



## Custody battles of international nature in India: Jurisdictional complexities and enforcement challenges

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### Abstract

The present paper looks at custody battles of an international nature in India, where one parent lives in another country with the child and the other parent seeks custody through Indian courts after being granted legal approval. The paper starts with an introduction and recent data on cross-border child custody disputes, followed by clear definitions of child custody and its types. It then reviews the historical background and explains the legislative framework used to address these matters. The paper carefully studies recent judicial decisions in India that highlight the key difficulties faced in international custody cases, stressing the child's welfare over strict legal technicalities and jurisdictional problems. A comparison follows, showing how other countries that have signed the Hague Convention on the Civil Aspects of International Child Abduction handle such disputes. These countries use clear, fast legal processes and strong cooperation between governments, ensuring prompt case resolution and enforcement of custody orders. Their experience points to the importance of having official bodies like Central Authorities and well-defined laws, which help reduce conflicts and delays in custody disputes.

The paper also lists major challenges in India's current approach, such as inconsistent enforcement of foreign custody orders, long court cases due to unclear jurisdiction, diplomatic difficulties and travel restrictions. These problems often leave children in an uncertain situation, affecting their well-being. Based on this, the conclusion highlights India's judicial focus on child welfare but also notes the urgent need for clearer laws and international cooperation to protect both children and parental rights effectively. The recommendations suggest India should join the Hague Convention, create a central body for international custody cases, adopt clear laws on enforcement and shared parenting and improve judicial training. Such steps would help solve disputes faster, respect parents' rights regardless of where they live and most importantly, protect the best interests of children involved in these complex international custody conflicts. Lessons for India from other countries show the value of balanced legal systems combined with child welfare principles, better coordination among parents and nations and effective support for children caught in cross-border family disputes.

**Keywords:** Child custody, Hague convention, parental rights, cross-border custody, child abduction

### Introduction

Child custody disputes are profoundly sensitive matters within the sphere of family law, characterised by their complex interplay of legal and emotional dimensions. These complexities are significantly more in cases involving international relocation, where one parent's intention to move abroad with a child presents substantial implications for the child's welfare and the rights of both parents. In India, child custody disputes predominantly arise from the breakdown of matrimonial relationships. Following divorce or separation, the determination of legal and physical custody emerges as an area of conflict, wherein each parent may assert their claim. These assertions by the parents are sometimes out of the genuine care and concern for the child and at other times just an instrument of continued acrimony and control between the parties. Furthermore, these proceedings are often intensified by the impleadment of the other members of the family seeking custody and cultural expectations of the society, which in turn exert considerable influence on judicial deliberations. Another growing driver of these disputes is the rise of international marriages and relationships in India. With an increasing number of Indians entering relationships or marriages with foreign nationals, custody battles that extend across national boundaries are becoming increasingly frequent.

International child custody disputes in India have become increasingly difficult to handle, reflecting the global movement of families and the resulting overlap of different

legal systems. The lack of a clear law for recognising and enforcing foreign custody orders often forces parents to go through a long and confusing court process, leading to significant time and cost. Indian courts, guided by the primary focus on the child's welfare, must first decide which court has authority to make a decision based on factors such as where the child normally lives, where the parents officially live and any existing custody orders from abroad. Because India has not joined the Hague Convention on the Civil Aspects of International Child Abduction, judges have the freedom to accept or reject foreign rulings, creating uncertainty about whether overseas decisions will be followed or overturned<sup>[1]</sup>. Official data reveals concerning patterns in international custody battles involving India. According to the United States State Department's 2023 annual report on International Parental Child Abduction, India remains among 14 countries that do not follow any protocols for international parental child abduction, with 65% of requests for the return of abducted children remaining unresolved for more than 12 months, taking an average of three years and ten months to resolve. The scale of this problem becomes clear through specific case data. Between 2010 and 2014 alone, there were 173 documented cases of children taken from the United States to India, with only 22 successful returns, representing merely a 12.7% success rate in returning children to their country of origin. In several instances, parent cross international borders to evade compliance, which

demonstrates the urgent need for stronger and more effective legal measures to ensure the enforcement of custody orders. The mediation cell established in 2018 by the National Commission for the Protection of Child Rights has failed to resolve any custody disputes between the United States and India, highlighting the lack of effective mechanisms for addressing these complex cross-border family disputes. This pattern of non-compliance has led to India being repeatedly cited in annual reports from 2015 through 2022, demonstrating the ongoing nature of these enforcement challenges and their impact on families caught in international custody battles [2]. Another challenge is protecting a child's welfare during long court proceedings. The long nature of these proceedings often takes a toll on the mental health of the child in question. In a recent case, the Supreme Court ordered a Bengaluru family court to speed up the custody case of a six-year-old whose father is from Ghana and whose mother is Indian, stressing the need for quick decisions to protect the child's welfare. The Court required the lower court to finish the case within six months and barred immigration authorities from interfering with the child's stay in India, showing awareness of the emotional harm caused by long delays in cross-border custody disputes [3]. The mix of jurisdictional issues and enforcement problems in international custody battles shows the need for system wide changes. While Indian courts remain committed to putting the child's best interest first, the existing mix of varied judicial decisions, lack of treaty obligations and sluggish disposal of these cases creates doubt for parents trying to enforce or challenge foreign custody orders. Fixing these gaps by joining international agreements, passing specific laws for recognising foreign custody decisions, or setting up a central office for cross-border family law cooperation will be crucial for protecting the rights of both children and parents and for resolving custody disputes quickly and fairly.

### Child Custody and Its Types

Child custody in India refers to the legal right and responsibility of a parent or guardian to care for and make decisions concerning a child, usually under the age of 18. It involves not only where the child lives but also who has the authority to make important decisions about the child's education, healthcare, religion and overall welfare. The courts in India primarily focus on the welfare and best interests of the child when deciding custody matters, rather than the rights of the parents alone. Legally, child custody is divided mainly into two types: physical custody, which concerns where the child resides on a daily basis and legal custody, which involves the decision-making power related to the child's upbringing. Additionally, joint custody is recognised where both parents share responsibilities and rights regarding the child's care, even if the child lives mainly with one parent. In some cases, when neither parent is fit to care for the child, courts may grant custody to a third party, such as grandparents or other close relatives, known as third-party custody. Indian law includes several relevant provisions, such as Section 26 of the Hindu Marriage Act, 1955 and Section 38 of the Special Marriage Act, 1954, which authorise courts to decide on custody matters based on child welfare. Landmark judgments have clarified these principles further; for instance, in *Githa Hariharan v. Reserve Bank of India* [4], the SC acknowledged the mother as a natural guardian, thereby

reinforcing gender-neutral guardianship rights in custody disputes. The writ of habeas corpus is also recognised as an important legal remedy in custody cases, providing quick relief for unlawful detention of minors, as established in *Rajeshwari Chandrashekar Ganesh v. State of Tamil Nadu* [5]. However, it has been reiterated in a catena of cases that this writ jurisdiction is not to be used as an instrument to resolve ordinary custody disputes [6]. Overall, Indian courts strive to maintain arrangements that serve the best interests, emotional security and stability of the child in all custody decisions [7].

### Evolution of International Child Custody Battles in India

India's experience with cross-border child custody cases goes back to the mid-twentieth century, when more people from India started marrying and settling in other countries. At first, Indian courts mainly used local laws are the Guardians and Wards Act, 1890, and the Hindu Minority and Guardianship Act, 1956, to decide custody issues even if one parent took a child overseas. India chose not to join the Hague Convention on International Child Abduction, so judges in India started to make decisions based on the facts of each case. They tried to balance the legal idea of the "natural guardian" with always keeping the child's well-being first. This new way of looking at custody became clearer in *Surinder Kaur v. Harbax Singh Sandhu* [8], where the Supreme Court said that just because the law says the father is a child's natural guardian, this should not be the main reason for giving custody if it does not help the child. With this decision, the courts began to use the idea of "habitual residence," meaning where the child normally lives, as a key factor, similar to global practices. High Courts in India started using these child centered rules and took up many "habeas corpus" cases from parents who were left behind and wanted their children returned from abroad. Over time, this focus on the child's wellbeing became stronger. In the 1990s and early 2000s, as more Non-Resident Indian families had custody disputes, it became noticeable that India's not joining the Hague Convention left many parents without help, especially women leaving difficult home situations who might lose their children in foreign courts. Because of this, the Law Commission of India recommended a new law similar to the Hague Convention, a draft Bill from 2016 designed to give quicker remedies and make sure the place the child usually lives is a key point. This Bill, meant to set up central offices to help families, is still waiting to be passed in Parliament [9].

In actual courtrooms, Supreme Court of India has shaped how modern-day child custody disputes are handled when parents live in different countries. The biggest priority is always the child's emotional and physical needs, rather than focusing only on legal details or foreign court orders. Cases like *V Ravi Chandran v. Union of India* [10] shows that judicial decisions in India take note that if a child's daily life, established roots and only follow court orders from other countries if they secure welfare and happiness of the child. The Court uses ideas from international law, like the Hague Convention, to stress that it is important for a child to have routine and stability. Other important rulings, such as *Sarita Sharma v. Sushil Sharma* [11], state that the wellbeing of the child should come before legal rights or orders from foreign courts, while *Nithya Anand Raghavan v. State (NCT of Delhi)* [12], highlights judge's power to decide if sending a

child abroad is really the best option. Indian courts clearly state that they can decide on child custody for Indian children, regardless of the parent's location or any orders from foreign judges. They use a practical and careful study of each child's situation, including mental health, home life, and where the child has lived for most of their life. A court petition asking for a child to be returned via habeas corpus is the main legal route, but these requests are checked to make sure the child's wellbeing, not technical rules or which country's court should decide, is what matters most. This development in India's law shows a move towards accepted worldwide practices, always putting the child's interests first.

### **Best Interests of the Child in International Custody Disputes**

The concept of the best interests of the child in custody disputes finds its strongest foundation in the United Nations Convention on the Rights of the Child, which for the first time recognized children as independent bearers of rights rather than simply extensions of their parents or guardians. Article 3 of the UNCRC requires that in all actions concerning children, whether by legislative, judicial or administrative authorities, the child's best interest must be a primary consideration. This principle not only confers a substantive right on children but also guides interpretation and procedural rules, mandating States to ensure that every decision is assessed through a rights-based framework that safeguards the child's complete physical, psychological, moral, and spiritual well-being. It also stresses the recognition of the child's inherent dignity, making the child an active participant in matters affecting him or her. Closely linked to other essential provisions such as the prohibition of discrimination under Article 2, the right to life and development under Article 6, and the right of the child to express views freely in matters concerning them under Article 12, the principle demonstrates a holistic approach where custody decisions must ensure that the child not only survives but also thrives in a secure environment that respects their evolving capacities and opinions. Importantly, the recognition of the child's right to be heard, whenever they demonstrate sufficient understanding, adds an indispensable dimension, as it allows children to become participants in shaping judicial outcomes that directly affect their lives. Alongside these safeguards, the UNCRC also requires States to adopt legislative and procedural measures preventing wrongs such as illicit transfers and wrongful retention of children abroad under Article 11. For this purpose, it connects with other key international instruments, including the Hague Convention on the Civil Aspects of International Child Abduction, which provides for the immediate return of an abducted child to their habitual residence. The rationale behind this is to ensure that the child swiftly reintegrates into their familiar social and familial environment, reducing harm that could arise from abrupt displacement and maintaining a continuing relationship with both parents wherever possible. By incorporating procedural rules such as speedy return mechanisms and provisions for the child's voice to be heard where suitable, the Hague Convention reinforces the wider objectives of the UNCRC, making it clear that custody disputes should never be treated solely as conflicts between parents but as matters of child protection and welfare<sup>[13]</sup>. Thus, these interconnected frameworks emphasise that in

any custody decision, courts and authorities must weigh every element against the overarching objective of preserving the child's best interest, making it the touchstone for balancing competing parental rights with the paramount concern of securing the child's happiness, security, and developmental integrity.

### **Legal Framework Governing International Child Custody Disputes in India**

The legislative framework governing international child custody battles in India provides mechanisms to address situations where one parent resides abroad with the child and the other parent seeks to regain custody through Indian courts. The primary statutes for custody matters are the Guardians and Wards Act, 1890, particularly Section 17, which prioritises the welfare of the child as the paramount consideration when deciding custody disputes, including those with international dimensions and personal law statutes such as the Hindu Minority and Guardianship Act, 1956, and applicable personal laws for Muslims, Christians and others, such as Indian Divorce Act, 1869, though none specifically regulate cross-border custody issues. The framework for determining custody is established by these statutes, interpreted alongside the Code of Civil Procedure, 1908, and established judicial precedents.

As a secular statute, the Guardians and Wards Act establishes the procedure for appointing a minor's guardian. Section 17 mandates that the court's paramount consideration is the child's welfare, evaluating specific factors including the minor's age, sex, and religion, in addition to the character and capacity of the potential guardian<sup>[14]</sup>. Similarly, Section 13 of the HMGA establishes the welfare of the child as the paramount and primary consideration in any custody or guardianship proceeding. The Act explicitly bars the court from appointing a guardian if such an appointment would contravene the minor's welfare. Section 41 of the Indian Divorce Act authorises the court to issue orders concerning a minor's custody, maintenance, and education, with the child's welfare as the central consideration<sup>[15]</sup>.

India is not a signatory to the Hague Convention on the Civil Aspects of International Child Abduction, 1980, which aims to expedite the return of children wrongfully removed from their habitual residence to another country. This lack of accession creates legal uncertainty and delays in cases involving international abduction or wrongful retention of children. Nevertheless, Indian courts have the inherent jurisdiction under the writ of habeas corpus to order the return of a child to the parent seeking custody if it aligns with the child's best interests, as observed in the Supreme Court and High Court decisions. Furthermore, the Ministry of Women & Child Development's draft "Civil Aspects of International Child Abduction Bill, 2016" sought to align with the Hague Convention by creating a legal mechanism and a Central Authority for India's international child abduction cases, although it has yet to become law. The Law Commission of India has repeatedly recommended India's accession to the Hague Convention to streamline and strengthen legal remedies for international child custody disputes and to better protect the rights of parents and children caught between jurisdictions<sup>[16]</sup>. Until these recommendations are acted upon, State Governments with high Non-Resident Indian populations are urged to collaborate closely with foreign missions and provide

administrative support to affected parents, while Indian courts continue to exercise their parents patriae jurisdiction with a focus on the child's welfare and balanced adjudication of parental rights.

### **Judicial Approach on Cross-Border Child Custody Disputes in India**

In recent years, the judiciary in India has been increasingly confronted with the sensitive issue of international and domestic custody disputes, where the welfare of the child stands above all other concerns. The guiding judgment of the Supreme Court still holds today where in the court laid down that the While foreign judgments are entitled to "due regard," Indian courts cannot function simply as executing forums, the doctrine of *parens patriae* imposes an obligation on them to conduct an independent evaluation of the minor's welfare, as this is the paramount and guiding principle in custody determinations<sup>[17]</sup>.

In *Meenal Bhargava v. Naveen Sharma*<sup>[18]</sup>, the Supreme Court firmly discouraged attempts at forum shopping and deliberate violations of court orders by holding the father guilty of contempt for removing the child to the United States against his undertaking. The Court imposed penalties, summoned enforcement agencies, and directed steps to secure the father's presence, showing that the law will not tolerate manipulative tactics in custody battles at the cost of the child's welfare. Similarly, in *Viktorii Basu v. State of West Bengal*<sup>[19]</sup>, the Court dealt with the delicate task of addressing parental abduction where the mother escaped to Russia with the child despite joint custody orders. By directing diplomatic interventions, fresh extradition-related requests, and ultimately granting custody to the father, the Supreme Court highlighted the necessity of international cooperation in such matters and stressed that the real victim of such disputes is the child who is denied stability and protection. Cases such as *Eby Cherian v. Jerema John*<sup>[20]</sup>, further simplified custody proceedings by removing repetitive filing barriers, ensuring that parents in India could secure interim custody without unnecessary procedural hurdles. This marked an important judicial effort to make custody arrangements more predictable and centred on the child's emotional security. Other rulings also demonstrated the courts' awareness of the child's rootedness, community ties, and best interests in international custody contexts. In *Rohith Thammana Gowda v. State of Karnataka*<sup>[21]</sup>, the Supreme Court stayed relocation of the child to the United States, choosing instead to grant custody to the mother, reasoning that the child should grow up in familiar surroundings to maintain stability rather than being uprooted to another jurisdiction. Likewise, in a recent case reported by the Punjab & Haryana High Court, custody was granted to a Canadian woman whose husband allegedly abducted their son and brought him to India in violation of valid Canadian court orders. The court held that wrongful retention of the child in India, especially after the child's visa expired, was *prima facie* illegal custody. The decision balanced international comity with the child's welfare, noting the child was comfortable with the mother, affirming her custody as permitted by the Canadian court<sup>[22]</sup>. In *Ne v. A*, the Bombay High Court hearing a habeas corpus petition in a timely manner taking only seven weeks directed the child be sent to proper custody in Netherlands. The court carefully interpreted the principles in Hague convention,

despite India being a non-signatory, alongside the Indian legal framework securing the best interests of the child<sup>[23]</sup>.

The *Rajyashree Chhokar* case<sup>[24]</sup> also involved an international custody dispute, wherein the custody of the minor was awarded to the wife, however, the respondent did not comply with the orders of the Hon'ble Apex Court for transferring the custody. Instead of complying with the court's orders, the respondent fled to the United States, where he was a permanent resident, despite having surrendered his passport to the court<sup>[25]</sup>. Instances such as this highlight the growing defiance of custody orders by fleeing the jurisdiction of courts and the sensitive nature of these matters as it severely affects the parties and especially the child in question.

These cases reveal that although Indian courts are committed to prioritizing the welfare of the child and curbing manipulative tactics like forum shopping or abduction, gaps remain in harmonizing domestic laws with international conventions. India is yet to ratify the Hague Convention, leaving unresolved complexities when custody disputes spill across borders. There is also a need for a uniform legal framework to ensure faster cross-border enforcement, predictable custody arrangements, and stronger safeguards against parental abduction. Reforms should focus on swift remedies, international cooperation, and child-centric policies that prevent children from being used as instruments in custody battles.

### **International Adoption of the Hague Child Abduction Convention**

The Hague Child Abduction Convention, ratified by more than 90 countries worldwide, represents a crucial international legal framework designed to address and resolve cross-border child custody disputes efficiently and uniformly. The countries are Australia, Canada, Germany, the United Kingdom, the United States, France, Brazil, Japan, and South Africa have acceded to this treaty, establishing dedicated central authorities and cooperative judicial mechanisms to facilitate the prompt return of children wrongfully removed or retained beyond their habitual residence. This treaty not only prioritises the prevention of international child abduction but also seeks to uphold the welfare and rights of children by ensuring custody disputes are resolved in the child's home jurisdiction, thus limiting the trauma associated with prolonged foreign custody battles. Participating countries benefit from a clear, predictable, and internationally recognised process, which reduces the potential for conflicting custody decisions and encourages diplomatic and legal cooperation between states<sup>[26]</sup>.

In countries bound by the Hague Convention, the existence of well defined legal channels and cooperative mechanisms offers parents swift remedies for urgent child custody matters when children are taken or retained unlawfully across borders. The treaty's framework compels member states to act promptly upon requests from other contracting states, thus discouraging unilateral actions and forum shopping while fostering respect for judicial decisions made in the child's habitual residence. The convention significantly enhances legal certainty for parents involved in international custody disputes and ensures decisions are based on the principle of the child's best interests, based on the child's habitual living environment. Moreover, the roles

of central authorities designated under the Convention promote transparent, efficient communication and coordination between the countries involved, thereby expediting resolutions and minimising adversarial litigation<sup>[27]</sup>.

The ongoing absence of India's accession to the Hague Convention has several adverse impacts. Indian parents involved in international custody battles face considerable uncertainty and delays, as the cooperation instruments and enforcement mechanisms enjoyed by treaty countries are not applicable. The emotional and psychological welfare of children in such disputes is compromised due to prolonged legal battles without clear, predictable procedures for their return or access rights. Moreover, legal fragmentation and jurisdictional conflicts contribute to inconsistent custody outcomes, which undermine parental rights and child protection in cross-border contexts. India's large diaspora exacerbates these challenges, as many families are caught in complex custody disputes across borders without the benefit of treaty based safeguards. From a policy perspective, the lack of an internationally recognised framework reduces India's ability to advocate or negotiate effectively for its citizens, potentially leaving children vulnerable to wrongful retention or abduction without a timely remedy. This situation, governed by both international legal standards and specific extradition constraints, underscores the pressing need for India to reconsider its position. Ratifying the Hague Child Abduction Convention or instituting a comprehensive bilateral or multilateral legal framework would not only align India with global child protection mechanisms but would also enhance the protection of children's welfare and parental rights in transnational disputes. It would also create enforceable legal obligations for cooperating states and expand judicial tools to effectively address wrongful removals, retention, and unresolved custody conflicts involving Indian nationals abroad.

### **Challenges in Cross-Border Child Custody Disputes Affecting Indian Parents**

1. Determining which country's courts have the authority to decide custody cases can be very complex when parents live in different nations. This results in legal uncertainty and delays while courts decide who has the rightful jurisdiction over the child's custody.
2. Even when a custody order is passed by a foreign court, enforcing it in India or vice versa often faces difficulties due to differing legal systems and a lack of formal agreements. This can leave parents without effective recourse to enforce their custody rights internationally.
3. International custody disputes frequently involve multiple jurisdictions and legal systems, causing cases to drag on for years. Such delays cause emotional stress to both the child and parents, complicating their peaceful resolution.
4. Different countries have varying legal standards and cultural attitudes towards parenthood and custody. These differences sometimes clash and complicate arriving at resolutions that respect the child's welfare and family rights.
5. Absence of a dedicated Central Authority in India to handle international custody issues results in scattered

efforts, poor coordination with foreign governments and slower case progress.

6. Restrictions or complications with visas and international travel often hinder the ability of a parent permitted custody by Indian courts to physically bring the child from abroad, creating practical barriers despite legal rights.
7. One parent moving a child across borders without the other parent's agreement leads to "child abduction" issues, making mediation and legal recourse difficult due to suspicion and mistrust between parents.
8. When parties flee the jurisdiction of Indian Courts, the extradition of such non-complying parties in these cases is not feasible as contempt of court is not an extraditable offence generally.

These challenges demonstrate that, regardless of some legal tools and judicial efforts, cross-border child custody disputes often face serious procedural, jurisdictional and enforcement difficulties internationally. India must develop laws and mechanisms that promote better coordination with foreign jurisdictions, streamline the enforcement of foreign custody orders and reduce lengthy litigations. Creating a central body to manage international custody matters, harmonising relevant laws with international standards and addressing practical obstacles like documentation and travel can better protect the rights and welfare of children and parents. Faster dispute resolution with child-centred approaches and clear visitation rights will ensure more balanced and humane outcomes for both parents involved across borders.

### **Conclusion**

The issue of custody battles of an international nature involving Indian parents presents a complex cross-border legal challenge that requires careful navigation to give the best care to the child. Courts around the world, including the Indian judiciary in recent landmark cases, have consistently stressed the most important role of protecting a child's welfare when disputes arise between parents living in different countries. The Supreme Court of India and various High Courts have made clear that while foreign custody orders may be considered, they are not binding unless they match the child's overall welfare and long-term stability. In landmark cases such as *Ne v. A* (2024) and *Jasmeet Kaur v. State of NCT of Delhi* (2024), the courts stressed the welfare principle more than strict rules and jurisdictional conflicts, recognising that the emotional, psychological and social needs of the child must remain central throughout proceedings. These rulings also show increasing judicial care towards preserving family bonds through visitation rights, joint custody where possible and a case-by-case approach rather than strict enforcement of foreign rulings. Furthermore, the courts have shown a willingness to use habeas corpus remedies to secure the return of children wrongfully withheld across borders, showing judicial responsibility to prevent any parent from taking advantage of unlawful removal or retention of a child.

However, the absence of a complete international treaty framework, such as India's non-membership in the Hague Convention on the Civil Aspects of International Child Abduction, makes these cases more complicated, making cooperation with foreign legal authorities irregular and often

slow. While judicial outcomes have moved toward protecting children's welfare strongly, the lack of clear laws around enforcement and cross-border cooperation means that parents seeking custody relief in international settings face uncertainty and long disputes. These challenges are made worse by difficulties in enforcing foreign court orders in Indian courts and vice versa, often requiring long legal fights or diplomatic help. The resulting legal limbo hurts the child's stability and wellbeing, showing a strong need for India to develop clear laws and international agreements that allow faster solutions and enforcement of custody arrangements across countries. So, the path of judicial decisions in India shows a strong focus on giving priority to child welfare in international custody disputes and a growing readiness to balance foreign judgments with domestic laws. Learning from well-established international systems and court standards abroad, India must fix important gaps by joining international agreements like the Hague Convention, setting up a special central authority for cross-border cases and making clear, single laws to manage and enforce custody orders well. These steps will make sure that Indian parents living abroad and those in the country get fair and timely protection of their rights while protecting the child's best interests in complicated international custody battles. Such improvements will help create harmony between countries, reduce court delays and stop children from being caught in the middle of fights, helping build a caring environment for their healthy growth and overall welfare.

### Recommendations

1. India should sign and implement the Hague Convention on the Civil Aspects of International Child Abduction to benefit from an established international framework that supports the quick return of children wrongfully taken abroad and better cooperation with foreign courts.
2. Establishing a Central Authority dedicated to international child custody cases will help coordinate between Indian and foreign jurisdictions, simplifying procedures and speeding up case resolution for affected families.
3. Clear laws and guidelines are necessary to enforce foreign custody and visitation orders within India, reducing legal uncertainty and ensuring that both parents' rights are respected across borders.
4. The implementation of a Uniform Civil Code, as mandated by Article 44 of the Indian Constitution, would establish a consistent legal framework for child custody disputes across all religions. This uniformity would resolve current inconsistencies in custody laws and guarantee that the child's welfare is the foremost priority.
5. Legislative reforms that promote mediation and ADR can offer a less adversarial, more cooperative path for resolving child custody disputes. By helping parents negotiate mutually acceptable terms on issues like international relocation, these mechanisms ease the court's burden and, most importantly, reduce the emotional toll on children.
6. Developing specific provisions for joint custody and shared parenting, even in international situations, would promote cooperative parenting and reduce conflicts, thus prioritising the child's emotional well-being.
7. Strengthening judicial training on international family law and cross-border disputes will improve judges' ability to handle these complex cases with sensitivity and consistency, leading to fairer outcomes for parents and children.
8. Providing greater administrative support and legal resources to parents, particularly Non-Resident Indians, can reduce the practical difficulties related to documentation, travel restrictions and cross-border enforcement, helping parents exercise their custody rights effectively.

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