



## 9. CANADA

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

		The only way to know the marital status of an Indian national is checking of their PRIDE data which again cannot be said to be a true proof.
5	Finding out location or whereabouts of husband in foreign country	Owing to strict Privacy laws, it is not possible for this Mission to approach any Canadian authority or private persons to find out the whereabouts of an Indian NRI/PIO spouse in Canada.
6	Disappearance of spouse/Abandonment of Indian women by overseas Indian husbands (NRI/PIO/foreign spouse)	There is no way this Mission can trace in Canada a fugitive spouse who has abandoned his/her Indian spouse.
7	Providing shelter to abandoned woman/children abandonment by overseas Indian	The local Canadian social services authorities do provide shelter and food to abandoned woman/children though they do not share such information with this Mission.
8	Grant of permanent residency to Indian women/children abandoned by Overseas Indian spouse in India	The Canadian authorities grant permanent residency only to those women and children who are sponsored by the Indian NRI/PIO spouse.
9	Property Rights for aggrieved Indian wife in property of Overseas Indian spouse in foreign country	An aggrieved Indian wife can file a case in Indian court for 50% of the foreign owned property of her spouse. However, the Canadian authorities do not recognise the court orders of India in such cases. She can also approach a lawyer in Canada after reaching here even on visitor visa, sponsored by anybody (not necessarily her husband).
10	Abuse/Domestic violence/Ill-treatment of wife by the NRI/PIO husband	The Mission also received complaints of abuse/domestic violence/ill-treatment by Indian wives at the hands of their NRI/PIO husbands. However, the Mission cannot take up the matter with the concerned local police authorities as it has no <i>locus standi</i> in the matter due to strict privacy laws. In such cases, only the distressed Indian women can seek the assistance of local police/other authorities directly.
11	Child abduction/Charges on wife by overseas Indian husband	Normally the Canadian immigration authorities ask for the consent letter if the child is travelling alone or with

		<p>one parent. The HCI on its part also require the consent of both the parents at the time of issuing Indian visa to the minor child. Even if the mother is able to abduct a minor child holding Canadian nationality to India, the Canadian authorities file a court case and vigorously follow the matter with the concerned foreign authorities. In such cases, Consulate is not kept in the loop.</p>
12	Child Custody sought by Indian woman when children, spouse are based abroad	<p>The aggrieved Indian wife will have to seek the help of the local Canadian court. The custody of the child (who may be having Canadian nationality) can be given to the mother, who may even be holding Indian nationality.</p>
13	Ex parte decree/divorce in foreign country	<p>There have been many cases where the local courts have taken Ex parte decisions favouring Canadian citizens. However, it happens when the Indian women is not represented in the court case.</p>
14	How much money is required to file a case in such matters	<p>The legal cost in Canada is huge and the amount may vary from case to case. If the divorce case is with mutual consent, it may be decided within six months - one year at a cost of Canadian \$ 2000. However, if it is contested and goes for trial, the legal costs may be anywhere between Canadian \$ 50,000 and beyond.</p>
15	Look out circular of Overseas Indians sent by GOI to foreign government	<p>As regards Servicing of judicial documents in Canada, including court orders/summons/show cause notices, it is regulated by reciprocal arrangements with Canada finalized and notified by the Ministry of Home Affairs, New Delhi, as per statutory provisions of the Criminal Procedure Code (Section 105). MHA, which is the nodal Ministry and Central Authority for seeking and providing the Mutual Legal Assistance in Criminal Matters, receives all kinds of such requests, examines them and take appropriate action including taking up the matter with the Canadian</p>

		<p>Department of Justice, Ottawa. If the judicial documents are not sent under MLAT, the Canadian authorities do not take any action.</p> <p>Comprehensive guidelines in this regard can be seen on the website of the Ministry of Home Affairs (<a href="http://www.mha.nic.in">http://www.mha.nic.in</a>).</p>
16	Legal assistance by foreign government to the aggrieved woman to file case against overseas Indian	The local government provides free legal aid to aggrieved Indian women, if she is resident in Canada.
17	Foreign government/court recognising the jurisdiction of Indian courts	Canadian Courts do take cognisance of the orders issued by the Indian courts only when these are forwarded to the Canadian Department of Justice, Ottawa by the Ministry of Home Affairs for further action under the MLAT.
18	Serving summons/arrest warrants order by Indian court on Overseas Indian spouse who lives abroad	It is not possible to serve summons/arrest warrants issued by an Indian court against an NRI/PIO spouse living in Canada. The Canadian courts and other authorities do not take cognisance of such orders unless these are forwarded by MHA under MLAT to the Canadian Department of Justice.
19	Extension of Visa of aggrieved Indian wife (as dependent) of overseas Indian spouse even after she is abandoned in India/ill-treated by spouse	The visa cannot be extended unless so requested by the PIO/NRI husband.
20	Payment of Maintenance for Indian wife by Overseas Indian spouse	In almost all the cases, the distressed Indian wife who is located in India do not get any maintenance from her PIO/NRI husbands. If she is resident in Canada, she can take up the matter for maintenance with the Canadian Superior Court (Family branch).