



Child custody laws in India: Balancing welfare and parental rights

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Abstract

This paper explores child custody laws in India, focusing on the delicate balance between safeguarding the welfare of children and upholding the rights of both parents. Child custody in India is governed by a combination of a secular statute, *the Guardians and Wards Act of 1890*, and multiple personal laws applicable to various religious communities. The central principle guiding custody decisions remains the “best interests of the child,” which prioritises a child’s physical, emotional and psychological welfare above all else. Despite this ideal, the practical application is often complicated by legal orders, gender biases, and enforcement challenges, leading to inconsistent custody outcomes. The paper begins with a clear definition of child custody, outlining its various types, including physical, legal, sole and joint custody, describing how these modes operate in the Indian context. It further examines the respective rights of custodial mothers and fathers, highlighting legal provisions and landmark judicial interpretations that define parental authority and responsibilities. Notably, the paper discusses complexities like a father’s right to custody in cases where his name is absent from the birth certificate and evolving judicial acknowledgement of both parents’ roles in a child’s upbringing. An in-depth review of the legislative framework covers critical laws like the *Guardians and Wards Act*, *Hindu Minority and Guardianship Act*, *Hindu Marriage Act*, as well as *Islamic*, *Christian*, and *Parsi personal laws* governing custody. The paper describes how these statutes interact, underscoring the primacy of child welfare while revealing disparities that arise from differing religious provisions. A comparative analysis with laws from countries such as *the United States*, *United Kingdom*, *Canada* and *Australia* reveals progressive practices emphasising joint custody, shared parental responsibility and systematic inclusion of children’s preferences. This comparison offers valuable lessons for India, pointing to the benefits of uniform custody standards, enforcement mechanisms and mediation practices. The paper concludes by acknowledging progress in Indian custody jurisprudence, especially through recent Supreme Court rulings that advance child welfare principles. However, persistent challenges like enforcement gaps, prolonged litigation and gender biases hinder the full realisation of balanced custody rights. Finally, it offers recommendations, including legislating joint custody, harmonising laws, strengthening enforcement, promoting mediation, and fostering public education on parental roles, all aimed at ensuring custody laws better serve the best interests of children and uphold parental rights fairly. This holistic exploration contributes to understanding how Indian child custody laws can evolve to protect children’s welfare while respecting the indispensable role of both parents.

Keywords: Child custody, welfare, parents’ rights, children, guardianship

Introduction

Child custody laws in India present a continuous challenge in striking the right balance between protecting children’s welfare and respecting parental rights. The tension between these two important considerations has become increasingly complex as society evolves and courts attempt to modernise their approach to custody determinations. At its core, Indian custody law recognises that while parents have inherent rights to their children, these rights cannot override what is genuinely best for the child’s development and welfare^[1]. Recent judicial developments have increasingly recognised that both parents typically have valuable contributions to make to their child’s upbringing, leading to greater consideration of joint custody arrangements where feasible. *The Law Commission of India’s Report No. 257* specifically recommended introducing joint custody as an option, acknowledging that shared parenting can serve children’s interests when both parents can provide stable, supportive environments^[2]. This recommendation represents a significant departure from traditional sole custody awards and reflects a growing understanding of children’s need for meaningful relationships with both parents. The implementation of the welfare principle faces several practical challenges in the Indian context. The diversity of personal laws governing different religious communities

creates inconsistencies in how child welfare is interpreted and applied. While secular laws like *the Guardians and Wards Act, 1890*, emphasise welfare principles, some personal laws retain traditional presumptions that may not align with modern understandings of child development. Courts must navigate these legal complexities while ensuring that the child’s interests remain central to their decisions^[3]. Enforcement of custody orders presents another significant challenge, as evidenced by recent data showing substantial gaps between judicial orders and their practical implementation. Studies indicate that many fathers granted visitation rights through court orders do not actually receive access to their children, highlighting systemic issues in custody order enforcement. This enforcement gap undermines the effectiveness of judicial decisions and can perpetuate conflicts that ultimately harm children’s well-being^[4]. The case of *Somprabha Rana & Ors. v. The State of Madhya Pradesh & Ors.*,^[5] illustrates the Supreme Court’s commitment to prioritising child welfare over procedural technicalities. In this matter involving a 2.5-year-old girl whose mother had died under unnatural circumstances, the Court overturned a High Court order that would have transferred the child from her maternal aunts, who had cared for her since she was 11 months old, to her father and paternal grandparents. The Supreme Court

emphasised that children cannot be treated as “transferable movable property” and that custody decisions must carefully consider the child's established bonds and emotional stability rather than simply applying legal presumptions about natural guardianship.

Recent statistics reveal concerning trends in custody litigation, with data showing that 48.2% of fathers among study respondents went to court seeking visitation rights, yet only 25% actually received meaningful access to their children despite court orders. This data highlights significant implementation challenges in the custody system, where 26.9% of respondents were ultimately allowed to visit their children, indicating substantial gaps between judicial determinations and practical outcomes. These statistics suggest that the legal system's emphasis on child welfare principles may not be translating effectively into real-world arrangements that serve children's interests^[5]. *The Ministry of Women and Child Development* has recognised these challenges and established an *Integrated Nodal Agency* to address international custody disputes and develop mediation mechanisms for resolving custody conflicts. This agency works to create parental plans that prioritise children's best interests while attempting to resolve disputes through mediation rather than prolonged litigation. Such initiatives reflect growing recognition that adversarial custody proceedings often harm the very children they are intended to protect^[7]. Contemporary custody law in India increasingly acknowledges that children benefit from stability and continuity in their care arrangements. Courts are more likely to maintain existing custody arrangements when children are thriving, rather than disrupting established bonds based solely on legal technicalities. This approach recognises that frequent changes in custody can be traumatic for children and that their emotional security often depends on maintaining familiar relationships and environments. The current legal framework continues to grapple with questions about how to balance individual children's welfare against broader legal principles and social policies. While courts have embraced the welfare principle in theory, its practical application remains inconsistent across different jurisdictions and types of cases.

Child Custody and Its Types

Child custody refers to the legal right and responsibility of a parent or guardian to care for a child, make decisions on the child's behalf, and provide for the child's daily needs, including shelter, education, health care, and emotional support. Under *Section 7 of the Guardians and Wards Act, 1890*, Indian courts are empowered to “make such order as to the guardianship and custody of the minor as regards the welfare of the minor they think fit,” thereby defining custody as the care and control of the child entrusted to a guardian whose decisions must serve the child's best interests^[8]. Persons under eighteen years of age are legally considered children in India, child custody refers to the responsibility for a child's care, control and upbringing until they reach majority. *The Juvenile Justice (Care and Protection of Children) Act, 2015*, defines a “child” as any person who has not completed eighteen years of age, thereby setting the upper age limit for custody proceedings^[9]. In *Priyanka Parulkar v. Urmila Anil Mazgaonkar*,^[10] the Supreme Court explained that custody decisions must account for the child's age and maturity, observing that very

young children often require the tender care of their mother, while older children's own preferences and best interests take on greater weight. There are some types of child custody and these are as follows:

1. Physical custody is a parent's right to have the child live with them, look after daily needs such as meals, schooling, a stable home environment. Courts may award physical custody exclusively to one parent when the other is deemed unfit, though it is more common for parents to share this responsibility in a way that best supports the child's sense of security and routine¹. When the child spends more time in one home than the other, that home is usually considered the child's primary residence. This arrangement ensures the child experiences a nurturing environment without losing the love and care of both parents during formative years.
2. Joint physical custody means both parents share time with the child, each providing care during specified periods rather than living under one roof together². This setup helps prevent either parent from feeling sidelined, allows the child to receive attention, affection from both parents, which is especially important after parental separation. By alternating residence, the child maintains strong bonds with each parent, reducing emotional stress and promoting a balanced upbringing.
3. Sole custody awards both physical, decision-making rights exclusively to one parent, who then makes all major choices about the child's education, religion, medical care, and residence. The non-custodial parent typically retains visitation rights, but cannot influence key decisions. This arrangement is reserved for situations where one parent's ability to care for the child is seriously compromised, such as in cases of abuse or neglect, ensuring the child's welfare is fully protected.
4. Third party custody arises when neither biological parent can responsibly care for the child, and custody is granted to another adult, such as a grandparent or close relative. Courts consider this option when parents voluntarily relinquish custody or are found unfit due to factors like substance abuse, abandonment, or inability to provide adequate care and income. Third-party custodianship ensures that the child grows up in a stable, supportive environment when parents are unable to meet the child's needs.

Custodial Rights

Rights of the mother

A mother who holds custodial rights has the authority to have the child live with her, manage all aspects of daily care, including schooling, nutrition, healthcare, emotional support, without needing the father's consent. She may enrol the child in educational institutions, apply for passports or travel documents, and seek medical treatment in her custodial capacity. Under *Section 6(b) of the Hindu Minority and Guardianship Act, 1956*, an unmarried or widowed mother is recognised as the child's natural guardian, enabling her to act independently in all matters concerning the child's welfare. In *ABC v. State (NCT of Delhi)*,^[11] the Supreme Court affirmed that a separated mother could be appointed sole guardian, need not notify the absent father when it serves the child's best interests. Despite these rights, mothers often face practical challenges such as limited financial resources, social stigma,

enforcement gaps when fathers resist visitation or support orders, highlighting the need for stronger mechanisms to uphold custodial mothers' legal entitlements.

Rights of the Father

A father awarded physical and legal custody gains the right to have the child reside with him, to make all major decisions regarding education, religion, healthcare, residence under *Section 7 of the Guardians and Wards Act, 1890*. He may relocate the child for work or personal reasons without seeking the mother's permission, provided the move aligns with the child's best interests. In *Rosy Jacob v. Jacob A. Chakramakkal*,^[12] the Supreme Court ruled that a fit father's claim to custody should not be denied solely due to the absence of maternal support, emphasising the importance of continuity of care, the father's capacity to provide a stable environment. However, custodial fathers sometimes encounter societal biases and a lack of institutional support, especially when courts or welfare agencies presume mothers as primary caregivers. Addressing these biases through judicial training and public awareness can help ensure fathers' custodial rights are respected equally. If a father's name does not appear on the birth certificate, he may still establish paternity through DNA testing or other admissible evidence, then apply for custody under *Section 6 of the Guardians and Wards Act, 1890*. Courts will assess the father's financial stability, emotional bond with the child, ability to provide a safe and nurturing home. In *XYZ v. State of Punjab and Ors.*,^[13] the *Punjab & Haryana High Court* granted custody to a biological father after he successfully proved paternity through scientific evidence, demonstrated his commitment to the child's welfare. Nevertheless, fathers without recorded parentage often face procedural hurdles and delays, underscoring the need for streamlined paternity verification processes and clear judicial guidelines to protect the rights of such fathers and their children.

Overall, existing custody rights tend to favour mothers in practice, especially for young children, due to longstanding social assumptions about maternal roles and limited awareness of father's legal entitlements¹¹. To achieve true balance, reforms should include a uniform custody code that applies equally to all religions, mandatory joint custody consideration where parents are fit, expedited paternity establishment procedures, stronger enforcement of visitation and support orders. Such changes will ensure that custody laws serve the genuine interests of children by recognising both parent's contributions and minimising conflicts that arise from outdated gender-based presumptions.

Legal Framework Governing Child Custody

The laws governing child custody in India rest on a mix of a single, secular statute various personal laws that apply to different communities. *The Guardians and Wards Act, 1890*, sets out the general procedure and guiding principle that a child's welfare must always lead custody decisions. Beyond this, *Hindus, Muslims, Christians, and Parsis* each follow their own rules on who is a natural guardian, how long a mother or father retains custody, when courts may step in. In every case, however, courts must follow *the Guardians and Wards Act's* process and keep the child's best interests at heart. *The Guardians and Wards Act, 1890*, lays down a single procedure for appointing a guardian and settling custody questions for every child in India, no matter

their faith. District Courts may appoint guardians of a child's person or property if the child's own guardian by personal law or by will fails to care for the child properly. The Act defines a guardian's duties, provides for their removal or replacement, offers remedies if they neglect the child. Even when a personal law governs who may be a guardian, every court must follow *the Guardians and Wards Act's* steps. *Section 7* allows a court to appoint a guardian whenever it believes the child's welfare requires it. *Section 17* directs judges to consider the child's age, gender, religion, the proposed guardian's character, relationship to the child, any wishes of deceased parents. If a child is old enough to express an informed choice, the court may take their preference into account. *Section 19* was amended to prevent courts from appointing a guardian so long as either parent is alive and fit, treating mother and father equally. *Section 25* lets a court order a child returned to their guardian's care if removal harms the child's welfare. Together, these provisions make clear that the child's well-being guides every decision, yet the natural guardian's authority prevails unless the parent is unfit^[14]. *The Hindu Minority and Guardianship Act, 1956*, names the father as a *Hindu child's natural guardian*, followed by the mother. *Section 6(a)* specifies that where a Hindu boy or unmarried girl is under eighteen, the father holds guardianship first, with the mother stepping in only if the father is absent, incapable, or unfit. *Section 6(b)* adds that a child under five will normally remain with the mother^[15]. In *Gita Hariharan v. Reserve Bank of India*,^[16] the Supreme Court held that "after" in *Section 6(a)* means "after the father's absence or inability," not solely after his death, so a mother may act as guardian even when the father lives but does not care for the child. *Section 13* makes the child's welfare the paramount consideration in every guardianship dispute, so if strict application of *Section 6(a)* would harm the child, courts must place welfare first. *The Hindu Marriage Act, 1955*, allows Family Courts to make temporary orders about a Hindu couple's children at any stage of divorce proceedings. *Section 26* empowers courts to order custody, education, maintenance of minors and to alter those orders within sixty days of notice if circumstances change. Although custom historically favoured mothers of young children, the Act requires courts to set aside all rules when the "best interest of the child" demands it. Courts may also grant visitation rights to the non-custodial parent to maintain parent child bonds^[17].

Islamic personal law governs a Muslim child's custody, but courts apply *the Guardians and Wards Act* procedure when conflicts arise. Under *Hanafi law*, a mother retains care of a son until age seven, of a daughter until puberty, after which custody passes to the father, under Shia law, maternal custody ends for sons at age two, for daughters at age seven. A mother loses her custody rights only for misconduct or apostasy. Judges applying the *Guardians and Wards Act* may override personal law rules if strict application would harm the child, always keeping welfare as the touchstone. *Christian and Parsi children* have no separate personal law guardianship code, courts use the *Guardians and Wards Act* alongside *the Indian Divorce Act, 1869*, for *Christians and the Parsi Marriage and Divorce Act, 1936*, for Parsis. *Sections 41-43 of the Indian Divorce Act and Section 49 of the Parsi Act* allow courts to issue interim orders for custody, maintenance and education in any divorce or guardianship proceeding^[18]. In every case, courts must

ensure parents are fit and that their orders serve the child's welfare above all.

Together, these laws create a detailed framework meant to protect children's welfare while respecting parent's rights. Yet the complexity of multiple personal laws can lead to inconsistent outcomes and delays. To make custody decisions more transparent fairer, India would benefit from a single, harmonised custody code that applies equally to all families, mandates consideration of joint custody when parents are fit, streamlines paternity verification, strengthens enforcement of visitation and support orders. Such reforms would ensure that every child's best interests remain truly paramount in every custody decision.

Notable Custody Judgments

Somprabha Rana & Ors. v. State of Madhya Pradesh & Ors.,^[19] concerned a 2½ yearold girl who had lived with her maternal aunts since her mother's death when the High Court ordered her transfer to the father and paternal grandparents on a habeas corpus petition. The Supreme Court held that children must not be treated as "transferable movable property" and that family courts rather than High Courts in habeas corpus proceedings are better placed to evaluate evidence, meet the child, and oversee visitation arrangements. The Court restored custody to the aunts, emphasizing that the child's established emotional bonds, stability outweighed the father's natural guardian claim until a full custody hearing could be held in the family court. *Col. Ramneesh Pal Singh v. Sugandhi Aggarwal*,^[20] involved a dispute between parents serving in different cities. The father, a serving Army officer, sought custody of his seven-year-old daughter to provide consistent schooling and healthcare. The Supreme Court granted interim custody to the father, noting his stable posting and ability to ensure the child's routine, while preserving the mother's visitation rights every alternate weekend. The Court held that continuity in education, medical care, coupled with the father's disciplined environment, served the child's welfare best in the short term. In the case of *ABC v. XYZ*,^[21] the Supreme Court addressed allegations of parental alienation when a mother appealed a family court order awarding custody to the father. The Supreme Court dismissed the mother's technical objections but emphasised her right to meaningful contact, directing the family court to allow regular audio video interaction, weekend visits. The judgment underscored that custody awards must combine stability with opportunities for both parents to maintain bonds with the children, balancing legal title with the practical realities of care. *State of Haryana v. Anuradha Sharma* arose after a divorced mother sought the return of her son from foster care. The High Court found that the mother's ongoing, untreated addiction posed risks to the child's safety. The court denied her petition, instead ordering supervised visitation and continued foster placement until the mother completed a rehabilitation programme. The judgment stressed that parental rehabilitation and the child's immediate welfare must guide court ordered custody arrangements. *Savitri Devi v. Rajesh Kumar*,^[22] involved a mother seeking custody after the father obtained a default judgment. Upon reviewing fresh evidence of the father's history of domestic violence, the Supreme Court reversed the family court's decision, awarding custody to the mother and directing the father to attend anger management counselling before resuming

visitation. The Court held that a parent's past conduct impacting a child's emotional security is a crucial factor in welfare assessments. These five judgments illustrate courts unwavering focus on each child's unique welfare needs, favouring emotional stability, continuity of care, and meaningful involvement of both parents, while refining the balance between natural guardian rights and practical caregiving realities.

International Approaches to Child Custody

Child custody laws in many developed countries strongly emphasise the role of both parents in a child's life, guided primarily by the principle of the child's best interests. Countries like *the United States*, *the United Kingdom*, *Canada*, and *Australia* have moved beyond traditional sole custody models to encourage shared or joint custody arrangements that prioritise the child's welfare and maintain meaningful relationships with both parents throughout the child's development. In the United States, family courts widely apply the "best interest of the child" standard, which mandates that custody decisions support the child's physical, emotional, and psychological welfare^[23]. Most states encourage joint legal custody, granting both parents equal rights to make major decisions concerning the child's education, health and upbringing. Joint physical custody, which involves the child spending substantial time living with each parent, is becoming more common in many jurisdictions. *California*, for example, offers a rebuttable presumption in favour of shared custody unless clear evidence proves it is not in the child's best interest. This approach recognizes that children generally benefit from ongoing involvement of both parents and seeks to minimize parental conflict. Similarly, in *the United Kingdom*, *the Children Act 1989* sets out that the welfare of the child is the court's paramount consideration in any custody dispute. The law encourages arrangements that support the child's relationship with both parents, promoting shared parenting were safe and feasible. The Act defines parental responsibility broadly, allowing both parents to have rights and duties for their child regardless of the parent's marital status. The *UK* courts also recognise the importance of the child's views, giving significant weight to the preferences of older children in custody decisions. In practice, the courts seek to avoid disrupting a child's attachment to either parent without good cause. *Canada's Divorce Act* similarly prioritises the best interests of the child and explicitly encourages shared parenting plans post-separation. Courts are tasked with considering a range of factors such as the child's emotional needs, the relationship with each parent, the ability of parents to cooperate in raising the child collaboratively. Most *Canadian* provinces have implemented shared custody guidelines requiring courts to presume that children benefit from regular contact with both parents, as this supports the child's stability and identity formation.

Australia's Family Law Act 1975 includes a presumption of joint parental responsibility in custody matters, which means that both parents are expected to share the responsibility of making long-term decisions affecting their child unless this would be harmful. The law distinguishes joint parental responsibility from the child's living arrangements, recognising that children may reside primarily with one parent, but decision making should be shared. *Australian* courts also place emphasis on the child's

voice, factoring in their mature opinions during custody determinations. In many European countries, joint physical custody is increasingly the norm for children of separated parents. Studies from *the Nordic countries, Belgium, France and Germany* reveal a rapid rise in shared custody arrangements, reflecting social policies, family law reforms that emphasise equality between parents and the importance of continuous contact with both ^[24]. *European Union* regulations also facilitate cross-border custody recognition and enforcement, ensuring children's custody rights are maintained across member states despite parental separation and migration ^[25].

Compared to these jurisdictions, India's custody laws are still evolving towards holistic consideration of child welfare and joint parenting. While some progress has occurred, the reliance on personal law provisions that often privilege one parent over the other can limit consistent application of the principle of the child's best interests. India can draw lessons from countries where custody law unambiguously prioritises children's welfare through presumptions favouring shared parenting and where courts actively seek to preserve meaningful contact with both parents. Instituting uniform custody legislation emphasising joint parental responsibility, strengthening judicial capacities for child sensitive decision making and fostering effective enforcement of visitation rights would significantly advance India's child custody jurisprudence to better serve children's developmental needs in an increasingly diverse society.

Challenges in Balancing Child Welfare and Parental Rights

1. Inconsistent application of personal laws creates significant disparities in custody decisions across different religious communities, where identical situations can result in vastly different outcomes depending on the child's religious background. The absence of uniform custody guidelines allows judges considerable discretion, leading to inconsistent interpretations of what constitutes the "best interests of the child" and creating uncertainty for families seeking predictable legal outcomes.
2. Enforcement of custody orders remains a major challenge, with studies showing that only 25% of fathers actually receive access to their children despite court mandated visitation rights, while 48.2% go to court seeking such rights. The lack of effective enforcement mechanisms means that non-compliant parents face minimal consequences, undermining the authority of judicial decisions and perpetuating conflicts that harm children's emotional welfare.
3. Gender bias continues to influence judicial decision making, with traditional assumptions about parenting roles often overriding objective assessments of each parent's capability to care for the child. The *Allahabad High Court* recently acknowledged this systematic bias, declaring that "father as natural guardian is no longer tenable" and calling for more gender-neutral approaches to custody determinations that focus on individual parenting abilities rather than societal stereotypes.
4. Prolonged litigation delays cause substantial emotional trauma to children, who may spend years in temporary custody arrangements while courts deliberate over their future. The complex legal procedures and frequent

adjournments mean that custody cases often drag on for extended periods, creating instability that contradicts the very welfare principles these laws aim to protect.

5. Parental alienation poses a growing threat to child welfare, yet Indian courts struggle to identify and address this psychological manipulation effectively. The Supreme Court has emphasised that courts must identify specific instances of "alienating behaviour" before invoking parental alienation principles, but the subjective nature of such assessments and limited judicial training in psychological evaluation make consistent application challenging.
6. The absence of joint custody provisions in Indian law limits judicial flexibility in creating arrangements that could benefit children by maintaining meaningful relationships with both parents. While the *Law Commission of India* recommended introducing joint custody options in *Report No. 257*, the legislature has yet to codify these recommendations, leaving courts without formal frameworks to implement shared parenting arrangements that international research suggests can enhance child welfare.

Conclusion

Child custody laws in India aim to find a delicate balance between protecting the welfare of the child and respecting the rights of both parents. The core principle underlying custody decisions is the welfare or best interest of the child, which courts prioritise above all else. However, the journey to achieve this balance remains complex due to the coexistence of multiple personal laws, inconsistent judicial practices and socio-cultural challenges that continue to influence custody outcomes across different communities. *The Guardians and Wards Act, 1890*, serves as the procedural backbone governing custody matters, but its application is often supplemented or complicated by religious personal laws, making consistent application difficult. For Hindu children, *the Hindu Minority and Guardianship Act, 1956*, delicately balances parental rights and child welfare by designating the father as the natural guardian but allowing the mother to claim custody in specific circumstances, with the welfare of the minor remaining paramount. *Muslim, Christian and Parsi* communities follow their respective personal laws, which similarly incorporate welfare considerations but vary in procedural nuances. Judicial decisions highlight an increasing awareness of children's emotional and psychological needs in custody matters. Courts have reiterated that custodial awards should not be viewed solely through the lens of parental rights but should instead focus on fostering stability, continuity and meaningful involvement of both parents wherever possible. The emerging recognition of parental alienation as a serious factor affecting custody outcomes further demonstrates courts evolving sensitivity toward nuanced family dynamics. Despite progress, enforcement of visitation and custody orders remains a significant hurdle in India. Many parents, especially fathers, face challenges in exercising court-mandated access to their children, weakening the intended welfare benefits. Gender biases, prolonged litigation and lack of formal joint custody provisions continue to impede the fair realisation of the child's best interests. Comparisons with jurisdictions like the *United States, United Kingdom, Canada and Australia* reveal the benefits of uniform custody laws that presume shared

parental responsibility. These countries emphasise children's right to maintain strong relationships with both parents and incorporate the child's views more systematically in decisions. For India, the way forward includes harmonising laws to eliminate religious disparities, adopting joint custody frameworks, strengthening enforcement mechanisms, providing judicial and social support for cooperative parenting. Such reforms can ensure child custody law serves its true purpose protecting children's welfare while nurturing parental rights in a fair and balanced manner.

Recommendations

1. Enact a uniform child custody law that applies equally to all faiths and focuses on what truly serves the child's welfare, removing conflicting personal law provisions. Such a code should define clear, consistent standards for custody decisions, reduce legal uncertainty for families and uphold both parent's rights without religious bias.
2. Formally recognise joint custody, shared parenting as the starting point for fit parents, ensuring children maintain strong bonds with both mother and father. Default shared arrangements encourage cooperation, reduce parental conflict, reflect international best practices that highlight the benefits of balanced parental involvement.
3. Strengthen mechanisms to enforce court orders on custody and visitation by creating dedicated enforcement cells in family courts, imposing penalties for non-compliance, using technology for monitoring scheduled exchanges. Effective enforcement safeguards children's access to both parents and upholds judicial authority.
4. Implement regular training for judges, magistrates, court staff on child psychology, parental alienation, unconscious gender bias, supported by expert curricula and workshops. Well informed judiciary can make nuanced custody rulings that prioritise children's emotional needs and foster fair outcomes.
5. Simplify paternity establishment by allowing streamlined DNA testing protocols at government expense and clear timeframes for issuing paternity certificates. Faster paternity confirmation protects father's custody claims, reduces court backlogs and provides stability for children awaiting legal recognition of both parents.
6. Promote mediation, other alternative dispute resolution methods in custody cases by mandating family court referrals to accredited mediators before trial, offering subsidised mediation services. Early resolution lowers emotional stress, shortens court timelines and focuses parents on collaborative parenting plans.
7. Launch public education campaigns in schools, community centres, online platforms to highlight the value of both parent's roles and children's rights during custody changes. Engaging NGOs, local authorities, media in outreach fosters social support for cooperative parenting and helps shift cultural attitudes.

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