/ visa extension etc. to be made available to the NRI bride in MLATs/ bilateral treaties – including video conferencing and facilitation of attachment of movable/ immovable property of the delinquent husband/ accused.
- xiii) Awareness campaigns of various forms particularly colleges and Panchayats taking assistance of histrionics / theatre.
- xiv) Helplines to be made available at Nodal agencies i.e. INA and BNA.
- xv) To create website for NRI marriages and that of INA alongwith desired links on the website of Ministry of External Affairs, Ministry of Home Affairs, etc. and vise-versa.
- xvi) For making appropriate amendments with regard to service of summons/ warrants / proclamation in the relevant provisions i.e. Order 5 CPC and Chapter IV of Cr.P.C.

1.7 During the course of briefing, Foreign Secretary on 18 November, 2019 also submitted:

“The 155th Report of the Rajya Sabha Committee on Petitions, praying for the solutions for the problems arising out of the marriage of Indian women with NRIs presented on the 28 December, 2018, also made recommendations of similar nature. Likewise, a recent petition was filed in the Supreme Court in September, 2018, has made similar requests seeking protection of the fundamental rights of women abandoned by NRI husbands. This has strengthened the Ministry’s view that legislation is required to address this problem.”

1.8 The draft Bill was prepared keeping in view the recommendations made by an Expert Committee, the recommendations of Petitions Committee, Rajya Sabha and request made in PIL in Supreme Court.

1.9 The 15th Report of the Standing Committee on External Affairs of the Fifteenth Lok Sabha had also made recommendations regarding the “Schemes for providing legal and financial assistance and rehabilitation to the Indian women deserted by their overseas Indian spouses”, which interalia include:

- To make concerted efforts to address the NRI marital issues and develop an effective single window timely solution to the NRI marital problems,
- Make available the comprehensive guidelines and information relating to NRI marriages on the websites of the Ministry,
- Provide sufficient staff as well as funds in NRI Cell of NCW for the assistance of distressed women,
- Create awareness and sensitize the youth regarding the NRI marital issues,
- States to ensure NRI marriage certificates to include security number, passport number and brief relevant details of the foreign home of the NRI husband, and photocopy of the passport of the NRI husband to be pasted in marriage register maintained by the authorities before issuing the marriage certificate and to paste certificate of marriage on wife’s passport to provide proof of her marriage on being abandoned. States to also ensure physical presence of the bride and the groom for registration of marriage solemnized in India and finalize a uniform registration proforma in this regard,
- Early implementation of the decision to register FIRs in NRI marital dispute cases without delay by the States,
- Expedite the process of making the serving of notices, summons and enforcement of maintenance orders as part of the Mutual Legal Assistance Treaties (MLAT) especially with US, UK, Canada, Australia and New Zealand,
- Extending financial and legal assistance and rehabilitation to deserted women by the Missions/Posts,
- Set up counselling desks in the Missions/Posts,
- Preparation of information brochures,
- Publish awareness material in all major regional languages and publicize awareness of cultural, social and legal aspects of NRI marriages via media outlets,
- Make preparations towards joining the Hague convention etc.

1.10 The Committee were surprised to note that the Ministry did not even find it necessary to either consider the recommendations made by the Committee on External Affairs in their 15th Report of 15th Lok Sabha or keep the Draft Bill on website to invite the views of public and experts before introduction of the Bill to Parliament. In response thereto, the Ministry in written reply submitted that the Ministry would like to convey sincere regret for the inadvertent omission of the reference to the Report of the Standing Committee in the 15th Lok Sabha in their background notes of the proposed Bill. The Report of the Standing Committee of the 15th Lok Sabha had made recommendations regarding the “Schemes for providing legal and financial assistance and rehabilitation to the Indian women deserted by their overseas Indian spouses”. The Ministry had carefully considered the recommendations of Report of the Standing Committee in the 15th Lok Sabha and many recommendations were implemented such as the setting up of Integrated Nodal agency (INA) as an effective single window timely solution to the NRI marital problems, making available the comprehensive guidelines and information relating to NRI marriages on the websites of the Ministry, extending financial and legal assistance and rehabilitation to deserted women by the Missions/Posts, set up counselling desks in the Missions/Posts etc.

Problems relating to NRI Marriages

1.11 The Bill has been brought to build safeguards in order to protect the spouses trapped in fraudulent marriages with NRIs. The Ministry of External Affairs in its background note has furnished the following typical instances/issues which arise in NRI marriages:-

(i) **Abandonment of wife in India after Marriage:** The wife is abandoned in India after the marriage and honeymoon, while the NRI spouse returns to the country of his residence. He promises to arrange her visa and ticket to join him in the foreign country, however, he never files for her visa, and not have any further contact with his wife in India.

(ii) **Whereabouts of spouse unknown and Marriage not registered:** Abandoned Indian woman has no way to contact her spouse abroad, as she does not have his telephone number, passport details, address, occupational details, etc. She registers a complaint in the Indian police station but they

cannot investigate or coordinate with Interpol due to lack of information. Many times, the NRI spouse deliberately does not get the marriage registered in the Registrar's Office in India.

(iii) **Visa denied:** When the Indian national prepares her visa application to join her spouse abroad, even if she has details of her spouse her application is incomplete due to lack of marriage certificate since the marriage is not registered in the Registrar's Office in India. Her spouse denies that the marriage took place.

(iv) **NRI Spouse already married:** When the Indian national joins her NRI spouse in the foreign country she learns that her spouse was already married or has a live-in relationship/partner outside marriage. The Indian national is asked either to continue in the same household or left to fend for herself. In these circumstances, not knowing anyone, being unfamiliar with legal framework, and fearing social stigma in India of being abandoned by spouse, she continues in the same household often without any rights or status as a wife. Sometimes, the NRI spouse asks his wife to move out of the house so that he can marry another woman or bring in his partner. His wife is stranded (sometimes with her child) in the foreign country, with no financial means to take care of her and her child's basic needs.

(v) **Harassment by spouse and in-law family:** The Indian national who joins her spouse in the foreign country is subjected to ill-treatment; and abuse (mental and physical) by her spouse and family. Under these circumstances, she either leaves the residence of her spouse or is sent back to India.

(vi) **False information about NRI spouse's job and salary:** On arrival in the foreign country the Indian national discovers that her spouse had given false information about his job, immigration status, income, property, and other particulars.

(vii) **Sent back to India:** Indian national reaches the foreign country on a dependent visa and when her visa expires, her spouse doesn't renew her visa. She is taken back to India and left there without her passport or a valid visa for the foreign country. There is no further communication from her spouse and he does not come back to India to meet her.

(viii) **Custody of children:** The Indian national is not allowed to take her children with her when she returns to India. Sometimes children are forcibly taken away by her NRI spouse. She files for custody of children and child support, or to bring the children back with her to India. Sometimes she has to face her spouse's charges that she has abducted her children. Even if the Indian court passes a decree in her favour with reference to child custody the NRI spouse files a counter case in the foreign court.

Elaborating further on the challenges faced by aggrieved women in the Indian legal system, the Ministry submitted as under:-

(a) **Spouse not responding to summons:** Indian woman files a case in India under criminal law for issues pertaining to dowry demands and/or, matrimonial cruelty. The trial cannot proceed as the spouse does not attend court proceedings or respond to summons/warrant of arrest or a Look Out Circular issued by Indian authority against him following a case filed by the wife.

(b) **Denial of maintenance in India:** Indian nationals divorced from their overseas Indian spouses are denied maintenance in India on pretext that the marriage had been dissolved by the spouse who is abroad.

(c) **Obstacles in getting maintenance or divorce:** Women who approach the Indian court for maintenance or divorce, face issues related to jurisdiction of courts, service of notices or orders, or enforcement of orders. Sometimes the NRI spouse commences retaliatory legal proceedings in the other country to make her legal actions null and void.

(d) **High legal costs:** Indian national 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 slim chances of winning a case.

Similarly, the challenges faced by such women in foreign courts, the Ministry submitted the follows details:-

(a) **Immigration issues:** In case of a conflict, NRI spouse files a complaint against the wife with Foreign Immigration authorities or withdraws his sponsorship for wife. As a result the wife's visa application or renewal is rejected. The wife is stuck in India and the husband remarries.

(b) **Difficulties in countering judicial action:** NRI spouse takes advantage of wife's ignorance about laws in the country and files for divorce abroad. Sometimes the woman does not even know about divorce proceedings or she has no money or visa to counter the judicial proceedings.

(c) **Visa issues:** The NRI spouse 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 him or about abuse.

(d) **Privacy laws:** In many developed countries, there are strict privacy laws. The Indian national cannot obtain any information (his address or contact details) from the foreign government about her spouse without his written consent.

(e) **More lenient divorce grounds in foreign countries:** NRI spouse take advantage of lenient divorce grounds in foreign legal systems and obtain ex-parte decree of divorce in the foreign country through wrongful representation of facts or without her knowledge. The ex-parte decree is often without paying alimony or maintenance.

Number of Cases Reported

1.12 When enquired about the maintenance of data pertaining to the above mentioned issues, the Ministry of External Affairs in a written reply submitted that the above mentioned grievances are interlinked to each other and that they do not maintain a category wise and case-wise database. However, the Ministry further informed that they have received 5298 petitions/complaints related to NRI Marital Grievances in the last four years and addressed them. The year-wise details of complaints received by the Ministry from 1 January 2016 to 31 October, 2019 are given in the table below:-

Year	Number of complaints received	Numbers of complaints addressed upto 31 October 2019
2016	1,510	1,510
2017	1,498	1,498
2018	1,299	1,299
1 Jan to 31 Oct 2019	991	991
Total	5,298	5,298

1.13 When asked about state-wise complaints received and resolved by the Ministry of External Affairs and the Ministry of Women and Child Development, the Ministry of External Affairs has provided data as mentioned below :-

State-wise list

Sl. No.	State Name	2016	2017	2018	1 st Jan 2016 to 31 st Oct 2019	Total
1.	Andhra Pradesh	40	42	31	64	177
2.	Arunachal Pradesh	03	01	01	0	05
3.	Assam	09	02	03	01	15
4.	Bihar	23	27	19	06	75
5.	Chhattisgarh	21	23	20	22	86
6.	NCT of Delhi	110	116	102	108	436
7.	Goa	06	07	04	01	18
8.	Gujarat	46	56	51	55	208
9.	Haryana	80	73	69	66	288
10.	Himachal Pradesh	26	24	21	03	74
11.	Jammu & Kashmir	16	13	10	02	41
12.	Jharkhand	29	23	21	01	74

13.	Karnataka	95	91	80	75	341
14.	Kerala	94	80	45	70	289
15.	Madhya Pradesh	80	75	62	32	249
16.	Maharashtra	127	117	106	118	468
17.	Manipur	0	0	0	0	0
18.	Meghalaya	0	0	01	0	01
19.	Mizoram	0	0	0	0	0
20.	Nagaland	0	0	0	0	0
21.	Odisha	17	15	18	13	63
22.	Puducherry	03	01	0	0	04
23.	Punjab	207	225	210	121	763
24.	Rajasthan	131	117	105	18	371
25.	Sikkim	0	0	0	0	0
26.	Tripura	0	01	0	0	01
27.	Tamil Nadu	95	92	100	34	321
28.	Telangana	33	37	28	47	145
29.	Uttarkhand	11	19	16	15	61
30.	Uttar Pradesh	151	155	125	70	501
31.	West Bengal	57	66	51	22	196
	Others	0	0	0	27	27
Total		1510	1498	1299	991	5298

1.14 Most of the complaints pertain to issues such as abandonment, harassment, cheating, domestic violence by their spouses residing abroad, to ascertain whereabouts of NRI spouses, request for extradition, deportation of spouse to India, request for maintenance, support, divorce or child custody and request for legal and financial assistance to file a case against the NRI spouse.

1.15 Upon enquiry as to the country from which most complaints relating to NRI marriages originate, the Foreign Secretary during the course of briefing on 18 November, 2019 submitted:

"..We do not have a specific country-wise figure but our records show that the majority have come from English-speaking Western countries, namely, the United States, Canada, Australia, New Zealand and the United Kingdom. From the Gulf, there are relatively few complaints of this nature".

Measures Taken to Redress complaints of Distressed Spouses

1.16 The Ministry has apprised the Committee that they have tried to redress complaints of distressed Indian citizens who have been deserted by the NRI spouses by providing the aggrieved spouses with counselling, guidance and also information about the procedures and mechanisms such as serving judicial summons to the overseas Indian spouse by issuing lookout circulars, by impounding or revoking the Indian passport of the husband, by facilitating access to lawyers and NGOs empanelled in Indian Missions and even on occasions by providing temporary shelter in some cases. Moreover, the financial assistance up to US \$ 4000 in each case is also being provided by all missions and posts under the Indian Community Welfare Fund to empanelled legal counsel or to Indian Community Welfare Associations abroad to assist the distressed individuals to prepare documentation for filing the legal case.

1.17 When asked about the features of the revised guidelines (2017) for providing Financial and Legal Assistance to distressed Indian nationals married to NRI spouses, the Ministry of External Affairs in a written reply stated that the Indian Community Welfare Funds guidelines were revised in September, 2017 to expand the scope of welfare measures which inter-alia includes financial and legal assistance to distressed Indian women married to NRI or a foreigner. Under the revised guidelines, the Mission and Posts have been empowered to extend assistance of upto USD 4000 per case, provided:

- The woman is an Indian passport holder:
- The woman is deserted in India or overseas within seven years of the marriage; or

- Divorce proceedings are initiated within seven years of marriage by her overseas Indian / foreigner husband; or
- An ex-parte divorce has been obtained by the overseas Indian / foreigner husband within seven years of marriage and a case for maintenance and alimony is to be filed by her;
- Having no criminal case decided against her, however a criminal charge of Parental Child Abduction shall not be a bar if the custody of the child has not yet been adjudicated upon by a competent Court.

The assistance under the scheme 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 provided.

1.18 When asked about the role of the National Commission for Women and other Commission/NGOs and the type of inter-ministry coordination for reaching out to women in distress due to NRI marriages, the Ministry in a written reply submitted that the Ministry of Women and Child Development is the nodal ministry in this regard. The other stakeholder ministries include Ministry of External affairs, Ministry of Home Affairs and the Ministry of Law & Justice. An Integrated Nodal Agency (INA), as recommended by the Expert Committee on NRI marital disputes, has also been constituted. It is aimed to be an effective mechanism to provide a single window timely solution to the problems of affected women and there would be a better monitoring of the welfare measures being undertaken in this regard. The INA is headed by Ministry of Women and Child Development with senior officials from Ministries of External Affairs, Home Affairs and Law and Justice as its members. The INA has already held sixteen meetings and has issued eight Look Out Circulars as a deterrent measure. National Commission for Women was tasked as the National Coordinating Agency by the Government of India in April, 2009 for coordinating the efforts by different stakeholders in dealing with the issues arising out of NRI marriages.

1.19 When queried about the issuance of only very few number of Look Out Circulars, Foreign Secretary during the course of briefing on 18 November, 2019 submitted:

“One important reason for this is the absence of passport details of NRIs who are alleged to have deserted or maltreated their spouses. The draft legislation will make it easier to issue the Look Out Circulars (LOCs) since that information will now be available with the Government and with the integrated nodal agency.

1.20 Elaborating on the role of Missions/Posts in assisting distressed spouses in India and abroad to protect the rights of such spouses as well as bringing the guilty spouses to a court of law, the Foreign Secretary during the course of briefing on 18 November, 2019 submitted:

“..Role of the Indian Mission and Posts abroad has actually been critical in this whole process. It is, in fact, the inputs which came from Missions and Posts, that essentially set into motion the whole process of the Government recognising that this is a major problem that is being faced in the country. It resulted in the inter-ministerial consultations in the establishment of a separate sub-digital platform under the MADAD portal and in the critical decision of the Government that we will now provide some financial assistance on a case to case basis to help and prepare the legal basis for the distressed spouse and so on.

Sir, Missions and Posts abroad and our Heads of Mission and Heads of Post are fully seized of this matter particularly in some countries where we find a high incidence of such cases. Those are Canada, United States, Australia, New Zealand and the UK and we take special care in ensuring that any complaints that have come are immediately attended to. If they require shelter, we do have some arrangement temporarily to house them if they are abroad. But we find that a very large number of cases are actually those of deserted spouses who have never left our shores. There are very few cases where deserted spouses are deserted after they have followed their husband abroad. Therefore, the role of Indian Missions and Posts comes only in such cases.”

1.21 During the course of briefing on 18 November, 2019, Foreign Secretary while apprising the Committee about the online grievance monitoring system for distressed spouses submitted:

“The Ministry’s MADAD Portal, which is an online grievance monitoring system, was launched in 2015 and has proved to be useful for distressed spouses to seek Ministry’s assistance and a module for marital disputes was specially added to the MADAD Portal to provide a digital platform for this purpose. The increase in the number of such petitions supports the Ministry’s contention that the current measures initiated by our Ministry while important may not be entirely sufficient in resolving the problem. “

1.22 Further, in regard to publishing draft Bill on Ministry’s website to invite views of public and experts, the Ministry in a written reply submitted that the Draft Bill was not put up on the website to seek views of the public as it was decided by the Stakeholder Ministries that the Bill may be urgently put up in Parliament to ameliorate the problems faced by Indian citizens married to NRI spouses. No views of the State Government were considered in this case. However, before setting up of the

Committee for NRI marriages, a meeting of all State Marriage Registrars was organized by Ministry of Women and Child Development.

1.23 When justification was sought for not obtaining view of general public and State Governments, the Ministry in a written reply submitted that the deliberations of the Expert Committee, 155th Report of the Rajya Sabha and the hearing on the PIL filed in the Supreme Court were based on wider stakeholders consultations which included government officials, legal experts, civil society members, women organizations, etc.

1.24 In this context, the Ministry further submitted that several meetings at the level of Ministers and Senior Officers of the Ministries of External Affairs, Home Affairs, Women and Child Development and Law and Justice were held where issues pertaining to distressed Indian Citizens were discussed and deliberated upon. On the basis of the discussions in these meetings, a draft Bill was prepared.

1.25 Further, when asked whether aggrieved women and members of civil society were involved in these deliberations meetings, the Ministry in a written reply submitted that the aggrieved women and members of civil society were not part of these meetings.

1.26 While describing the further process for finalisation and introduction of Bill, the Ministry submitted in a written reply that the proposed legislation was discussed and approved in a meeting chaired by the Home Minister and attended by Minister of External Affairs, Minister of Women and Child Development, Minister of Law & Justice and approved unanimously. With the approval of Prime Minister under Rule 12 of Government of Indian (Transaction of Business) 1961, a bill titled “The Registration of of Marriage of Non-Resident India, Bill, 2019” was introduced in Rajya Sabha on February 11, 2019.

Components of the Bill

1.27 The Components of the Bill are as under:

- (i) Registration of Marriages by Non-Resident Indian;
- (ii) Amendment to the Passport Act 1967 and
- (iii) Amendment to the Code of Criminal Procedure 1973.

1.28 The Committee desired that the proposed legislation be made more comprehensive to also cover issues relating to divorce, maintenance and child support by the NRI for the deserted spouse. In this context, Foreign Secretary during the briefing on 18 November, 2019 informed the Committee:

“The major objective of this legislation is to locate the NRI who has duped and then deserted his spouse since the current challenge is to know his whereabouts. Until we have this critical information, we can neither revoke, nor impound his passport, nor serve summons or warrants to the individual. Furthermore, it is felt that the current legal provisions in Chapter 4 in the Consular Manual, 1983 dealing with marriage and in the Foreign Marriage Act, 1969 adequately address the issues of divorce, maintenance and child support.”

Registration of Marriages by Non-Resident Indian

1.29 The Committee are informed that when there is a problem in NRI marriage, the Indian national generally registers a complaint in an Indian police station. The police cannot investigate or coordinate with Interpol due to lack of information. Further, the NRI spouse, deliberately in some instances, avoid marriage registration in the Registrar’s Office in India. Sometimes, the NRI spouse denies that the marriage took place. Furthermore, due to strict privacy laws in many developed countries, the Indian national cannot obtain any information (his address or contact details) from the foreign government about her spouse without his written consent. Due to unavailability of such details, the distressed spouse is unable to exercise her rights to grant of compensation or damages.

1.30 Elaborating the purpose of the mandatory registration of NRI marriages within 30 days from the date of marriage proposed in the bill, Foreign Secretary during the course of briefing on 18 November, 2019 submitted:

“The purpose of making it mandatory to register the marriage within 30 days of the marriage in India or abroad is to secure the details of the travel documents or passport as well as the details of the visa, the Permanent Resident Card and the permanent residential address in a foreign country of the Non-Resident Indian. In so doing, the Ministry will

have the requisite information to trace the NRI and to enable legal action to be taken for enforcement of rights of the abandoned spouse under various family laws.”

1.31 The Committee are informed that since maximum number of NRI marriages are conducted in India, the registration of marriages is done through the Registrars of the State Governments, and this data is further collected and compiled by the State registration authorities, efforts would also be made to disseminate the information about the provisions of the bill and undertake awareness campaign in the public through the Ministry of Women & Child Development, National Commission of Women, State Governments and the State Commissions for Women.

1.32 When asked about the details of provisions for registration of NRI marriages in various Central Acts and in State laws and provision of punishment in the State laws in case marriage is not registered during any specific time, and justification for possibility of duplicacy of law only for the purpose of registration of marriages, the Ministry in a written reply stated that the relevant provisions of the existing Central legislation on Registration/ Compulsory Registrations of Marriages are as under:-

Indian Christian Marriage Act, 1872

Part IV of the Act (Sections 27-37) contains provisions for registration of marriages solemnised by Ministers and Clergymen.

Part V of the Act (Sections 38-59) provides rules for solemnisation-cum registration of marriages directly by Marriage Registrars appointed under the Act.

Part VI (Sections 60-65) relates to marriages of “Indian Christians” and provides rules for certification. There are provisions in the Act for the transmission of records of registration of various categories of marriage to the Registrar-General of Births, Deaths and Marriages (Sec.81).

The Anand Marriage Act, 1909

Section 6 of the Anand Marriage Act, 1909 contains the provisions for registration of marriages.

The Parsi Marriage and Divorce Act, 1936

Under section 6 of the Act, the priests are required to periodically transmit their records to Marriage Registrars appointed under the Act. A priest who neglects to certify a marriage or to transmit its copy to the Marriage Registrar will be guilty of an offence punishable with simple imprisonment up to three months, or with fine up to a hundred rupees, or with both (Section 12). Further, the Marriage Registrars are to be appointed by the State Government for various areas and they are required to transmit their records to the Registrar- General of Births, Deaths and Marriages under Section 9 of the Act (Sections 6 to 9).

The Special Marriage Act, 1954

Marriages are registered under section 15 of the Act by the Marriage Officer specially appointed for the purpose.

The Hindu Marriage Act, 1955

Section 8 of the Hindu Marriage Act, 1955 lays down for registration of marriages.

The Foreign Marriage Act 1969

Under section 3 of the Act, Marriage Officers are to be appointed by the Central Government for this purpose, in its Diplomatic Missions abroad. Section 4 provides conditions relating to solemnization of foreign marriages and section 17 of the Act provides for Registration of foreign marriages solemnized under other laws.

Registration of NRI Marriages is not covered in any of the above laws.

The objective of the proposed bill is to make the registration of marriages of NRIs compulsory and collect all the relevant information about the NRI spouse to enable the government to bring him back to face the Courts and to enable the Courts to serve summons upon him/her. These provisions are not available in other State laws."

1.33 When the Committee desired to know whether there was a union law or a national law for compulsory registration of marriages, Foreign Secretary during the oral evidence on 2 December, 2019 submitted:

“At present there is no union law for compulsory registration of marriage. The registration of marriage is therefore dependent on various State laws and personal laws of various communities. The Hon. Supreme Court of India *vide* its judgement dated 14th of February, 2006 in *Seema vs. Ashwani Kumar* had, *inter alia*, directed the State Governments that marriages of all persons who are citizens of India belonging to various religious denominations should be made compulsorily registrable in their respective States where such marriages are solemnized. Accordingly, as per our information, 25 States and 6 Union Territories have thus so far made appropriate legislations in this regard.”

1.34 The proposed bill will make the registration of marriages of an NRI with an Indian citizen compulsory. Further, the Ministry of Women & Child Development has developed a marriage

registration proforma and a website portal for marriage registration which is linked to all the Registrars of Marriages in India.

1.35 On being enquired about the status of implementation of the directions of the Hon. Supreme Court in regard to compulsory registration of marriages in all States, the Ministry in a written reply submitted that under the directions of Hon'ble Supreme Court 25 States and 6 Union Territories have already enacted a law making registration of marriage compulsory. According to the information provided by Ministry of Law & Justice, the following State Governments and Union Territories have made provisions for compulsory registration of marriages: State Governments- Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttarakhand and West Bengal; Union Territories- Chandigarh Administration, Dadra & Nagar Haveli, Daman & Diu, Delhi, Lakshadweep and Puducherry. Once the Central legislation is passed by the Parliament, this will be brought to the notice of the Hon'ble Supreme Court.

1.36 Further, the Ministry in a written reply submitted that the States and Union territories which have not enacted such law consists of **3 States**- Jharkhand, Nagaland and Uttar Pradesh; and, **3 UTs**- Andaman & Nicobar Islands, Jammu & Kashmir and Ladakh.

1.37 On Committee's observation, whether the provision of compulsory registration of marriage in the proposed Bill could clash with existing State Acts on the subject, Foreign Secretary during the course of oral evidence on 2 December, 2019 clarified that under the present scheme of the Constitution, the power to make laws governing marriage and divorce falls under entry 5 of the Concurrent list of the Seventh Schedule of the Constitution. Therefore, this Bill will not be derogation of any provision of any existing Act dealing with compulsory registration of marriages because in view of the provisions of Article 254 of the Constitution, any law enacted by a State which is in force on the date of commencement of this Bill, if it is passed to become an Act and is not in consonance and in conformity with this Act, shall be void to that extent.

1.38 In this context, the Ministry in a written reply further submitted that NRI is an Indian Citizen and his/her marriage can be registered similar to any other Indian Citizen under the various Central and State laws. However, there is no law which specifically covers registration of NRI marriages.

1.39 Further elaborating, Law Secretary during the course of oral evidence on 2 December, 2019 submitted:

“So far as the formulation of the State laws is concerned, it dates back to a judgement of the Hon. Supreme Court in the year 2006. Pursuant to the aforesaid directions, perhaps the

States and the UTs have come up with a legislation. That is the Ashwini Kumar judgement. I think certain parameters were also laid down that those States which do not come up with a legislation in this regard, they would be governed by some sort of orders which were passed by the hon. Supreme Court itself. The only point that I would like to raise is that the Central legislation has a completely different objective.”

1.40 In this context, Law Secretary further submitted:

“Sir, as far as my understanding is concerned, according to Article 254, in case a State law has been passed after obtaining the assent of the President, then that law has to prevail irrespective of the fact that there is a Union legislation in this regard. That is the basic point.”

Amendment to the Passport Act 1967

1.41 The Committee were informed that the amendment to the Passport Act, which would empower the passport authority to impound or revoke the passport of the NRI if it is brought to his notice that the NRI has not registered his marriage within 30 days, will be helpful in preventing the erring spouse from leaving the country or in subsequently suspending or revoking the passport if he has already travelled abroad as the first step towards having him repatriated. In order to provide ultimate relief and justice to the deserted spouse, it is also deemed import that the NRI spouse should face legal consequences and trial.

1.42 When asked, whether revocation/impounding of Passport of NRI spouse only on the basis of not registering marriages in India and abroad with 30 days is an appropriate initiative, the Ministry in a written reply submitted that the major objective of the proposed Bill is to locate the erring NRI spouse and bring him/her back to India to face justice. Through compulsory registration of marriage within thirty days of marriage in India or abroad, the details of the travel documents or passport as well as visa or permanent resident card and the permanent resident address in the foreign country of the Non-Resident Indian spouse would be compiled which would help create a database of the NRI marriages for better enforcement of rights under various family laws that grant and provide to protect the various rights of the deserted spouse within a marriage.

Amendment to the Code of Criminal Procedure 1973

1.43 The Committee were also informed that serving judicial summons on overseas Indians abroad is a challenge for Indian Missions as in most cases, address given abroad is incorrect, not known or the overseas Indian has deliberately moved residence to another place. Further, even after Court Summons or Show Cause Notice is issued, the NRI spouse does not appear in the court in India and refuses to respond. The Amendments to CrPC, 1973 would empower the Courts for issuance of

summons, warrants through the specially designated website of the Ministry of External Affairs, which would be considered as deemed served & would force the NRI spouse to attend the Court Process. It also provides provisions for attachment of properties belonging to the NRI, if he does not appear before the Court and is declared as Proclaimed Offender by the Court. This would put pressure on the family members and the individual NRI to come back to India to face the legal consequences whether civil, criminal or matrimonial of his overt and covert acts.

1.44 When asked about the scope of bringing fraudulent spouses back under the existing laws of other countries and the exercise done to synchronise our proposal with their laws, the Ministry of External Affairs in a written reply stated that the Ministry has signed Mutual Legal Assistance Treaty (MLAT) with 42 countries which helps the Court to serve Summons/Notices to errant NRI spouses and this is done in coordination with the Ministry of Home Affairs. India is also a signatory to the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 1965. Besides, the Ministry takes assistance for service of documents on Assurances of Reciprocity in case of other countries. In respect of maintenance orders, which are served upon individuals, enforcement of Indian orders in foreign countries depends upon the domestic law in that foreign country. To sensitize the foreign governments, NRI marital issues are taken up during bilateral meetings / Consular Dialogues held with the foreign countries. The sharing of information about the NRIs, however comes under the protection of privacy laws of each sovereign country. The Government would continue to raise this issue bilaterally with these countries in order to workout firm mutual understanding.

1.45 On being asked whether MLAT enable the Government to catch and bring back the NRI marriage offenders back to India to face the Courts, the Ministry in a written submitted that the Mutual Legal Assistance Treaties (MLAT) are for the purpose of collecting evidence during investigation and prosecution. The evidence in the foreign country can be taken on record through a MLAT or LR. If the NRI marriage offender is residing outside India and a warrant has been issued for producing him before the court then the person can be brought back to India through the process of extradition.

1.46 When asked about implications of the Bill on NRI spouse who take advantage of lenient divorce ground in foreign legal system and get ex-parte decree of divorce in the foreign country through wrongful representation of facts, the Ministry in a written reply submitted that Indian courts do not recognize the divorces of Indian citizens (including NRIs) obtained under the local laws of host countries where the marriage was solemnized in India. As per Chapter 4 of Consular Manual, “Divorce obtained by persons who are domiciled in India and married according to Indian laws, from any court other than an Indian Court will not be recognized in India. A person marrying again after obtaining such a divorce during the life time of his wife in India will be liable to prosecution in India. At present, we are unable to serve the summons to the accused NRI spouse who conveniently avoids facing the judicial trials by evading court summons. The proposed bill would help to locate and bring the culprit NRI spouse to face justice.

1.47 Asked further about the procedure being followed to issue a look out Circular against an erring NRI Overseas Indian spouse under the proposed law, the Ministry in a written response submitted that the Ministry of Home Affairs vide its OM No. 25016/31/2010-Imm dated 27.10.2010 empowers Originating Agencies to make request for opening a Look Out Circular to Dy. Director, Bureau of Immigration in a prescribed proforma against an individual. It may, however, be noted that “Recourse to LOC is to be taken in cognizable offences under IPC and other penal laws.” In cases where there is no cognizable offence under IPC or other penal laws, the LOC subject cannot be detained/ arrested or prevented from leaving the country. In such cases, the originating agency can only request that they be informed about the arrival/departure of the subject. In addition to it, Ministry of Home Affairs vide its OM No. 25016/10/2017-Imm(Pt.) dated 24.01.2018 empowered the Convener of Integrated Nodal Agency to make requests for opening a Look Out Circular to Dy. Director, Bureau of Immigration in a prescribed proforma. The decision, whether to open a LOC or not, rests with the originating agency

only. Ministry of Home Affairs/ Bureau of Immigration is required to act as per the request/ text of the LOC sent by the originator in the prescribed proforma.

1.48 On being queried as to how the over-lapping between civil and criminal nature of cases will be taken care of considering marriage is a civil matter, the Ministry in a written reply submitted that marriage is a civil matter. However, at time the deserted spouses files a criminal case against NRI spouses, the service of summons are thus handled by Ministry of Home Affairs in criminal cases and Ministry of Law and Justice in civil cases.

1.49 The Committee observe from the data placed before them by the Ministry of External Affairs that there is a continuous increase in the number of complaints/ petitions related to NRI marital grievances/disputes. Most of the complaints pertain to women on issues such as abandonment, harassment, cheating and domestic violence by their Indian spouses residing abroad. The Committee also find that Government of India have been trying to provide financial assistance upto US \$ 4000, in each case to the aggrieved women in other countries through empanelled legal counsel, Indian Community Association, Women's organization and NGOs, apart from providing counselling and guidance to them in this regard. In India, an Integrated Nodal Agency (INA) which involves senior officials from Ministries of Women and Child Development, External Affairs, Home Affairs and Law and Justice has been constituted to provide a single window, timely solution to the problems of affected women in NRI marriages and for better monitoring of the welfare measures being undertaken in this regard. After constitution of INA, so far only eight Look Out Circulars have been issued and only one person has been intercepted by the immigration authorities and brought before the Court. However, all these measures have not been able to provide viable and practicable safeguard to legal rights of the Indian citizens abandoned by NRI spouses. Given the inadequacies of the extant measures, the Government has introduced 'The Registration of Marriage of Non-Resident Indian Bill, 2019 with the objective to locate and bring the culprit NRI spouse to face the Court in India by making the registration of NRI marriage compulsory and amendments to the Passports Act,

1967 and the Code of Criminal Procedure, 1973. The latter two would enable revoking and impounding of passport of the delinquent individual, legalising service of e-summons for these cases and for attachment of property of the delinquent individual.

(Recommendation No. 1)

1.50 The Committee note with satisfaction that this serious matter, after engaging attention for more than a decade and after a lot of hue and cry, has been taken to its logical culmination by the Ministry and a legislative proposal has been brought to overcome legal and procedural shortcomings, bilateral hurdles, apart from regulatory mechanism in order to restrain the proliferation of this menace. The Committee, however, find that after several years of discussion and deliberation on various issues relating to problems in NRI marriages, the Government has come out with a Bill which will only serve the purpose of creating pressure on accused NRI spouse to present self before the legal authorities/Courts. In the Committee's view, the Bill does not come upto the expectations of the Expert Committee, 15th Report of the Committee on External Affairs (Fifteenth Lok Sabha), 155th Report of Rajya Sabha and directions of the Supreme Court regarding registration of marriages in States. The Committee also have taken note of the fact that no public consultations were held while drafting the Bill. The Bill envisages Registration of Marriage by Non-Resident Indian, amendment to the Passports Act, 1967 and amendment to the Code of Criminal Procedure, 1973. In Committee's views there is a need to bring a comprehensive legislation which can adequately address all the issues relating to such fraudulent marriages, including the complex issues of divorce settlement, maintenance and custody of the child involving NRI spouses. The Committee consider this Bill

as a first step in this direction and desire that the Government should consider whether, after getting the whereabouts of the accused NRI spouses, the current legal provisions in chapter 4 in the Consular Manual, 1983, dealing with marriages and provision in Foreign Marriage Act, adequately address the issues of divorce, maintenance and child support in such marriages. If not, the Committee strongly recommend that the Ministry of External Affairs enact a comprehensive legislation to tackle the problems relating to NRI marriages incorporating other provisions, including addressing the challenges in Indian legal system and foreign courts in such matters. Amending current laws/rules and regulations only would help the deserted spouses of NRI marriages to reclaim their legal rights to property, equality in marriages, the protection of family and above all their dignity.

(Recommendation No. 2)

1.51 The Committee note that the legislation involves amendment in Passports Act, 1967. The proposed amendment in Passports Act empowers the Passport Authority to impound or revoke the Passport of erring spouse in order to bring ultimate relief and justice to the deserted spouses. The Bill also seeks amendment to the Code of Criminal Procedure, 1973. The CrPC provides for Court Summons or Show Cause Notices. The Committee are apprised that even after Court Summons or Show Cause Notice is issued, the NRI spouse does not appear in the court in India and refuses to respond, and that the amendment to CrPC, 1973 would empower agencies to serve Summons/Notice through the specially designated website of the Ministry of External Affairs. The Committee, however feel that the deserted women face typical challenges

in foreign countries particularly the difficulty in countering judicial action, privacy laws, more lenient divorce grounds and visa and immigration issues. The Committee strongly desire that provisions to support women in distress, including concessions/visa extensions, should be made in Mutual Legal Assistance Treaty (MLAT)/bilateral treaties with various countries, including video conferencing and facilitation of attachment of movable/immovable property of the delinquent husband/accused. The Committee have been apprised that India is a signatory to Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 1965. The Committee, therefore, strongly recommend that the efforts must be intensified to establish better coordination with the member countries of Hague Convention and to take up the issues of NRI marital disputes during bilateral meetings and Consular Dialogue with foreign countries continually.

(Recommendation No. 3)

CHAPTER-II

Chapter-wise and Clause-wise Examination of The Registration of Marriage of Non-Resident Indian Bill, 2019

The Registration of Marriage of Non-Resident Indian Bill, 2019 contains four Chapters which envisage Registration of Marriage of Non-Resident Indians, Amendments to the Passports Act, 1967 and the Code of Criminal Procedure, 1973.

CHAPTER I PRELIMINARY

Clause 1: Short title, Extent and Commencement

2.1 This clause refers to Short title, extent and commencement of the Bill and reads as under:

(1) This Act may be called the Registration of Marriage of Non-Resident Indian Act, 2019.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2.2 In view of recent abrogation of Article 370 in the State of Jammu and Kashmir and making of J&K and Ladhak the Union Territories, when the Committee asked about the need to remove the expression, 'except the state of Jammu and Kashmir from clause 1, sub-clause (2) of the legislation, Foreign Secretary during the course of evidence on 2 December, 2019 responded in the affirmative.

2.3 The Committee observe that clause 1(2) of the Bill reads that the Act shall extend to the whole of India except the State of Jammu and Kashmir. Keeping in mind the recent abrogation of Article 370 of the constitution of India, this clause needs modification. The Committee, therefore, recommend that the extant clause 1(2) which stipulates 'It shall extend to the whole of India except the State of Jammu and Kashmir' may be substituted with the words 'It shall extend to whole of India'.

(Recommendation No. 4)

Clause 2: Definition of Non-Resident Indian

2.4 This clause deals with the definitions of Non-Resident of India and reads as under:

For the purposes of this Act, "Non-Resident Indian" means a citizen of India who resides out of India.

2.5 While dwelling on the definition of an NRI during the course of briefing, Foreign Secretary on 19 November, 2018 submitted:

“At the moment, the only definition otherwise, is in the Income Tax Act and that specifies an NRI.”

2.6 On question raised by the Committee on the definition of NRI in the Income Tax Act, Foreign Secretary further responded:

“The IT Act defines an NRI as an Indian citizen who resides for more than 182 days outside the country. However, the proposed Bill defines the NRI as an Indian citizen who resides out of India, in order to bring the scope of outreach of this legislation to all those Indian citizens who ordinarily reside abroad and marry an Indian citizen.

It is felt that limiting the definition of an NRI on the basis of the duration of his/her stay outside India might lead to the exclusion of a large number of NRI marital grievances where the NRI spouse is residing abroad for a period of less than 182 days.

Hence, defining the duration of stay of the NRI outside India might narrow the scope of the Bill and provide legal loopholes to the erring NRI’s spouses to escape the ambit of the provisions of the Bill. The issue was deliberated in the Inter-Ministerial consultations and it was felt by members that the definition of NRI as per the IT Act would leave legal loopholes for people to evade the law, once the Bill is enacted. But we would be grateful for the guidance of the hon. Standing Committee on this matter.”

2.7 When the Committee desired to know the definition of NRI in Passport Act, the witness during the course of oral evidence on 27 January, 2020 submitted:

“There is no definition there”.

2.8 When the Committee desired to know the parameter on which a new legislation is brought rather than an amendment in existing legislation(s) if the criterion for ‘NRI’ is not clearly established in the proposed bill, the Ministry in a written reply submitted that in the proposed bill, NRI had been defined as an Indian Citizen who resides out of India and this would ensure to maximize the scope of

the bill and cover all cases including those where the NRI spouse has resided for less than 182 days in the foreign country.

2.9 When opinion of the Ministry was sought on the differences between the definition of an NRI in Draft Bill and Income Tax Act, the Ministry in a written reply submitted that the main objective of the proposed Bill is to locate the erring NRI spouse and bring him back to face the judicial trials. The Income Tax Act defines an NRI as an Indian citizen who resides for more than 182 days in a foreign country. This definition is for the purpose of levying the Income Tax on an Indian citizen who is residing abroad. However, the purpose of the proposed bill is different from the IT Act and hence it defines an NRI as an Indian citizen who resides out of India. The Ministry has also stated that the definition of the NRI in the proposed Bill has been arrived at after due consultations with the Ministry of Women & Child Development, Ministry of Law & Justice and Ministry of Home Affairs.

2.10 When the Committee desired to know the difficulty to import the definition of NRI from Income Tax Act, the, Secretary, Ministry of External Affairs during the course of oral evidence on 27 January 2020 submitted:

”That is a very good suggestion because with lack of definition, people will not register. Therefore, it should be defined. Now the question is what is to be defined. I understand the State of Punjab has an Act on this matter in which they have talked in similar terms – resides overseas – but they have not defined the term. The Punjab Act, of course, provides for both NRIs as well as PIOs. Our Bill is, of course, pertaining to NRIs. I think it is very important that we have a definition. In any case, if a person is coming back ahead of those 182 days, as provided for in the Income Tax Act, he can be acted upon within the domestic laws.”

2.11 In this context, Secretary, Ministry of External affairs clarified further:

“I would like to submit that our intention through this Bill should be that the Act should be respected. If there is lack of clarity about what is an NRI, then everybody will be in that ambiguous state, nobody will register. So, we must be very clear as to what it is. I think the problem with the Punjab Bill has also been the same. We must make sure that the definition of NRI is unambiguous that everybody who is an NRI has to register. I would suspect that if a person is here for 182 days, which is a normal resident of India, then he should be treated under domestic laws.”

2.12 With respect to the observation by the Committee, whether the Bill covers People of Indian Origin, Foreign Secretary during the oral evidence on 2 December, 2019 submitted:

“PIOs, that is, people who are of Indian origin but have foreign passports and foreign nationality, we wish to state that the proposed Bill is applicable only to Indian citizens. In other words, where an Indian citizen is married to a non-resident Indian citizen, the Bill does not cover Indian citizens who are married to foreign citizens or who are married to Persons of Indian Origin because such individuals are covered by the laws of their own countries and the Indian law would not automatically apply to them. However, such cases are also being regularly taken up with foreign countries concerned through Consular dialogues and through diplomatic channels.”

2.13 The Committee note that clause 2 deals with the definition of Non-Resident Indian and reads as ‘For the purposes of this Act, Non-Resident Indian’ means a citizen of India who resides out of India. The Committee felt that such too general and ambiguous definition of NRI in the Bill would easily help the accused to evade the law and be brought before the Courts. More so, when ‘NRI’ has been legally defined under Income Tax Act, 1961 and FEMA Act as per requirements. The main objective of the proposed Bill is to locate all the erring NRI spouses and bring them back to face the judicial trials. The Committee also felt that to accept the definition of ‘NRI’ as per the Income Tax Act, 1961 that an NRI is an Indian’ citizen who resides for more than 182 days in a foreign country, might lead to the exclusion of a large number of NRI marital grievances where the NRI spouses have been residing abroad for a period of less than 182 days. With a view to ensure the inclusion of maximum number of people residing overseas under the purview of the Bill, the Committee desire that the Ministry should consider to define the ‘NRI’ in the Bill as ‘Non-Resident Indian means a citizen of India who resides outside India for any purpose whatsoever, save tourism.

(Recommendation No.5)

CHAPTER II
REGISTRATION OF MARRIAGE OF NON-RESIDENT INDIAN

Clause 3: Registration of Marriage of Non-Resident Indian

2.14 This clause calls for compulsory registration of marriage of Non-Resident Indian within 30 days of marriage in India or abroad and reads as under:

(1) Every Non-Resident Indian who marries a citizen of India shall get his marriage registered in India under any law for the time being in force (including State Act) within a period of thirty days from the date of his marriage.

(2) Every Non-Resident Indian who marries a citizen of India, or any other Non-Resident Indian, out of India shall get his marriage registered within a period of thirty days from the date of his marriage with the Marriage Officer appointed under section 3 of the Foreign Marriage Act, 1969 within whose jurisdiction the marriage has taken place or solemnized in any manner at the choice of the parties to the marriage.

2.15 Through compulsory registration of marriage within thirty days of marriage in India or abroad, the details of the travel documents or passport as well as visa or permanent resident card and the permanent resident address in the foreign country of the Non-Resident Indian (NRI) would be compiled which would help create a database of the NRI marriages for better enforcement of rights under various family laws that grant and provide to protect the various rights of the deserted spouse within a marriage.

2.16 Elaborating the purpose the mandatory registration of NRI marriages, Foreign Secretary during the course of briefing on 18 November, 2019 further submitted:

“The purpose of making it mandatory to register the marriage within 30 days of the marriage in India or abroad is to secure the details of the travel documents or passport as well as the details of the visa, the Permanent Resident Card and the permanent residential address in a foreign country of the Non-Resident Indian. In so doing, the Ministry will have the requisite information to trace the NRI and to enable legal action to be taken for enforcement of rights of the abandoned spouse under various family laws.”

2.17 The Committee were apprised that the Bill has a simple provision of Registration of NRI marriages within 30 days like other marriages and it does not make any specific provision about the contents to be included in the marriage certificate like security number, passport number and relevant

details of foreign house of NRI husband. In this context, the ministry in a written reply submitted that the major objective of the proposed bill is to locate the NRI spouse abroad and ensure his/her appearance before the Court. They further stated that through compulsory registration of NRI marriages, they will be able to collect and collate the information about the whereabouts and other details of the NRI spouse, such as, details of passport, visa or permanent resident card and permanent resident address in the foreign country of the NRI. Also that this will enable them to locate the NRI spouse abroad and deliver the summons upon the NRI spouse abroad. Further, the Bill provides for attachment of properties belonging to the NRI, only if he/she does not appear before the Court and is declared as Proclaimed Offender by the Court. The proposed bill aims at only giving a legal framework to the Court and it is upto the Court to declare the erring NRI spouse as proclaimed offender and attach the property as per the details available with them.

2.18 When asked to justify the limitation of 30 days for registration of NRI marriage from the date of marriage and its sync with the normal provision for registration of marriages in various States, the Ministry in a written reply submitted that it was initially proposed to allow a period of 15 days for the registration of marriage by an NRI. This period was increased to 30 days by the Committee of Secretaries during their meeting chaired by Cabinet Secretary dated 6 Feb 2019. It is felt that the period of 30 days will give sufficient time to an NRI spouse to register his/her marriage accommodating any personal exigencies which may not have been addressed otherwise. A registration period of more than 30 days would dilute the purpose of this bill by reducing the pressure on the NRI spouse to register the marriage in case his/her intention is to abandon the spouse after marriage.

2.19 Asked if more period of time for registration of marriage on sufficient ground can be considered, Foreign Secretary during the course of oral evidence on 2 December, 2019 clarified:

“Our concern here was that allowing such kind of a flexibility gives a certain kind of discretion. The main contention for this Bill is that registration of marriage should be an important thing that needs to be done and that a 30-day period is adequate for registration of a marriage. If we feel that this is an inadequate period of time, then giving a discretion would allow many people to come forth with many excuses as to why they could not register the marriage and would also allow the person who intends not to register the marriage a longer period before it is discovered that he/she has fled the country.”

2.20 The Ministry in a written reply also submitted that the Bill provides for prospective application once it is passed and hence will cover marriage which are solemnized after it is enacted and it does not have a retrospective application.

2.21 Elaborating on the prospective effect of enactment of Act, Law Secretary during the course of briefing on 18 November, 2019 clarified

“It cannot be made as retrospective because there are penal consequences. So, any Act which earlier had penal consequences and that was not an offence, cannot be relegated to the same position. It has to be prospective only in case the penal provision has been provided.

2.22 It is observed that Foreign Marriage Act, 1969 defined marriage and everything, not only the registration of marriage but other related issues including the matrimonial rights of a person outside India.

2.23 On being enquired about incorporation of provision of mandatory registration of a marriage of an NRI outside India under the Foreign Marriage Act instead of bringing a new legislation, the Ministry in a written reply submitted that the main objective of the proposed bill is to locate the erring NRI spouse and ensure his/her appearance before the Court. The proposed bill does not intend to change the existing process of Registration of Marriages but to ensure that Marriage is registered under the already existing Acts to provide for information about the NRI spouse and to enable the Courts to deliver summons to the erring NRI spouse. None of the existing Acts, including the Foreign Marriage Act provide for the information of the NRI spouse and delivery of summons.

2.24 Clarifying the provisions of Clauses 3 (1) and Clause 3(2), Law Secretary during the oral evidence on 2 December, 2019 submitted:

“Apparently, there is no conflict between Clause 3 (1) and Clause 3 (2). In Clause 3 (1), the marriages which take place in India, it is only with this objective. Though both are citizens of India, one is likely to be qualified as Non-Resident Indian, that is, one who is going to come down to India and get married to the Indian citizen. This is regarding Clause 3 (1). On the other hand, there are marriages which may take place wherein both are the Non-Resident Indians. They are definitely the citizens of India but both may be having the status of Non-Resident Indians when they will marry outside. It is still feasible that one may be a Non-Resident Indian and the other may be a citizen who may not be an NRI but moves over there for the purpose of marriage. So, Clause 3 (2) is for enabling those kinds of marriages. The objective of the Act is for ‘Non-Resident Indian’. So, apparently, the Scheme is completely into this.”

2.25 When the Committee desired to know who is the competent authority to register the marriage, Law Secretary, during the course of briefing on 2 December, 2019 submitted:

“We will have to see again in complete detail. Sir, those two lines are material. They have said that the materials on record would indicate that most of the States barring a few have framed suitable legislations. In any event in terms of the order dated 15.4.2005 such of the States that have not framed legislation will be governed by the direction contained in the order dated 14.2.2006.”

2.26 Further, on being asked about the Marriage Officer/Registrar of Marriage not figuring in Clause 3(1) for NRI marriage solemnised in India, the Ministry in a written reply submitted that this information can be given after studying the process of registration in the State/UTs. It is presumed that the States/UTs that have enacted laws to make registration of marriages compulsory would have provided the process for its registration including designated officers who would be empowered to carry out the registration process.

2.27 The Committee note that clauses 3 (1) and 3(2) seek compulsory registration of marriage of Non-Resident Indian within 30 days of marriage in India or abroad respectively. The Committee further note that the core objective of the mandatory registration of NRI marriage is to secure the details of the travel documents or passport as well the details of the visa, the Permanent Resident Card and the permanent residential address in a foreign country of an NRI to enable the Government to bring him/her back to face the courts and to serve summons upon him/her. These provisions are available in none of the existing Acts, including the Foreign Marriage Act, 1969 and there is no Central Legislation on Registration/compulsory Registration of NRI marriages. The Committee note that the Ministry of Women and Child Development has developed a Marriage Registration proforma and separate website portal for registration of NRI marriages which is proposed to be linked to all the Registrars of Marriages in India. The Committee, however, find that the existing format of marriage registrations does not provide

complete details about NRI groom and bride. The proposed proforma for registration of NRI marriages seeks for very general type of information to be filled in which is not comprehensive viz. it does not have a column for present address and details in foreign country. The erring spouse may provide wrong information also if it is submitted without proof. Moreover, there is no provision of updation of informations particularly about residential address in this proforma. In such cases, the proposed proforma for registration may fail to serve the purpose of locating the erring spouses, service of summons and attachment of property by the court once she/he is declared proclaimed offender by the Court. The Committee, therefore, desire that the proforma for Registration of NRI marriage should be amended to make it exhaustive incorporating all the germane details related to passport, visa or Permanent Resident Card and address in foreign country with proof. The Committee, further desire that there should be provision for updating of the address online at any point of time. This should be done after creation of a separate Central NRI Marriage Registry uploading the uniform proforma for Registration of NRI marriage with facility of updation of address. The Committee also recommend that the proforma must be made as a schedule to the Bill and for this purpose accordingly, a suitable provision may be inserted in Clause 3 of the Bill. Further, the Committee recommend that suitable amendments may be enacted requiring all NRIs to update their address of residence in foreign country and employment details compulsorily. The MEA website may also be updated accordingly, to facilitate monitoring of compliance by all NRIs who marry after enactment of this law.

(Recommendation No.6)

CHAPTER III
AMENDMENT TO THE PASSPORT ACT, 1967
Clause 4: Amendment of Section 10

2.28 The clause 4 calls for amendment of section 10 of Passport Act 1967. The amendment to the Passport Act would empower the Passport Authority to impound or revoke the passport or travel

document of a non-resident Indian who has married an Indian National or NRI, if the marriage is not registered within 30 days of marriage.

The Clause reads as in the Passport Act, 1967, in section 10, in sub-section (3), after clause (h), the following clause shall be inserted, namely: –

‘(i) if it is brought to the notice of the passport authority that the holder of the passport or travel document is a Non-Resident Indian who has married a citizen of India or a Non-Resident Indian and not registered within a period of thirty days of his marriage under any law for the time being in force;

Explanation. – For the purposes of this clause, “Non-Resident Indian” means a citizen of India who resides out of India.’

2.29 When clarification was sought for insertion of phrase ‘for the purposes of this clause, the Ministry in a written reply submitted that Clause 4 of the Bill provides for the Amendment of the Passport Act 1967 where a new clause is inserted in section 10, in sub-section (3) – which allows the passport authority to impound / revoke the passport of the erring NRI spouse if he/she fails to register the marriage within 30 days of marriage. The Explanation- “For the purposes of this clause, “Non-Resident Indian” means a citizen of India who resides out of India’ is a part of this new clause and will be inserted along with it in Section 10(3) of the Passport Act. The Explanation for the purpose of this clause is part of the sentence which will be inserted into the Passport Act.

2.30 During the course of oral evidence, Foreign Secretary on 2 December, 2019 submitted that presently the passport of the erring NRI spouse is being revoked or impounded under the Section 10(3) (h) of the Passport Act, 1967. This section States:

“The passport authority may impound or cause to be impounded or revoke a passport or travel document - if it is brought to the notice of the passport authority that a warrant or summons for the appearance, or a warrant for the arrest, of the holder of the passport or travel document has been issued by a court under any law for the time being in force or if an order prohibiting the departure from India of the holder of the passport or other travel document has been made by any such court and the passport authority is satisfied that a warrant or summons has been so issued or an order has been so made.”

2.31 When asked whether Clause 4(i) clearly and automatically empowers the Passport Authority to impound/revoke the Passport of an erring NRI spouse, the Ministry in a written reply submitted that the proposed Bill does not empower the Passport Authority to automatically impound/revoke the passport of the erring NRI spouse. Whereas when it is brought into notice that the accused has not

registered the marriage within a period of thirty days of his marriage, the Passport Authority can initiate the due process to impound/revoke the passport as defined in the section 10(3) of the Passport Act, 1967.

2.32 On being enquired about the need of this Clause when there is already a provision of impounding of Passport under section 10(3) of the Passport Act, 1967, the Ministry in written reply submitted that The objective of the Bill is to make registration of the marriage by NRI compulsory within specified number of days. Non-registration of marriage by NRI will attract certain consequences, which is being provided by making amendments to the Passport Act.

2.33 When asked to clarify position about impounding the passport of many couples who would not get their marriage registered but face a complaint, the Ministry in a written reply submitted that the provisions of the proposed Bill allow the Passport Issuing Authority to impound/ revoke the passport of the erring NRI spouse, if it is brought to its notice that the erring NRI spouse has not registered his/her marriage within thirty days. The Passport issuing Authority will follow the due process of law before exercising power to impound/revoke the passport.

2.34 On being asked whether the Bill covers those persons whose marriages have already been solemnized before the coming into force of this Bill/Act and to provide some more time for them to register their marriage with any provisions of punishment, the Ministry in a written reply submitted the Bill provides for prospective application once it is passed and hence will cover marriages which are solemnized after it is enacted. It doesn't have a retrospective application.

2.35 When the Committee desired to know about the workability of imposing fine as to deterrent instead of impounding a Passport, Secretary, Ministry of Law and Justice, Department of Legal Affairs during the course of oral evidence on 27 January, 2020 submitted that it can be exemplary also, instead of a token fine in the case of NRIs.

2.36 The Committee note that clause 4 seeks amendment of Section 10 of the Passports Act, 1967 misspelt as 'Passport Act, 1967 in this clause. Section 10 (3) of the Passports Act, 1967 mentions the conditions under which the passport may be impounded or cause to be impounded or a passport or travel documents be revoked. The Bill proposes to insert a clause (i) after clause (h) in the Section 10 sub-section (3) of the Passports Act, 1967. The proposed clause allows the passport authority to impound/revoke the passport of the erring NRI spouse on failure of registration of marriage within 30 days of marriage. The Committee find that there is already a provision in the Act to impound or revoke a passport under various conditions when passport authority is satisfied with the wrong committed by an individual or when it is brought to the notice of the authority that warrants or summons for the appearance or a warrant of arrest of the holder of passport or travel document has been issued by a court under any law or any order prohibiting the departure from India has been issued by the court. Therefore, the Committee find that the provision of direct impounding or revoking the passport of a NRI who has married a citizen of India or a NRI only if it is brought to the notice of passport authority that she/he has not registered her/his marriage within 30 days of his marriage seems to be disproportionate and stringent action which is likely to be misused. Moreover, with such provision, the passport authorities are being authorized *suo moto* or of the basis of on any complaint to take action without determining whether marriage has been solemnized or not as this can be decided by the concerned competent authority only and thereafter, only the action is required. If the marriage is registered then passport authority

may not take any such action without the instructions of the court under any litigation. The Law Ministry was also not very sure about some of the provisions in Clause 4. The Committee, therefore, strongly recommend that the Ministry should seriously think about making a provision of issuing show cause notice, imposition of exemplary fine, issue of a Look Out Notice etc. prior to impounding of Passport of an NRI on failure to register her/his marriage within the stipulated time limit. The Explanation of Non-Resident Indian in this Chapter may also be amended as recommended by the Committee in Chapter I.

(Recommendation No. 7)

CHAPTER IV AMENDMENT TO THE CODE OF CRIMINAL PROCEDURE, 1973

Clause 5: Insertion of New Section 86A in CrPC

2.37 This clause provides for Insertion new section 86A in Code of Criminal Procedure, 1973 which contains six sub-clause to include Service of summons, warrants through website and attachment of property and reads as, In the Code of Criminal Procedure, 1973, after section 86, the following section shall be inserted, namely: –

“86A. (1) Notwithstanding anything contained in this Code or any other law for the time being in force, where a person summoned by a Court under this Code and the Court is satisfied that the summons issued could not be served, the Court may issue summons along with the substance of the information by uploading on the specially designated website of the Ministry of External Affairs of the Government of India and such uploading of the summons shall be conclusive evidence that the summons has been served against that person.

(2) Where the person summoned under sub-section (1) fails to appear before the Court at specified place and time required by the summons, either personally or through his duly authorised agent, the Court may, after making such enquiry as it thinks fit, issue a warrant for arrest of such person and upload the warrant along with the substance of the information against the person to be arrested along with the details of summons issued under sub-section (1) on the specially designated website of the Ministry of External Affairs of the Government of India.

(3) Where the person fails to appear before the Court at the time and place mentioned in the warrant uploaded on the website under sub-section (2), the Court may, after making

such enquiry as it thinks fit, pronounce him a proclaimed offender and upload a declaration to that effect on the specially designated website of the Ministry of External Affairs of the Government of India.

(4) After uploading a proclamation under sub-section (3), if the accused fails to appear before the Court issuing such proclamation, a statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly uploaded on the specially designated website of the Ministry of External Affairs of the Government of India shall be conclusive evidence that the warrant has been issued against accused person and shall be deemed to have been duly served.

(5) The Court issuing a proclamation under sub-section (3) may, for the reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both belonging to the proclaimed offender.

(6) Where the property attached under sub-section (5) consists of the share or interest of the proclaimed offender in the property jointly belonging to him and other co-owner or co-sharers, such attachment shall have effect only with regard to such share or interest of the proclaimed offender.

2.38 The Amendments to CrPC, 1973 would empower the Courts for issuance of summons, warrants through the specially designated website of the Ministry of External Affairs, which would be considered as deemed served & would force the NRI spouse to attend the Court Process. It also provides provisions for attachment of properties belonging to the NRI, if he does not appear before the Court and is declared as Proclaimed Offender by the Court. This would put pressure on the family members and the individual NRI to come back to India to face the legal consequences whether civil, criminal or matrimonial of his overt and covert acts.

2.39 When asked as to how summons and notices on the website can withstand judicial scrutiny, the Ministry in a written reply submitted that the Code of Criminal Procedure, 1973 allows for service of summons through proclamation via publishing in Newspapers which is in the public domain. In the present time of digital revolution across the social and cultural spectrum of the world, a substantial proportion of the population reads newspapers online including information websites and e-Newspapers as well. The service of summons via publishing on websites should thus hold parity to the service of summons via publishing in newspapers.

2.40 When asked to justify the provision to attach the property of spouse when there is no provision to get the details of property of the spouse alongwith the marriage registration and no information about the whereabouts and details of properties of the spouse in any document, the Ministry in a written reply submitted that the major objective of the proposed bill is to locate and bring the culprit NRI spouse to face justice. Through compulsory registration of marriage within thirty days of marriage in India or abroad, the details of the travel documents or passport as well as visa or permanent resident card and the permanent resident address in the foreign country of the Non-Resident Indian (NRI) would be compiled which would help create a database of the NRI marriages for better enforcement of rights under various family laws that grant and provide to protect the various rights of the deserted spouse within a marriage. This data can be further used for attachment of property of erring NRI spouse, once he is declared Proclaimed Offender by the Courts.

2.41 Justifying the attach of property by the Court in case there is no property in the name of erring spouse or ancestral property and identification of 'family', the Ministry in a written reply submitted that the clause 5(5) of the proposed Bill provides for the attachment of movable or immovable property belonging to the proclaimed offender. The clause 5(6) of the Bill further defines that where the property is jointly owned or shared by him and other co-owners or co-sharers, the attachment of property will relate to only the share or interest of the proclaimed offender. The Proposed Bill is aimed to give a legal framework to the Indian Courts for attachment of property of accused NRI spouse in cases of NRI Marital grievances. It is for the Courts to interpret the "family" as per the existing legal provisions of the time on case to case basis.

2.42 It is observed that a Person of Indian Origin (PIO) has certain entry rights, right of property and various others things. In this regard, when the Committee desired to know about attachment of PIO's property, Foreign Secretary during the course of oral evidence on 18 November, 2019 submitted as under:-

"I would not speak to that because that is a legal issue. I do not know whether my colleagues on the Law Department will speak to that. But effectively, he/she will have an Overseas Citizen of India card if they wish. That is also if they are PIOs. If they are entirely foreign nationals, then they do not even have that. But essentially, Sir, it is a question of deciding whether to have a law to help some Indians or not to have any law because the law as it is currently framed cannot deal both with an erring spouse who is Indian, and an erring spouse who is foreigner. They would be treated differently under the law.

For instance, you are very right about the Privacy Act. We cannot get information relating to an American citizen. But the Government of India has every right to demand information from an Indian citizen that the Indian citizen being in India registering his marriage cannot deny. Being an Indian citizen, where he is living abroad, what his visa number is, what his passport number, these he cannot deny. An American citizen would be able to deny that because he would claim privacy laws of his country. That is why we had to draw this distinction. We went through this discussion. The Ministers went through this discussion because we were aware that there are a lot of Persons of Indian Origin who are marrying Indian woman, who might be abandoning them. But the view was that we cannot deal with NRI and the PIO together. It has to be dealt separately. This is not to say that we will not deal with the other issue but the current law cannot cover Persons of Indian Origin who hold foreign passports.

So far as the issue of divorce, alimony and maintenance was concerned, Sir, in my statement, we had indicated that the primary objective of this law is to be able to locate this individual and that there are already other laws in the country dealing with divorce, maintenance and alimony which we felt were adequate to deal with the situation.”

2.43 When the Committee desired to know whether serving of summon *via* specially designated website would withstand judicial scrutiny, Law Secretary during the oral evidence on 2 December, clarified:

“What I would also like to seek an understanding on concept is that the Bill envisages registration of marriage of Non-Resident Indian within 30 days. That is the first basic which we understand. The second thing is that in case a person fails to register within a period of 30 days as required, we come to amendment of the Passport Act, which says so that the action may be taken in terms of Section(10)(3). That is one part, which could be taken.

Now, Sir, the third stage, the amendment of the Code of Criminal Procedure, I would like to understand from the administrative department is that the service of summons would be in what context. Is it a general context we are taking in this Bill or is it with reference to some action to be taken in reference to the proceedings under this Bill? It is because in this Bill, it talks of registration of marriage within 30 days. In case, it is non-complied with, an action that is postulated is under Section 4, Section 10 sub-Section 3.”

2.44 When the Committee desired the portal and website to be maintained by the Ministry of External Affairs, Secretary, MEA during the course of oral evidence on 27 January 2020 submitted as under:-

“In article 5(iv) we have said that we will have a designated website of the MEA for all these purposes. So, the entire portal should be complete in itself so that it addresses the entire issue of registration implementation.”

2.45 On being enquired about procedure for issuing summons through e-mail, Law Secretary during the oral evidence on 2 December, 2019 *inter-alia* submitted:

“I would like to draw attention to Section 61 and 62 of the Code of Criminal Procedure, 1973. Section 62 of the Cr.P.C. says how the summons have to be served. In this, Sir, specifically, at the moment, there is no provision for service of e-summons.”

2.46 Explaining the justification of amendment in Code of Criminal Procedure, 1973, representative of Ministry of Women and Child Development during the oral evidence on 2 December, 2019 *inter-alia* submitted:

“My submission is that the CPC provides for posting notices of summons or warrants on the website. This provision is not there in CrPC.”

2.47 The Committee note that sub clauses 5(1) to 5(6) seek amendment to the Code of Criminal Procedure, 1973 to empower the Courts for issuing of summons and warrants through designated website of the Ministry of External Affairs. The Committee observe that currently there is no provision in Code of Criminal Procedure, 1973 for issuing summons or warrants on the Website. The Committee agree with the provision to be made in the proposed legislation in CrPC to service of summons through website which will be conclusive evidence that the summons have been served against that person. If the person fails to appear before the court after serving the summons, then the court may issue an arrest warrant for offender on the MEA website & process of impounding passport can also be exercised subsequently, even after issue of warrant of arrest if the person does not appear then a declaration will be uploaded on the designated website. The Committee find that the provision of attachment of property after issue of proclamation is not only a stringent step but also perhaps in the domain of the Court who is seized of the concerned matter. Clause 5 of the Bill, therefore, ought to be restricted only to the point of facilitating service of summons and court orders. The punitive measures that may follow ought to be left to be decided by the concerned court on a case to case basis.

(Recommendation No. 8)

2.48 The Committee, therefore, approve ‘The Registration of Marriage of Non-Resident Indian Bill, 2019 subject to appropriate inclusion of suggestions/recommendations made by the Committee in the preceding paragraphs in the current Bill or through other appropriate methods.

(Recommendation No. 9)

NEW DELHI
12 March, 2020

22 Phalguna, 1941 (Saka)

P.P. CHAUDHARY,
Chairperson,
Committee on External Affairs

MINUTES OF THE EIGHTH SITTING OF THE COMMITTEE ON EXTERNAL AFFAIRS
(2018-19) HELD ON 1 MARCH, 2019

The Committee sat on Friday, 1 March, 2019 from 1400hrs to 1445hrs in Committee Room 'C', Parliament House Annexe, New Delhi

PRESENT

Dr. Shashi Tharoor – Chairperson

MEMBERS

Lok Sabha

2. Shri Arka Keshari Deo
3. Prof. Richard Hay
4. Shri Jagdambika Pal
5. Shri Magananti Venakateshwara Rao
6. Mohammad Salim

Rajya Sabha

7. Shri P. Bhattacharya
8. Shri Sambhaji Chhatrapati
9. Shri Swapan Dasgupta
10. Shri Chunibhai Kanjibhai Gohel
11. Shri Kumar Ketkar

Secretariat

- | | | | |
|----|----------------------------|---|---------------------|
| 1. | Smt. Abha Singh Yaduvanshi | - | Joint Secretary |
| 2. | Dr. Ram Raj Rai | - | Director |
| 3. | Smt. Jyochnyamayi Sinha | - | Additional Director |

MINISTRY OF EXTERNAL AFFAIRS

- | | | | |
|----|---------------------------|---|----------------------------------|
| 1. | Shri Sanjiv Arora | - | Secretary (CPV& OIA) |
| 2. | Dr. Manoj Kumar Mohapatra | - | Additional Secretary (AD) |
| 3. | Shri Manpreet Vohra | - | Joint Secretary (Parl. & Coord.) |
| 4. | Shri Robert Shetkintong | - | Joint Secretary (OIA-II) |

2. At the outset, the Chairperson welcomed the members of the Committee and the representatives of the Ministry of External Affairs (MEA) to the Sitting of the Committee convened to have a briefing on the 'Registration of Marriage of Non-Resident Indian Bill, 2019'. The Chairperson also drew the attention of all the representatives to Direction 55 (1) of Directions by the Speaker, Lok Sabha in order to maintain the confidentiality of the proceedings.

3. Taking cues from the opening remarks of the Chairperson, the representatives of the Ministry of External Affairs delved upon general and specific issues related to the Bill *viz*, immediate context of introducing the Bill; consultations with concerned stakeholders prior to the finalization of the Bill; compulsory registration of marriages; existing legal and institutional framework for addressing issues related to NRI marriages; intended amendments to Passport Act 1967 and Code of Criminal Procedure 1973 and so on.

4. Thereafter, the Members raised pertinent queries impinging on issues like maintenance of database on NRI marriages; omission of the Committee's Recommendations contained in Fifteen Report (15th Lok Sabha) on the problems relating to Overseas Indian Marriages; awareness and information dissemination about intended changes; creation of a separate website marital exploitation and discord etc.

5. The representatives of the Ministry of External Affairs responded to the concerns raised by the Members. Before the Sitting concluded, the Chairperson directed the witnesses to furnish written replies to the points raised by the members of the Committee at the earliest.

The witnesses then withdrew.

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON EXTERNAL AFFAIRS
(2019-20) HELD ON 18 NOVEMBER, 2019

The Committee sat on Monday, 18 November, 2019 from 1500hrs to 1645hrs in Committee Room 'D', Parliament House Annexe, New Delhi

PRESENT

Shri P.P. Chaudhary – Chairperson

MEMBERS

Lok Sabha

2. Shri Margani Bharat
3. Kunwar Pushpendra Singh Chandel
4. Shri Jayadev Galla
5. Shri Dileshwar Kamait
6. Smt. Preneet Kaur
7. Smt. Meenakshi Lekhi
8. Smt. Poonam Mahajan
9. Dr. K.C. Patel
10. Shri Achyutnanda Samanta
11. Shri Ravindra Shyamnarayan Shukla alais Ravi Kishan
12. Shri Manoj Tiwari
13. Shri Rebati Tripura
14. Shri N.K. Premachandran

Rajya Sabha

15. Shri K.J. Alphons
16. Shri Swapan Dasgupta
17. Shri Sharad Pawar
18. Shri Neeraj Shekhar

Secretariat

1. Shri P.C.Koul - Joint Secretary
2. Dr. Ram Raj Rai - Director
3. Smt. Jyochnyamayi Sinha - Additional Director

MINISTRY OF EXTERNAL AFFAIRS

- | S.No. | Name | Designation |
|--------------|--------------------|---------------------|
| 1. | Shri Vijay Gokhale | - Foreign Secretary |

- | | | | |
|----|------------------------|---|--------------------------------|
| 2. | Shri Dinesh K. Patnaik | - | Additional Secretary (CPV&OIA) |
| 3. | Ms. Uma Sekhar | - | Additional Secretary (L&T) |

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

- | | | | |
|----|------------------------|---|-----------------------------|
| 1. | Shri Ashish Srivastava | - | Joint Secretary (Legal) |
| 2. | Shri Asholi Chalai | - | Joint Secretary (NCW, MWCD) |

MINISTRY OF HOME AFFAIRS

- | | | | |
|----|------------------|---|----------------------------|
| 1. | Shri Sri Prakash | - | Joint Secretary (Judicial) |
|----|------------------|---|----------------------------|

MINISTRY OF LAW AND JUSTICE (DEPARTMENT OF LEGAL AFFAIRS)

- | | | | |
|----|-----------------------------|---|----------------------|
| 1. | Shri Anoop Kumar Mendiratta | - | Law Secretary |
| 2. | Shri S.R. Mishra | - | Additional Secretary |
| 3. | Dr. Anju Rathi Rana | - | JS (Legal Advisor) |

2. At the outset, the Chairperson welcomed the members of the Committee and the representatives of the Government to the Sitting of the Committee convened to have a briefing on the 'Registration of Marriage of Non-Resident Indian Bill, 2019'. The Chairperson in his opening remarks underlined the provisions of the Bill and specifically desired to know the impact of these provisions on regularization of registration of NRI marriages on all India basis and in bringing back the defaulting NRI spouses and their family members for legal proceedings in India particularly those who take advantage of the lenient divorce laws in some countries. He further enquired about the status of inclusion of the recommendations of the Expert Committee in the Bill and the role of Missions and Posts in protecting the right of distressed spouses. The Chairperson then drew the attention of all the representatives to Direction 55 (1) of Directions by the Speaker, Lok Sabha regarding maintaining the confidentiality of the proceedings. The Chairperson also apprised the witnesses about the provisions of Direction 58 of Directions by the Speaker, Lok Sabha.

3. Thereafter, Foreign Secretary delved upon a wide range of issues which necessitated the introduction of the legislation comprising provisions for compulsory registration of marriage by NRIs, amendment to Passport Act, 1967 and Criminal Procedure Code, 1973 for impounding or revocation of Passports of NRIs and provision for attachment of property belonging to NRIs. This included the legal and regulatory hurdles faced by Indians married to NRIs, need to build safeguards in order to protect the spouses suffering due to fraudulent NRI marriages, existing system for counseling, guidance and assistance to NRI spouses, empanelment of legal counsels, MADAD Portal, etc.

4. During the course of discussion, the Chairperson and the Members raised a number of queries about the number of applications/complaints received from NRI spouses from different countries, status of complaints, revocation of Passports, specific provisions for impounding passports under the Passport Act, judicial scrutiny of impounded passports, availability of International Helpline Facility, jurisdiction of various Ministries in framing the legislation, privacy laws in western countries, provisions for alimony or maintenance in ex-parte divorce cases, custody of children, registration of marriage solemnized abroad under Indian Laws and provisions to provide assistance to OCI/PIO card holders for revocation of visa and property, resolution of cases related to marriages of Indian citizens with foreigners, impact of absence of laws for registration of the marriage in several States and other associated issues.

5. The representatives of the Government responded to the queries raised by the Members. Before the Sitting concluded, the Chairperson directed the witnesses to furnish written replies to the points raised by the members of the Committee and to the supplementary List of Points to be sent by the Secretariat within ten days.

The witnesses then withdrew.

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE FIFTH SITTING OF THE COMMITTEE ON EXTERNAL AFFAIRS
(2019-20) HELD ON 02 DECEMBER, 2019

The Committee sat on Monday, 02 December, 2019 from 1530hrs to 1730hrs in Committee Room 'D', Parliament House Annexe, New Delhi

PRESENT

Shri P.P. Chaudhary – Chairperson

MEMBERS

Lok Sabha

1. Shri Jayadev Galla
2. Shri Dileshwar Kamait
3. Smt. Preneet Kaur
4. Smt. Meenakshi Lekhi
5. Shri Borlakunta Venkatesh Netha
6. Shri Ritesh Pandey
7. Dr. K.C. Patel
8. Shri Achyutnanda Samanta
9. Shri Ram Swaroop Sharma
10. Shri Manoj Tiwari
11. Shri Rehati Tripura
12. Shri N.K. Premachandran

Rajya Sabha

13. Shri K.J. Alphons
14. Smt. Jaya Bachchan
15. Shri Swapan Dasgupta
16. Shri Neeraj Shekhar

SECRETARIAT

1. Shri P.C.Koul - Joint Secretary
2. Dr. Ram Raj Rai - Director
3. Smt. Jyochanmayi Sinha - Director

WITNESSES

MINISTRY OF EXTERNAL AFFAIRS

- | | | | |
|----|-------------------------|---|--------------------------------|
| 1. | Shri Vijay Gokhale | - | Foreign Secretary |
| 2. | Shri Vikas Swarup | - | Secretary (CPV & OIA) |
| 3. | Shri Dinesh K. Patnaik | - | Additional Secretary (CPV&OIA) |
| 4. | Shri Manish | - | Joint Secretary (OIA-II) |
| 5. | Shri Robert Shetkintong | - | Joint Secretary (Parl & Coord) |

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

- | | | | |
|----|------------------------|---|-----------------------------|
| 1. | Shri Rabindra Panwar | - | Secretary |
| 2. | Shri Ashish Srivastava | - | Joint Secretary (Legal) |
| 3. | Shri Asholi Chalai | - | Joint Secretary (NCW, MWCD) |

MINISTRY OF HOME AFFAIRS

- | | | | |
|----|--------------------------|---|----------------|
| 1. | Shri Nagendra Nath Sinha | - | Secretary (BM) |
|----|--------------------------|---|----------------|

MINISTRY OF LAW AND JUSTICE (DEPARTMENT OF LEGAL AFFAIRS)

- | | | | |
|----|-----------------------------|---|---------------------------------|
| 1. | Shri Anoop Kumar Mendiratta | - | Law Secretary |
| 2. | Dr. Anju Rathi Rana | - | Joint Secretary & Legal Advisor |

MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)

- | | | |
|----|-----------------|----------------------|
| 1. | Shri K. Biswal- | Additional Secretary |
|----|-----------------|----------------------|

2. At the outset, the Chairperson welcomed the Members of the Committee and the representatives of the Ministry of External Affairs, the Ministry of Women and Child Development, the Ministry of Home Affairs and the Ministry of Law and Justice (Department of Legal Affairs & Legislative Department) to the Sitting of the Committee convened to have oral evidence on the 'Registration of Marriage of Non-Resident Indian Bill, 2019'. After giving cue of the discussion, the Chairperson drew the attention of all the representatives to Direction 55 (1) of Directions by the Speaker, Lok Sabha in order to maintain the confidentiality of the proceedings. The Chairperson also apprised the witnesses about the provision of Direction 58 of Directions by the Speaker, Lok Sabha.

3. Thereafter, Foreign Secretary briefed about the issues related to the proposed Bill that were raised during the last Sitting of the Committee held on 18.11.2019 and the objectives of the proposed Bill.

4. After some deliberation on general issues pertaining to the Bill, the Committee took up clause-by-clause discussion with the representatives of Ministries/Departments concerned. The major issues discussed during the oral evidence inter-alia included provision to cover registration of marriages

solemnized before enactment of proposed legislation, relaxation in time period for registration of marriages, direction of Supreme Court for compulsory registration of marriages in States, legislative jurisdiction of States under the concurrent list, development of portal for registration of marriage, process of registration of marriage under Special Marriage Act, 1954, purview of registration under Foreign Marriage Act, 1969, definition of NRI in the Act, competent authority for revocation of passport and the proposed provision under the Act for deciding aggrieved party, insertion of section 86A in the code of criminal procedure, 1973, procedure for serving the summons and court orders through specially designated website of MEA and other related issues.

5. Thereafter, the representatives of the Ministries/Departments responded to the queries raised by the Members at length.

6. The Committee decided to have another deliberation on the Bill in due course. Before the Sitting concluded, the Chairperson also directed the witnesses to furnish written replies to the points raised by the Members of the Committee at the earliest.

The witnesses then withdrew.

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE FIFTH SITTING OF THE COMMITTEE ON EXTERNAL AFFAIRS
(2019-20) HELD ON 27 JANUARY, 2020

The Committee sat on Monday, 27 January, 2020 from 1100 hrs to 1335 hrs in Committee Room 'C', Parliament House Annexe, New Delhi

PRESENT

Shri P.P. Chaudhary – Chairperson

MEMBERS

Lok Sabha

2. Shri Dileshwar Kamait
3. Smt. Meenakshi Lekhi
4. Shri P.C. Mohan
5. Shri Ram Swaroop Sharma
6. Shri Manoj Tiwari
7. Shri Rebati Tripura
8. Shri N.K. Premchandran

Rajya Sabha

9. Shri K.J. Alphons
10. Shri Swapan Dasgupta

SECRETARIAT

1. Shri P.C.Koul - Joint Secretary
2. Dr. Ram Raj Rai - Director

WITNESSES

MINISTRY OF EXTERNAL AFFAIRS

1. Shri Sanjay Bhattacharya - Secretary (CPV & OIA)
2. Shri Dinesh K. Patnaik - Additional Secretary (CPV&OIA)
3. Ms. Uma Sekhar - Additional Secretary (L&T)
4. Shri Manish - Joint Secretary (OIA-II)

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

1. Shri Ashish Srivastava - Joint Secretary (Legal)

MINISTRY OF HOME AFFAIRS

1. Shri Anil Malik - Additional Secretary

MINISTRY OF LAW AND JUSTICE (DEPARTMENT OF LEGAL AFFAIRS)

1. Shri Anoop Kumar Mendiratta - Law Secretary
2. Dr. Anju Rathi Rana - Joint Secretary & Legal Advisor

MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)

1. Shri K. Biswal - Additional Secretary
2. Shri R.S. Jayakrishnan - Legislative Counsel

2. At the outset, the Chairperson welcomed the Members of the Committee and the representatives of the Government to the Sitting of the Committee convened for taking oral evidence on the 'Registration of Marriage of Non-Resident Indian Bill, 2019'. Thereafter, the Chairperson drew the attention of all the representatives to Direction 55 (1) of Directions by the Speaker, Lok Sabha in order to maintain the confidentiality of the proceedings. The Chairperson also apprised the witnesses about the provision of Direction 58 of Directions by the Speaker, Lok Sabha. He also highlighted the points on which the Committee needed clarifications.

3. The Secretary of Ministry of External Affairs was then directed to clarify the Ministry's point of view on the issues related to the proposed Bill that were raised during the Sittings of the Committee held on 18.11.2019 and 02.12.2019 respectively.

4. After a brief deliberation on the status of Births, Deaths and Marriages Registration Act, 1886 and some other existing Acts to ascertain the need of coming up with a standalone legislative proposal by MEA, the Committee took up the Bill for a clause by clause discussion. The major issues discussed during the oral evidence inter-alia included statement of objects and reasons of the Bill, provision of impounding or revocation of passport, serving of summon and warrants, uploading proforma of NRI Marriage Registration on website, role of Government in civil matter, lack of provision for renewal/updation of the addresses of NRI couples in proforma for registration, inclusion of foreign residential address of NRI in passport and in marriage proforma, , directions of Supreme Court for enactment of law for compulsory registration of marriage, law for compulsory registration of marriage in States and Union Territories, provision for registration of a marriage outside respective States, formulation of an uniform proforma for marriage registration, incorporation of marital status in passports, alternate provisions such as fine, serving notice, Look Out Notice etc. instead of

impounding passport, Registration of Marriage under Foreign Marriage Act, 1969, amendment in provision of CrPc for uploading summons on website, parameter for determination of registration of marriage and centralization of website for serving notice among others. The representatives of the Government responded to the queries raised by the Members at length.

5. Before concluding, the Chairperson directed the witnesses to furnish written replies to the points raised by the Members of the Committee and additional supplementary List of Points to be sent by the Secretariat at the earliest.

The witnesses then withdrew.

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

**MINUTES OF THE SEVENTH SITTING OF THE COMMITTEE ON EXTERNAL AFFAIRS
(2019-20) HELD ON 12 MARCH, 2020**

The Committee sat on Thursday, 12 March, 2020 from 1000 hrs. to 1050 hrs. in Committee Room 'E', Parliament House Annexe, New Delhi.

Present

Shri P.P. Chaudhary – Chairperson

Members

Lok Sabha

2. Shri Jayadev Galla
3. Shri Dileshwar Kamait
4. Shri P.C. Mohan
5. Shri Ritesh Pandey
6. Shri Achyutananda Samanta
7. Shri N.K. Premachandran

Rajya Sabha

8. Shri K. J. Alphons
9. Shri Swapan Dasgupta
10. Shri Shamsheer Singh Manhas
11. Shri Abdul Wahab

Secretariat

1. Shri P.C Koul - Joint Secretary (PC)
2. Dr. Ram Raj Rai - Director

2. At the outset, the Chairperson welcomed the members to the Sitting of the Committee.

3. The Committee took up for consideration the draft Report on 'the Registration of Marriage of Non-Resident Indian Bill, 2019' of the Ministry of External Affairs.

4. The Chairperson invited the members to offer their suggestions, if any, for incorporation in the draft Report. The members suggested some minor modifications. After deliberations the Committee adopted the draft Report with these minor modifications.

5. The Committee then authorized the Chairperson to finalize the Report incorporating the suggestions made by the members and present the same to Parliament.

The Committee then adjourned.

Annexure-VI

Bill No. XII of 2019

THE REGISTRATION OF MARRIAGE OF NON-RESIDENT
INDIAN BILL, 2019

A

BILL

to provide for registration of marriage of Non-Resident Indian and further to amend the Passports Act, 1967 and the Code of Criminal Procedure, 1973 and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Registration of Marriage of Non-Resident Indian Act, 2019.

Short title,
extent and
commencement.

(2) It shall extend to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definition. 2. For the purposes of this Act, “Non-Resident Indian” means a citizen of India who resides out of India.

CHAPTER II

REGISTRATION OF MARRIAGE OF NON-RESIDENT INDIAN

Registration of marriage of Non-Resident Indian. 3. (1) Every Non-Resident Indian who marries a citizen of India shall get his marriage registered in India under any law for the time being in force (including State Act) within a period of thirty days from the date of his marriage. 5

(2) Every Non-Resident Indian who marries a citizen of India, or any other Non-Resident Indian, out of India shall get his marriage registered within a period of thirty days from the date of his marriage with the Marriage Officer appointed under section 3 of the Foreign Marriage Act, 1969 within whose jurisdiction the marriage has taken place or solemnized in any manner at the choice of the parties to the marriage. 10 33 of 1969.

CHAPTER III

AMENDMENT TO THE PASSPORT ACT, 1967

Amendment of section 10. 4. In the Passport Act, 1967, in section 10, in sub-section (3), after clause (h), the following clause shall be inserted, namely:— 15 15 of 1967.

‘(i) if it is brought to the notice of the passport authority that the holder of the passport or travel document is a Non-Resident Indian who has married a citizen of India or a Non-Resident Indian and not registered within a period of thirty days of his marriage under any law for the time being in force; 20

Explanation.—For the purposes of this clause, “Non-Resident Indian” means a citizen of India who resides out of India.’

CHAPTER IV

AMENDMENT TO THE CODE OF CRIMINAL PROCEDURE, 1973

Insertion of new section 86A. 5. In the Code of Criminal Procedure, 1973, after section 86, the following section shall be inserted, namely:— 25 2 of 1974.

Service of summons, warrants through website and attachment of property. “86A. (1) Notwithstanding anything contained in this Code or any other law for the time being in force, where a person summoned by a Court under this Code and the Court is satisfied that the summons issued could not be served, the Court may issue summons along with the substance of the information by uploading on the specially designated website of the Ministry of External Affairs of the Government of India and such uploading of the summons shall be conclusive evidence that the summons has been served against that person. 30

(2) Where the person summoned under sub-section (1) fails to appear before the Court at specified place and time required by the summons, either personally or through his duly authorised agent, the Court may, after making such enquiry as it thinks fit, issue a warrant for arrest of such person and upload the warrant along with the substance of the information against the person to be arrested along with the details of summons issued under sub-section (1) on the specially designated website of the Ministry of External Affairs of the Government of India. 35 40

(3) Where the person fails to appear before the Court at the time and place mentioned in the warrant uploaded on the website under sub-section (2), the Court may, after making such enquiry as it thinks fit, pronounce him a proclaimed offender and upload a declaration to that effect on the specially designated website of the Ministry of External Affairs of the Government of India. 45

5 (4) After uploading a proclamation under sub-section (3), if the accused fails to appear before the Court issuing such proclamation, a statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly uploaded on the specially designated website of the Ministry of External Affairs of the Government of India shall be conclusive evidence that the warrant has been issued against accused person and shall be deemed to have been duly served.

10 (5) The Court issuing a proclamation under sub-section (3) may, for the reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both belonging to the proclaimed offender.

(6) Where the property attached under sub-section (5) consists of the share or interest of the proclaimed offender in the property jointly belonging to him and other co-owner or co-sharers, such attachment shall have effect only with regard to such share or interest of the proclaimed offender.

STATEMENT OF OBJECTS AND REASONS

There have been several reports of Indian women being trapped in fraudulent marriages with Non-Resident Indians. This has indeed emphasised the persistent need to build safeguards in order to protect those spouses from such situations. Therefore, it is necessary that the marriage solemnized or otherwise in India or outside India shall be registered within a period of thirty days from the date of marriage. It has been decided to bring in a legislation to provide for compulsory registration of marriage for better enforcement of rights of the deserted spouses under various family laws.

2. Accordingly, the Registration of Marriage of Non-Resident Indian Bill, 2019 proposes to provide for compulsory registration of marriage by a Non-Resident Indian within a period of thirty days from the date of marriage. It also seeks to amend the Passport Act, 1967 and the Code of Criminal Procedure, 1973.

3. The proposed amendment of the Passport Act, 1967 empowers the passport authority to impound or cause to be impounded or revoke a passport or travel document of a Non-Resident Indian, if it is brought to his notice that the Non-Resident Indian has not registered his marriage within a period of thirty days from the date of marriage.

4. The proposed amendments to the Code of Criminal Procedure, 1973 would also empower the Courts for issuance of summons, warrants through the specifically designated website of the Ministry of External Affairs of the Government of India. It further provides for attachment of the properties, both movable and immovable, belonging to a proclaimed offender.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 8th February, 2019.

SUSHMA SWARAJ.

RAJYA SABHA

A

BILL

to provide for registration of marriage of Non-Resident Indian and further to amend the Passports Act, 1967 and the Code of Criminal Procedure, 1973 and for matters connected therewith or incidental thereto.

(Smt. Sushma Swaraj, Minister of External Affairs)