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REDEFINING CUSTODY: A CALL FOR GENDER-NEUTRAL CHILD CUSTODY LAWS

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ABSTRACT

In modern times, divorces have become increasingly common among married couples. However, beyond the breakdown of a marriage, divorce also disrupts the entire family structure. The ones who suffer the most in this process are the children. Along with divorce, the question of who will have custody of the child becomes a central issue, with arguments revolving around their well-being. Custody disputes frequently raise concerns about biases in decision-making. Conventionally, mothers are perceived as better caregivers, while fathers are seen as financial providers. This deep-rooted belief places children in a difficult position, as custody decisions are often influenced by societal stereotypes rather than their best interests. Can it be concluded that mothers are the only suitable caregivers? Should a child always be placed in the mother's custody? These questions highlight the biases inherent in custody disputes, making them argumentative. Courts also scrutinize working mothers, questioning their ability to devote time to their children, while simultaneously considering the criminal history of spouses in custody decisions. As a result, the prolonged battle over child custody often puts them in emotional turmoil, as they may prefer both parents or one whom the court did not favour. The Hindu Minority and Guardianship Act, 1956, and the Guardians and Wards Act, 1890, though intended to protect the child's best interests, often reflect outdated societal norms rather than an objective assessment of parental capability. These laws remain largely gender-biased, failing to adopt a truly neutral approach to custody decisions.

INTRODUCTION

In today's world, divorce has become increasingly common among married couples. While the couple may part ways, the bigger concern is to determine where the child will live and with whom. Child custody becomes a highly debatable issue during the breakdown of a marriage. When a child needs both parents, does the law acknowledge this concept? In some cases, children may not prefer either parent due to prolonged custody battles, which leave them emotionally drained.

Is the court still driven by the presumption that mothers are the best custodians? There have been instances where mothers were granted custody despite being involved in illegal professions, on the other hand financially stable and capable fathers were denied custody based on the preconceived notion that only mothers can be primary caregivers.

In custody disputes, the court also considers factors such as criminal charges against either spouse and the impact of second marriages. However, in the process, it is often the children who suffer the most, enduring prolonged legal battles and uncertainty over their future.

Despite significant societal and economic shifts, where parents frequently share financial and caregiving responsibilities, the prevailing legal frameworks adhere to outdated norms that assume mothers are inherently better suited for raising children or contrastingly working mothers are not better custodians. This presumption undermines the paramount interest of the child—the fundamental principle that should guide all custody decisions.

Ego clashes between parents often turn custody battles into tiresome conflicts, where both harm the child without even realizing it. The paramount interest of the child is overshadowed by the parent's fight for custody, which becomes more about power and influence rather than genuine care. Instead of determining who would be the better custodian, the focus shifts to who can influence the system in their favor. In many cases, even the parent who wins custody fails to provide the necessary emotional support, leaving the child neglected despite their ongoing emotional turmoil.

In India, laws such as the Hindu Minority and Guardianship Act, 1956, and the Guardians and Wards Act, 1890, have long been criticized for perpetuating gender stereotypes that result in biased custody decisions. Even fathers, capable and well-equipped to care for their children, are often disadvantaged in family courts. This bias, coupled with societal pressures and outdated legal assumptions, has led to a situation where fathers are either denied joint custody or limited to superficial visitation rights.

The lack of gender-neutral custody laws exacerbates the problem, contributing to a cycle of parental alienation and emotional distress. To address this imbalance, there is an urgent need for legal reform that ensures equality between parents in custody decisions, based on objective criteria rather than gender. This article explores the current state of child custody laws in India,

highlights the inherent biases within these laws, and argues for the implementation of gender-neutral legislation to better serve the interests of children and ensure fairness for both parents.

Legal Analysis of Gender Bias in Child Custody in India

Child custody laws determine the rights and responsibilities of parents or guardians regarding the care and upbringing of children following a divorce or separation. These laws aim to protect the child's best interests, ensuring their physical, emotional, and psychological well-being. Child custody is generally classified into various types, including;

1. **Legal Custody:** It grants a parent the authority to make significant decisions about the child's upbringing, including education, healthcare, religious beliefs, and overall welfare. This type of custody can be either sole or joint, depending on the court's decision. In the case of *Gaurav Nagpal v. Sumedha Nagpal* (2009), the Supreme Court emphasized the importance of the child's welfare over the rights of parents in custody decisions. The court held that while one parent may be granted legal custody, both parents should be involved in decision-making whenever possible¹.
2. **Physical Custody:** It refers to where the child resides after separation or divorce. The custodial parent provides daily care, while the non-custodial parent may receive visitation rights. In the case of *Roxann Sharma v. Arun Sharma* (2015), the Supreme Court ruled that custody of minor children should ideally be granted to the mother unless there are compelling reasons against it. This landmark case held that the custody of a child below 5 years of age should be given to the mother unless the father must accept the upbringing of the child under the mother's custody.²
3. **Sole Custody:** whereas it is awarded to one parent, granting them both physical and legal custody, the other parent may have limited or no rights to decision-making and visitation. This may be referred to the case of *Nil Ratan Kundu v. Abhijit Kundu* (2008) where the court learned about the case that the maternal grandparents of the child did not apply before any court for their appointment as the legal guardian of the child and if the father wanted the custody of the child, it was their legal duty to return the child to his father³.
4. **Joint Custody:** Both parents to share legal and /or physical custody of the child. This type may promote shared parental responsibilities and involvement in the child's life

¹ *Gaurav Nagpal v. Sumedha Nagpal*, AIR 2009 SUPREME COURT 557

² *Roxann Sharma v. Arun Sharma*, AIR 2015 SC 2925 (2016)

³ *Nil Ratan Kundu v. Abhijit Kundu*, 2008 (9) SCC 413

and the child will not suffer more than the other types of custody. In the case of *KM Vinaya v. B Srinivas* (2013), the Court granted joint custody to both parents of a 12-year-old boy and ordered that the child spend time with each parent for a specific period, where both parents share the child's education and other expenses⁴.

Determination of Child Custody: India and Global Perspectives

In India

The child custody laws are governed by personal laws based on their religion and the Guardian and Wards Act, 1890. The court considers factors such as the child's age, emotional attachment, financial stability, and parental capability while deciding custody. The court decides based on the paramount interest of the child.

•**Hindu Law:** Under section 6 of the Hindu Minority and Guardianship Act, 1956, the father acts as a natural guardian for the Hindu minor, followed by the mother. However, for a child below five years of age, custody is usually granted to the mother⁵. This provision creates an implicit preference for the mother when the child is young, reinforcing the traditional preconceived notion that a mother is the better caregiver. While guardianship can be shared between the father and mother under Hindu law, courts still often show a bias toward mothers as custodians. The Hindu Minority and Guardianship Act emphasizes that mothers have the primary role when it comes to the caregiving aspect, even when joint guardianship is awarded. Section 13 of the Act explicitly states that the mother will be given custody of children below 5 years of age, which can also be extended to children between 5 to 9 years in certain circumstances, but based on the court's discretion⁶. This automatically concludes that mothers are better nurturers than fathers. It is often prejudiced as mothers are better and primary caregivers whereas fathers are providers. Even though both parents are legally equal guardians, mothers often have an automatic preference in custody disputes, especially during a divorce case for young children. Under Hindu law, custody may be taken away from the mother if she remarries, especially if the new husband is considered an unsuitable influence on the child. However, there are no such restrictions for fathers. This clearly shows the gender bias and the need for gender reforms in child custody. In *Githa Hariharan v. Reserve Bank of India* (1999) case, the Supreme Court ruled that mothers cannot be automatically given the right of

⁴ *KM Vinaya v. B Srinivas*, MFA.NO.1729/2011 (G & W)

⁵ S.6 of HMGA, 1956 available at <https://www.indiacode.nic.in/bitstream/12345>

⁶ *Ibid*, S. 13

guardianship without the father's consent. This case exposed the bias against fathers in child custody and established that both parents should have equal rights. The case highlighted the mothers' custody rights that were presumed without considering the father's role.⁷ In one of the cases, the Kerala High Court passed an *orbiter dictum*⁸ that courts often prefer mothers in custody disputes, and it emphasized that the welfare of the child should be the paramount consideration, not gender-based assumptions. The case supports the argument that gender bias is built into the system of child custody, where mothers are often prioritized over fathers without fully considering the father's ability to provide equal care.

- Muslim Law: The concept of Hizanat applies, where the mother generally retains custody until the child reaches the age of seven years for boys and puberty for girls. The different treatment of boys and girls reinforces gender stereotypes. Under the Muslim law, if a mother remarries, she loses her custody of the child but it is not applicable for the father showing the gender bias reflecting the patriarchal assumption that children belong to the father's family. On the other hand, the father does not get the right to raise their daughters of young age; assuming that only mothers are responsible for the moral upbringing of the female child and the father does not get to play the role. Mothers were given only the responsibility of a caregiver and fathers retains the financial and legal power over the child even though there are not involved in the daily care showcasing the gender bias in child custody. In the case of Ghulam Hussain Laskar v. Nessa Begum (2014), father was given custodial rights over the mother even though the mother had been the primary caregiver, leaving the child's emotional bond and welfare at the margin⁹. The case of Imambandi v. Mutsaddi (1918) showcased gender bias where the father was given custody of the child based on traditional Muslim law regardless of the child's emotional ties with the mother.¹⁰

- Christian and Parsi Law: The Indian Divorce Act, 1869, grants the court the authority to decide custody matters based on the child's interests. Even then some cases showed gender bias towards child custody. Under this act, if a divorce is granted, the custody of children below 5 years is generally awarded to the mother. This reflects the assumption that mothers are better suited to care for young children.

⁷ *Githa Hariharan v. Reserve Bank of India*, AIR 1999 SUPREME COURT 1149

⁸ a judge's expression of opinion uttered in court or a written judgment, but not essential to the decision and therefore not legally binding as a precedent.

⁹ *Ghulam Hussain Laskar v. Nessa Begum* (2014)

¹⁰ *Imambandi v. Mutsaddi*, (1918)20BOMLR1022.

Guardian and Wards Act, 1890: Guardian and Wards Act, 1890 is one of the primary laws that govern child custody in India¹¹. It applies to all religions unless there is an intervention of personal law. While the Act is meant to ensure the best interests of the child, its interpretation by courts has often led to gender-biased outcomes, particularly favoring mothers in custody battles. This bias is mainly coming into the picture when the child is of a tender age; it is presumed that mothers are the best nurturers. The father must prove the mother's incapacity to take care of the child as by default the custody battle favors the mother. Courts often view fathers as financial providers rather than nurturing figures, leading to limited visitation rights rather than custody. In the case *Chethana Ramatheertha v. Kumar V. Jahgirdar* (2002), the Supreme Court on appeal overruled the decision Of Karnataka High Court which ordered the child custody to the mother because of the traditional belief that mothers are better caregivers. The Supreme Court held that the judgment should not be based on gender assumption but instead based on the paramount interest of the child.¹²

Global Practices

- Australia: Australia enacted the Family Law Act, 1975, and amended it in 2006¹³. According to the Act joint custody is the primary objective apart from exceptional circumstances such as abuse, neglect, or violence by either of the parents. Fathers are given equal rights by eliminating the preconceived notion that mothers are primary caregivers. The courts encourage co-parenting taking the child's interest into consideration.
- United States: Courts favor joint custody unless proven detrimental to the child's welfare. The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) ensures consistency in custody laws across states. Custody is awarded based on who can provide the best environment. Shared parenting plans are common, allowing both parents equal involvement¹⁴.
- United Kingdom: Custody is determined under the Children Act, 1989, which prioritizes the child's best interests and encourages shared parenting where possible. Judges decide based on the child's best interests rather than giving preference to the

¹¹ GWA, 1890 available at <https://www.indiacode.nic.in/bitstream/123456789/2318/1/189008.pdf>

¹² *Ramatheertha v. Kumar V. Jahgirdar*, AIR 2004 SUPREME COURT 1525

¹³ https://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/fla1975114/

¹⁴ <https://www.ojp.gov/pdffiles1/ojdp/189181.pdf>

mothers as in traditional times. The parent most capable of caring for the child gets custody.¹⁵

- European Union: Most EU countries support shared custody unless one parent is deemed unfit.
- Canada – Divorce Act, 2021 (Amendments) was enacted in which the gender-neutral custody laws promote equal rights for both parents, focusing purely on the child's well-being. Terms like “custody” and “access” were replaced with “parenting time” and “decision-making responsibility.” Judges consider the best interest of the child, and their relationship with both parents to remove gender bias. The focus is not on gender but on the parenting capabilities of each parent¹⁶.

Key Differences: India vs. Foreign Countries

Aspect	India (Biased System)	Foreign Countries (Gender-Neutral)
Legal Basis	Religion-based personal laws (Hindu, Muslim, Christian, etc.)	Uniform civil laws (e.g., Family Law Acts, Children Acts)
Custody Default	Mothers are favored concerning young children	Joint custody or case-specific decision
Father's Rights	Must prove the mother unfit to get custody	Equal rights unless unfit
Mother's Rights	Automatic preference for young children	Case-by-case basis, not assumed
Joint Custody	Rarely awarded	Encouraged in most cases
Parental Role Assumptions	Mother = caregiver, Father = provider	Parents have equal responsibilities
Child's Welfare Focus	Influenced by gender biases	Fully child-centric approach

Child custody laws aim to safeguard the best interest of the child while ensuring fair

¹⁵ <https://www.legislation.gov.uk/ukpga/1989/41/contents>

¹⁶ <https://laws-lois.justice.gc.ca/eng/acts/d-3.4/>

arrangements for both parents. Courts in India and globally have evolved to prioritize shared responsibility and parental involvement while considering the child's emotional and psychological stability. Legal precedents continue to shape custody laws to ensure the child's well-being remains the central concern in custody decisions.

In one of the judgments the High Court found that the Family Court had failed to address core considerations of child welfare and instead based its decision on gendered assumptions, condemning the Family Court for its "sexist and patriarchal" remarks, the court stated: "*Such conclusions are unfortunately sexist in tenor, and laced by archaic notions of patriarchy, especially when no one has a right to judge women by how she dresses, or by the choices of her manner of life.*"¹⁷

Family Courts and the Custody Dilemma: A Fair Fight or a Stacked Deck?

The Court strives to act for the child's welfare, perceptions of bias- particularly favoring mothers-still persists. The nuances of such biases, the challenges faced by both fathers and working mothers, the neglect of non-traditional families, need measures to ensure equitable justice. Child custody laws in India have traditionally been influenced by gendered perspectives, often favouring mothers in custody disputes. However, the evolving societal norms and the importance of both parents in a child's upbringing necessitate a gender-neutral approach. Such an approach ensures that custody decisions are made in the best interest of the child, recognizing the equal role of both parents, preventing parental alienation, and encouraging shared responsibility. This may explore the need for gender-neutral child custody laws in India.

- a) Preference for mothers in custody decisions: Historically, Indian courts have tended to grant custody to mothers, operating under the presumption that they are the primary caregivers. This inclination is deeply embedded in societal norms that emphasize the mother's role in child-rearing. The principle of the "tender-years doctrine" further reinforces this bias, suggesting that young children are better off under their mother's care. However, in the case of *Israr Ahmad v. Azazul Hussain Ahmad & Anr*, the Court considered that leaving the minor child with the mother would be the proper guardian for the children for the well-being of the child.¹⁸ It is a revolution in traditional Muslim

¹⁷ https://lawbeat.in/news-updates/kerala-hc-overturms-family-courts-order-denying-custody-mother-citing-loose-morals?utm_source=chatgpt.com

¹⁸ *Israr Ahmad v. Azazul Hussain Ahmad*, (2010) 2 SCC 654

Law where the father is used to give custody of the child as the patriarchal assumption that children belong to the father's family.

- b) Disadvantages faced by fathers: Fathers often encounter significant hurdles in custody battles, even when they are financially stable and capable of providing emotional support. The Supreme Court ruled that regardless of a child's age or gender, a father has equal rights to custody of the child. However, the societal stereotype that views fathers primarily as breadwinners rather than caregivers which contributes to this bias.
- c) Challenges faced by working mothers: The bias in custody decisions is not solely against fathers; working mothers also face prejudices. They are often perceived as less capable caregivers compared to homemakers, with an underlying assumption that a mother must choose between her career and parenting. The case of *Thrity Hoshie Dolikuka v. Hoshiam Shavaksha Dolikuka B* states that a working mother should not be denied custody of her child. The working woman can effectively balance professional responsibilities while providing a nurturing environment for her child¹⁹.
- d) The Neglect of LGBTQ+: Non-Traditional families, including those with LGBTQ+ parents, often face legal hurdles in custody battles. The lack of recognition and legal frameworks for diverse family structures can result in unjust custody decisions.

Beyond Labels: A Wake-Up Call for Fair Custody Laws

1. Best interests of the child: This principle is the cornerstone of child custody decisions worldwide. In *Lahari Sakhamuri v. Sobhan Kodali* (2019) case, the Supreme Court stated that separating a child from their primary caregiver would violate their fundamental right to autonomy²⁰. Gender-neutral laws prioritize the emotional, psychological, and financial well-being of the child rather than the gender of the parent. Undergoing the case of *Francis Joseph S/o Thottapalil Joseph v. Shobha Francis Joseph* (2014), the Gujarat High Court ruled that the best interest of the child must guide custody decisions, even in the matter of cross-border situations²¹. The principle rejects rigid gender-based assumptions and instead evaluates who can provide the most nurturing and stable environment.
2. Parental Equality: Traditional laws often ensure that mothers are naturally better caregivers, but this may disregard the evolving roles of fathers in parenting. Both

¹⁹ *Thrity Hoshie Dolikuka v. Hoshiam Shavaksha Dolikuka B*, 1982 AIR 1276

²⁰ *Lahari Sakhamuri v. Sobhan Kodali*, AIR 2019 SUPREME COURT 2881

²¹ *Francis Thottappillil Joseph v. Shobha Francis Joseph*, C/SCA/7483/2014

parents should have equal legal standing during custody decisions, ensuring that neither of them is unfairly disadvantaged due to gender. The focus should be on parenting ability rather than societal stereotypes. In *Mr. Tushar Vishnu Ubale v. Mrs. Archana Tushar Ubale* (2016) case, the Bombay High Court awarded custody of a child to the mother, and granted visitation rights to the father; this judgment may strengthen the parent-child relationship²². A gender-neutral law would ensure that fathers are given an equal opportunity to seek custody and participate in their child's upbringing. The need for custody law to be gender-neutral because while assessing custodial rights the focus should be more on emotional stability, financial capacity, and the child's best interests rather than assuming one parent is inherently better. Courts should encourage and promote joint custody apart from exceptional cases, ensuring the child maintains a meaningful and lasting relationship with both parents. Shared custody arrangements reduce the emotional strain on children and prevent the alienation of one parent.

3. **Avoiding Parental Alienation:** When one parent manipulates the child to turn against the other parent, the gender-biased laws can unintentionally facilitate such alienation, causing emotional distress to the child. In *Vivek Singh v. Romani Singh* (2017) case, the Court Acknowledged the issue of parental alienation syndrome and stressed the importance of both parents in a child's emotional development²³. This law would encourage a balanced relationship with both parents. Parental alienation can lead to emotional distress, agony, confusion, guilt, and low self-esteem in the minds of the children. Children may develop resentment or fear toward the alienated parent, affecting their long-term emotional and psychological well-being. And their relationship with the alienated parents will be permanently broken. Restricting one parent's access without valid reasons can be detrimental to the child's emotional health.
4. **Encouraging shared responsibility:** A gender-neutral legal framework would encourage co-parenting rather than promoting adversarial custody battles. Shared custody or Joint parenting ensures that the child benefits from the involvement of both parents. This approach fosters a sense of security and emotional stability, as well as positive role models for the child, allowing them to build meaningful relationships with both parents. Studies show that children raised by both parents develop better social, emotional, and academic skills. Children benefit from having consistent emotional support from both

²² *Mr. Tushar Vishnu Ubale v. Mrs. Archana Tushar Ubale*, AIR 2016 BOMBAY 88

²³ *Vivek Singh v. Romani Singh*, (2017) 3 SCC 231

parents rather than experiencing the absence of one. Legal reforms are necessary to promote shared custody as the default option, ensuring fair treatment of both parents. To mitigate biases in family courts and promote justice, these measures can be considered like Legal reforms that amend existing laws for gender neutrality, Judicial training ensuring fair evaluations of both parents' capabilities and eliminating inherent biases, and support for Non-Traditional Families by developing a legal framework that acknowledge and protect the rights of LGBTQ+. By implementing these measures, the Indian Family Courts can move towards a more balanced and prioritizing the welfare of the child above all else.

A Child-Centric Approach: Reforming Custody Laws for a Better Tomorrow

1. Implementing Gender-Neutral Custody Laws

Traditionally custody laws often favour mothers based on the outdated notion that they are the primary caregivers. However, in recent times parenting structures involve equal participation from both the parents. Courts should ensure that custody decisions are based on the child's best interests, assessing factors such as emotional stability, caregiving ability, and financial security rather than gender. Many countries such as the UK, the US, and Canada are shifting towards gender-neutral custody laws, and India should adopt similar reforms to eliminate bias in family courts.

2. Encouraging Joint Custody as the Default Approach

Studies show that children raised with both parents actively involved in their lives develop better emotional resilience and social skills. Laws should promote joint custody as the primary option unless there are concerns about abuse, neglect, or other potential risks. Courts should ensure and encourage co-parenting plans, allotting the responsibilities for education, healthcare, and overall well-being.

3. Strengthening Mediation and Alternative Dispute Resolution (ADR)

Prolonged custody battles impact the children negatively. It will put them in emotional turmoil, exposing them to psychological stress and parental conflict. Courts should encourage mediation and counseling to help parents to reach amicable custody agreements. Mediation centers should be strengthened to offer legal guidance, emotional counseling, and conflict resolution strategies.

4. Legal Protections Against Parental Alienation

Parental alienation occurs when one parent manipulates the child to turn against the other parent, damaging their relationship. Parental alienation often leads to emotional distress and hatred towards the alienated parent which causes failure in maintaining the relationship between them. Courts must recognize and penalize parental alienation, and modify the custody arrangements if a parent is found guilty of alienating the child or is a potential threat to the child. In *Vivek Singh v. Romani Singh* (2017), the Supreme Court acknowledged parental alienation as a harmful factor affecting child custody decisions²⁴.

5. Standardized Guidelines for Custody Decisions

Currently, custody rulings vary from case to case, often influenced by personal judicial interpretations. India needs clear legal guidelines that define custody based on emotional, financial, and psychological stability, child preference, and parental involvement. Specialized family courts with trained judges and child psychologists should be established to handle custody cases efficiently.

6. Post-Divorce Parental Responsibilities and Support Systems

Divorced or separated parents will often find it difficult in co-parenting due to their ego clash, zero tolerance and so many personal reasons. But here child's welfare is must. So mandatory co-parenting programs may be introduced by the Courts to educate parents in taking care of their children and managing responsibilities in post-divorce phase. Family counseling and policies ensuring single parents to avail financial assistance should be made available so that the child will not get affected financially.

7. Ensuring Fair Visitation Rights

The fathers, who are used to be the non-custodial parents, encounters problem in meeting their children due to restrictive custody orders. The visitation rights of the parent should be ensured and the defaulting parent who denies access to visit the child should be penalized by the Courts. In modern days, Virtual visitation rights (video calls, online meetings) may be encouraged and legally recognized in order to safeguard the interest of the child and to ensure continued parental involvement.

8. Child-Centered Legal Approaches

The Courts should give preference to the child's desire (especially grown up child's) with whom he/she wants to live while making custody decisions. The legal system

²⁴ Ibid. note.23

should mainly be focused on child's education, social environment, and emotional needs of the child in order to provide them a fair and dignified life. The legal system should be child-centred. A speedy judgement in the cases related to custody of the parenting will avoid the mental stress of the child.

9. International Recognition of Custody Orders in Cross-Border Cases

Due to globalization, the child custody disputes arise between the parents residing in different nations. To settle the issues, the international laws are to be strengthened and treaties are to be drawn between nations. The cross border disputes can be fairly settled through The Hague Convention on Child Abduction Treaty. However, a legal strategy should be adopted in preventing one parent to relocate the child to another country without mutual agreement of the partner unlawfully.

10. Raising Social Awareness on Equal Parenting

Our society is deeply rooted with Gender disparity. Sometimes, it may reflect in Judicial decisions and public perception. So an awareness among the public is to be created to promote equal parenting, sharing of responsibility between the parents and the right of the father to have the custody of the child etc. Flexible parenting policies in workplace may help the parents in raising their children smoothly.

CONCLUSION

“Children need love, especially when they do not deserve it” —Harold Hulburt.

“A father's goodness is higher than the mountain, a mother's goodness is deeper than the sea.” -Japanese Proverb. The parents i.e. the Father and Mother are considered to be eyes of a child. Both the eyes are concentrating for one vision only, that is a children prosper. A child expects a complete love from his/her parents. Losing one parent's support and love may put them in hardship. Here legal aid will come to the child's rescue. As a parent, they cannot leave their responsibility of parenting their child and go easily. Our law intervenes there and settles the disputes between the parents and paves a way for well-being of a child. Eventhough the Hindu Minority and Guardianship Act, 1956, and the Guardians and Wards Act, 1890, are considered to be the protection tools of a child, they need reforms according to the present era. Divorce or separation between parents are considered as ruthless in previous century. But now time evolves, the divorce/separation become common now. The question of raising the child comes into picture. Here it is the role of the law to handle the issue carefully without affecting the welfare of the child. The outdated societal norms in a century old laws need a revision for the betterment of a child's custody and its welfare. Legal and social reforms in child custody are

essential to ensure fairness, reduce gender bias, and prioritize the child's well-being. By implementing gender-neutral laws, promoting joint custody, strengthening mediation, and enforcing fair parental rights, the legal system can create a more just and child-friendly custody framework.

Review of the law will give a re-view to the betterment of a child's welfare in the present era.

