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CHILD CUSTODY LAWS IN INDIA: A COMPREHENSIVE EXAMINATION OF LEGAL FRAMEWORKS AND THEIR IMPACT ON CHILD WELFARE.

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Abstract

Child custody laws in India aim to balance the protection of children's welfare with the preservation of parental rights. These laws are a unique blend of secular principles and religious customs, reflecting the country's diverse legal and cultural landscape. This research paper delves into the legal frameworks governing child custody in India, evaluating their effects on child welfare. It examines the provisions under personal law - Hindu, Muslim, Christian, and Parsi law - as well as statutory laws, such as the Guardians and Wards Act, 1890. Additionally, the paper analyses judicial pronouncements that shape custody decisions, focusing on the evolving understanding of the "best interests of the child." It also highlights the challenges posed by India's pluralistic legal system, such as contradictions between personal and statutory laws, and offers recommendations for legal reform to better prioritize the child's welfare.

Keywords: Best Interests of the Child, Child Custody Laws, Child Welfare, Parental Rights

Research Question: how does India's child custody laws, influenced by both secular principles and religious customs, impact child welfare and what reforms could better align the legal system with the "best interests of the child" standard?

Methodology: Doctrinal Legal Research, Comparative Legal Research.

Introduction

Child custody disputes in India have unique interplays between diverse elements of personal laws, religious beliefs, and pertinent statutory provisions. Therefore, such cases raise challenging issues to determine. While India attempts to be protective about the welfare of the child, interpretations of “best interests” differ with contexts: divorce or separation or even when parents die. Custody involves not only the physical care of the child but also aspects of emotional, educational, and social considerations.

The legal structure in India, in terms of child custody, is divided into personal law for various religious communities and statutory law specifically the Guardians and Wards Act, 1890. Under Hindu law, the Hindu Minority and Guardianship Act, 1956 gives mothers precedence in matters concerning children below five years. Muslim law follows the principle of “Hizanat,” wherein mothers are preferred unless otherwise proved unfit. Christian and Parsi laws follow their respective laws and differ in the treatment they give to custody of children. This paper discusses the intersections of personal laws with statutory enactments and judicial pronouncements. Courts of law have begun to pay increasing attention to child welfare rather than strictly following personal law; joint custody is also gaining ground. As such, while jurisprudence today strives for uniformity, there is still no consistency. Some religious enactments are still inclined to grant more rights to one parent over the other based on tradition alone rather than the best interests of the child.

Such a pluralistic legal system coupled with religious and secular laws' existing together further complicates matters, which ultimately leads to more and more divergent interpretations of the custodial principles. Thus, the paper seeks to analyse such legal systems and judicial decisions that would make a case for reforms important to child welfare and bring legal standards in conformation with the rights of children as contemporarily conceived.

Legal Framework Governing Child Custody in India

Indian law in regard to child custody forms a mixed legal system for the various religious groups and the secular law applicable to all communities. The dual system evidences India's pluralistic legal structure and efforts toward accommodation of religious practice within the legal framework.

Hindu Law

The Hindu Minority and Guardianship Act of 1956 governs issues of child custody in respect of Hindus, Buddhists, Jains, and Sikhs. Under this law, provisions for natural guardianship are highlighted in regards to the welfare of the child affected by the case.

As the HMGA holds, a legitimate minor's father is naturally appointed as the guardian. But this appointment is not absolute; if the child's welfare so demands, the rights of all others are yielded. Section 6(a) of the Act provides that normally the mother should be granted custody of any child below five years of age. This assumption leads the way to believing that mothers can better provide little children with emotional and physical provisions. However, according to the law, most decisions about legal custody are placed in the hands of the father, unless it can be clearly shown that doing so would not be in the best interest of the child. In *Chandar Praha v. Prem Nath Kapur*¹, the court held that the custody of minor, who has not attained the age of five years, shall normally be with the mother.

Indian courts have started giving prime importance to the best interests of the child, granting a “welfare antecedent” over strict parental rights established by the statute. It seems this has triggered changing judicial trends where an overall growth, security, and well-being of the child are given more importance than recognizing traditional roles purely on the ground of gender. While determining the custody issue, courts take into considerations matters of emotional bond between child and parent, financial soundness of the parents, and environment in which the child is going to be brought up. It was laid down in *Baddi Reddi Bulliraju v. Kedam Surya Rao*² that even the paramount right of father as natural guardian should be restricted to the welfare of the minor.

Courts remain flexible while dealing with the custody cases, and they critically analyze whether it would be the father or mother who could better care for the child at any point in time. The Supreme Court of India has held through various judgments that it is always the welfare of the child that should be the paramount consideration. The Supreme Court of India observed that its decisions over custody should be based on the child's emotional and psychological needs and not on mere legalistic concepts. In *Roxann Sharma v. Arun Sharma*³, the Supreme Court

¹ *Chandar Praha v. Prem Nath Kapur*, AIR 1969 Del 283.

² *Baddi Reddi Bulliraju v. Kedam Surya Rao*, AIR 1959 AP 670.

³ *Roxann Sharma v. Arun Sharma*, (2015) 8 SCC 318.

reiterated that ordinarily, if there are children below five years, the mother is preferred for grant of custody in the absence of cogent reasons to hold otherwise.

The concept of joint custody is a relatively new concept in Hindu law that has recently gained ground in Indian metropolises. Under this arrangement, the legal rights or custody and care of the child are shared by both parents. Though the HMGA does not provide direct codification for the same, courts have taken recourse to and leaned more toward such arrangements in the wake of changes in contemporary society. In *Githa Hariharan v. Reserve Bank of India*⁴, it was held by the Supreme Court that the term "natural guardian" does not confer absolute rights to the father. It is the welfare of the child that would prevail, and in its interest, it can assign a mother to be the guardian.

Essentially, Hindu law provides a balancing factor between traditional norms on guardianship and more modern child welfare viewpoints. Even though the father is declared as a natural guardian formally, that does not make up the sole determining factor; in fact, the best interest of the child often takes precedence over the formal rights of the parents. Changing perception instead calls for a more child-oriented practice in custody decisions so that it gives priority to the child's physical, emotional, as well as developmental well-being over mere parental rights. Courts now also increasingly depend on advice of child psychologists and social workers to make orders relating to the custody of the child and show an increasing influence of behavioral sciences on legal judgment. Muslim law in Muslim personal law, child custody is determined under the principle of "Hizanat," referring to the rights of the mother in keeping custody and the father acting as a natural custodian. The trust lies on the fact that "Nursing is best given by the mother," and then custodial rules that vary with age and gender differ for boys and girls.

The mother's custodial rights are preserved till the child reaches a specific age. For boys, she will have custody until he reaches the age of seven years. In the case of a girl, the mother's custodial rights remain in force unless she attains puberty.

After these ages, the presumption in favor of the maternal custody ends and the father assumes the custody because he is the natural guardian. It can be based on the principle that a mother's care is not as important during the early, formative years of the child. However, the overriding

⁴ *Githa Hariharan v. Reserve Bank of India*, (1999) 2 SCC 228.

concern remains that of the child, as in *Imambandi v. Mutasaddi*⁵, which court reiterated the view that though the father is the natural guardian, custody should not be taken away from the mother unless she proves unfit for an infant or very young child.

Preference may be given to the mother for the early years of a child, but the father is considered a natural guardian under Muslim law. This means that the father is responsible for the child's finances and makes decisions in some very important areas of a child's life, such as education, health care, and marriage, especially after the child has crossed the age of transfer of custody. If the mother is deemed unfit, for example, by reason of her remarriage to a person not within the child's kin group or for some other risky practices, then custodianship falls into the hands of the father. Such is the judgment of *Gul Begum v. Abdul Qadir*⁶, wherein it was held that the fatherly right of custody may be relinquished if the care of the mother is held to be in the best interest of the child.

While Muslim personal law gives custodial preference to the mother till a particular age and natural guardianship to the father, Indian courts are looking into the welfare of the child as the paramount consideration in granting custody. Courts have rejected rigid applications of Hizanat when it stands against the paramount interest of the child. In *Md. Taj Begum v. Union of India*⁷, where it was held that even though Muslim personal law prescribes certain custodial norms, welfare is paramount and courts intervene to ensure the best interest of the child if the provision of personal law appears detrimental to this end.

Christian and Parsi Law

Child custody disputes in India for Christians and Parsis are dealt with under and, respectively. The guiding principle under both statutes is the welfare of the child. Under such principles, courts have much discretion to decide on custody arrangements. Traditional paternal custody preferences notwithstanding, courts have generally moved toward a more child-sensitive approach, away from merely an ideal notion of gender roles, toward a philosophy that puts the child's interest over strict adherence to any traditionalistic notions of gender roles.

The Indian Divorce Act, 1869 governs dissolution of Christian marriage, maintenance, and

⁵ *Imambandi v. Mutasaddi*, (1918) 45 IA 73 (PC).

⁶ *Gul Begum v. Abdul Qadir*, AIR 1927 Lah 81.

⁷ *Md. Taj Begum v. Union of India*, (2013) 10 SCC 772.

disputes over children. Under the Act, orders relating to custody may be made by a court at the instance of either parent, and broad discretion is given to courts in making orders that best serve the interests of the child. Traditionally, fathers have been more readily favored in such disputes, but Indian courts now recognize that children often should be placed with a mother, especially when the placement fits within the emotional and developmental needs of the child.

Such an approach is quite well reflected in the judgment *George Pousenam v. Maria Sudhamani*⁸ in which the court granted the plea of maternal custody when a father appealed and held that the child's well-being and peace of mind would be better preserved if s/he continued to live with the mother. This case reflects how a court's understanding of the psychology of child development has evolved over time.

In contentious divorces, courts have to consider one of the following factors: either for emotional stability of parents, or their financial capacity, or the living environment. Generally, preference by the child is also taken into account if he or she is mature enough to be able to voice an informed opinion. The approach is also quite consonant with the contemporary understanding of the question of child welfare.

Parsi Law

Marriage, divorce and child custody for the Parsi community is governed by the Parsi Marriage and Divorce Act, 1936. Like Christian law, this Act too throws stress on the welfare of the child while deciding in issues of custody. Courts were given discretionary power to pass judgment on every case, judging according to the circumstances and the welfare of the child.

Although personal laws may have traditionally fettered paternal custody, courts of law have increasingly been seen to move in the directions indicated earlier. Typically, this is rewarded in the best interests of the child, to whom maternal custody is preferred. In *Revanasiddappa v. Mallikarjun*⁹, decision of the Supreme Court recalled that personal laws notwithstanding, the welfare of the child shall always be paramount. This case reflects a far broader shift in Indian jurisprudence, wherein courts increasingly tailor arrangements for children's care to what appears beneficial to the child rather than following the parents' preferences.

⁸ *George Pousenam v. Maria Sudhamani*, (2010) 9 SCC 209.

⁹ *Revanasiddappa v. Mallikarjun*, (2011) 7 SCC 495.

In the cases of Christians and Parsis, courts in India, while deciding cases relating to child custody, considered the welfare of the child more importantly than the rights of the parents as enshrined in their personal law. The Supreme Court regularly underlined that the child's interests should prevail over strict legal conceptions of custodial rights.

For instance, in *Kaushlya Devi v. Baij Nath*¹⁰, the courts opined that in every matter of custody, welfare should always be placed above and not only on the rights of parents that are covered by personal law. These cases show how Indian legal thought is evolving, marked by courts gradually moving away from traditional gender roles and instead being concerned with the child's emotional, psychological, and developmental needs for well-being.

The changed principles in child custody cases in India are reflected by both Christian and Parsi laws of custody. The courts have lately become more likely to order joint custody so that both parents could share the burden of raising the child. This is a more common phenomenon among the urban, educated segments of society where joint parenting becomes manageable. The latter one is joint custody, which “recognizes the importance of both parents involvement in the child’s upbringing, now increasingly considered crucial for the child’s emotional and social development”.

However, a protracted litigation and parental animosity may not be within the best interest of the child. In that regard, courts have started using mediation and counseling for parents to establish friendly agreements as a less psychological impact on the child.

The Guardians and Wards Act, 1890, upholding the best interests of the child in secular law.

The principle of “best interest of the child” thus has emerged as a guiding light in determining child custody disputes in India and manifests the significant shift in approaches by which the judiciary, today, seeks to decide this class of disputes. The principle, thus, would build maximum strength on the necessity of protecting the welfare of the child and his overall well-being despite straining technical interpretations of personal law. Today, courts are making judgments increasingly child-centric in nature so that the basis of decisions is not on the rights of the parents but on what serves best for the emotional and psychological as well as physical

¹⁰ *Kaushalya Devi v. Baij Nath*, AIR 1961 SC 1204.

growth of the child.

Historically, Indian personal laws, like Hindu, Muslim, Christian, and others, tended to focus more on the paternal rights or were as per culturally perceived norms without delving much into the fine nuances of child welfare. With increasing recognition of children's rights and welfare, this approach towards rigid legal formalities has started to shift in favour of a relaxed attitude that gains more mileage on behalf of the child's welfare.

This trend gained momentum in the last third of the 20th century and is partly attributed to India signing international conventions such as the United Nations Convention on the Rights of the Child (UNCRC), which India ratified in 1992. The UNCRC postulates that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law or legislative bodies, the best interest of the child shall be a primary consideration (Article 3 of the UNCRC). International norms have also bleached into Indian jurisprudence in the sense that courts are increasingly becoming child-centric in family law cases.

Indian courts have developed the "best interests" principle from a large number of custodial cases, which provide the jurisprudential back-up for the child's welfare over and above the rights of the parents. Indeed, the court often reverses provisions of personal law in cases when the reversal of such provisions will be considered to imperil the best interests of the child, hence underpinning the adaptability of Indian courts in applying a combination of personal and secular laws.

Key factors considered by Indian courts when determining the best interests of the child are:

Emotional and psychological well-being¹¹: the Indian courts consider the emotional bonds a child may have with one or the other parent and tends to support the one who can provide a more supportive and stable environment.

Physical safety and care¹²: custody has been granted based on adequacy of housing, health care, and nutrition by the parent.

¹¹Shalini Nigam, *Guardianship Law in India: Examining the Principle of 'Best Interests' of Minors and the Rights of Single Mothers as Sole Guardians*, Indian J. Gender Stud. (2024).

¹²Linda D. Elrod, *Reforming the System to Protect Children in High Conflict Custody Cases*, 28 Wm. Mitchell L. Rev. 495 (2001).

Educational needs: Courts are likely to favour the parent who can well meet the child's educational needs, especially when in cases of one parent being better placed financially or geographically for providing good schooling.

Child's choice: The courts are likely to take into consideration the preference of the child if he or she is of an age and maturity, though that alone cannot decide the matter.

Moral and ethical upbringing: The moral character and ethical environment provided by the parent also constitutes a significant consideration, especially in contested cases.

Indian courts have given several landmark rulings that underline the "best interest of the child" principle:

*Githa Hariharan v. Reserve Bank of India*¹³: The Supreme Court declared that both mothers and fathers can be natural guardians for a child in appropriate circumstances depending upon the welfare of the child. Such a judgment marked an aberration from the traditional Hindu law's bias towards paternal custody and strengthened the notion that the interest of the child prevails over that of the parents.

*Nil Ratan Kundu v. Abhijit Kundu*¹⁴: The Supreme Court had ordered that the "best interests of the child" shall be kept uppermost in the consideration for disputes over custody. This court said that in matters of custody, the court shall look beyond mere legal formalities and concentrate on the welfare of the child in terms of love, care, security, and emotional well-being.

*Gaurav Nagpal v. Sumedha Nagpal*¹⁵: The court repeated that in deciding custodianship, the interest and welfare of the minor child must be paramount over mere legal rights of parents. Welfare of the child was described as a "primary consideration" and must dictate the judgment of the court, cutting across technical personal law provisions.

¹³ *Githa Hariharan v. Reserve Bank of India*, (1999) 2 SCC 228.

¹⁴ *Nil Ratan Kundu & Anr. v. Abhijit Kundu*, (2008) 9 SCC 413.

¹⁵ *Gaurav Nagpal v. Sumedha Nagpal*, (2009) 1 SCC 42

Impact of International Conventions

Though ratified, the UNCRC has profoundly affected child custody jurisprudence in India. According to the UNCRC, every child has a right to protection and care, including being given an opportunity to grow up in a supportive family environment. Such an international structure of law motivated courts in India to bring their domestic laws concerning custody in alignment with the overall agenda of global child rights to nurture the all-round well-being of the child in legal proceedings.

Another influential convention is the Hague Convention on the Civil Aspects of International Child Abduction, although India has not ratified it fully. Even in the present forms, the conventions do have an impact on judicial thought, especially in cross-border custody disputes. The provisions in the conventions would themselves motivate courts to look towards the child's best interests, especially in transnational parental conflict.

Another trend in Indian custody law is that of mediation and counseling which facilitates an amicable solution of disputes without involving the child in this adversarial nature of litigation. Courts have come to understand that protracted litigation directly impacts the child's mental health and emotional well-being, and therefore, out-of-court settlements are often directed which foresee the best interest of the child.

Challenges in Implementing the Best Interests Principle.

Despite these jurisprudential developments, bringing about changes in India under the “best interests of the child” principle are faced with several hurdles¹⁶:

Resistance from religion and culture: Here, personal laws, being exceedingly steeped in religion or tradition, have often not yielded way, occasionally coming into conflict with the child-centered approach. Protracted legal battles: Child custody cases are very easily dragged into protracted, drawn-out legal battles, thereby delaying the resolution and having an adverse effect upon the child's emotional well-being.

Lack of uniformity: Without the uniform civil code, since the religion of the family decides the applying custody laws, the “best interests” principle gets applied differently across different personal laws.

¹⁶ Sahodar, *Child Custody and Challenges in India*, Sahodar (Feb. 21, 2024).

Some landmark judgments have molded the way the Indian courts interpret the best interest of a child. For instance, in *Gaurav Nagpal v. Sumedha Nagpal*¹⁷, the Supreme Court held that always the paramount consideration in matters of custody should be welfare, even if it contravenes the claims of parents on the basis of personal laws.

In *Nil Ratan Kundu v. Abhijit Kundu*¹⁸, Supreme Court reaffirmed that in fixing child custody, a court must find out the child's welfare and take into consideration the child's emotional, psychological, and social well being. International conventions have also been significant in determining the judicial focus on child welfare. As India acceded to the United Nations Convention on the Rights of the Child in 1992, the UNCRC now constitutes relevant law for the country which prescribes that "in all actions concerning children, whether undertaken by public or private institutions, courts of law, administrative or legislative authorities, the best interests of the child shall be a primary consideration.". This international framework has grown to be the most prominent in Indian jurisprudence, and decisions regarding custody are to a very great extent guided by these precedents. The Indian courts, with the implications of international guidelines, have fortified the ethos of protecting children. In the broadest sense, international guidelines centred around a child's right to a safe, healthy, and stable environment.

Emphasis on Emotional and Psychological Health

Indian courts increasingly observe that emotional and psychological well-being is of equal, if not greater, significance than material provision. Judges have shown an appreciation for the simple fact that a child's relationship with his or her carer is crucial in terms of mental and emotional development¹⁹. Decisions about guardianship, once determined upon the basis of who would better provide for the child's material needs, now take into account the emotional bond that the child has with each parent. Courts go out of their way not to make decisions that may emotionally scald or hurt the child.

It has enabled courts to rely more on the sentiment of love, care, and emotional bonding rather than just the factors of financial security. For example, it does not guarantee automatically the custody of children to the financially sound parent who might also be emotionally aloof; if

¹⁷ *Gaurav Nagpal v. Sumedha Nagpal*, (2009) 1 SCC 42.

¹⁸ *Nil Ratan Kundu & Anr. v. Abhijit Kundu*, (2008) 9 SCC 413

¹⁹ Patel S, and Choate L. Conducting child custody evaluations: Best practices for mental health counselors who are court-appointed as child custody evaluators. *J Ment Health Counsel*, 2014; 36(1):18–30.

there is a scope for the other parent in offering a warmer and more caring surroundings, this would come into play.

Recommendation of reforms

There is much reform needed in Indian custody laws to make them child friendly. Among the changes²⁰, the UCC can be identified as critical change that will address many prevailing inconsistencies and pave the way for a more child-sensitive legal orientation.

Uniform Civil Code (UCC)

The introduction of Uniform Civil Code for the issues of children in regard to custody is quite crucial due to several reasons. The existing custody laws in India are divided into various personal laws, which approach matters based on religious backgrounds. Though the kind of differences this variety brings to India, which in itself is the epitome of a pluralistic society, it creates major disparities in the nature of custody decisions based on religion.

A UCC would, for example, provide a uniform legal platform that would address issues on child custody, with determination to depend on the best interest of the child rather than on religion. All these would ensure people are equal before the law and reduce anomalies that often result from personal laws. For instance, the law currently interprets child custody under Hindu, Muslim, and Christian personal laws in a completely different way; an identical case gets dissimilar results.

Challenges and Considerations

While the concept of the UCC is catchy, so are its challenges. It has encountered great resistance from political and social circles mainly because of the notion that it is an infusion of another culture and religion into the people's.

The proponents to the UCC postulate that child welfare is paramount and should rise above religious considerations; however, opponents always come from concerns over losing personal law privileges that some communities hold very dear. Public awareness campaigns and

²⁰ Elrod LD. Reforming the system to protect children in high conflict custody cases. *Wm. Mitchell L Rev*, 2001;28: 495.

engagement efforts with communities would therefore be absolutely necessary to assuage these concerns and create a better understanding of the benefits of the UCC.

Drafting of the UCC thus has to be done with utmost care so that it could consider the multiple needs and problems across India while focusing starkly on the welfare of children. Consultations with legal experts, child psychologists, as well as community leaders could help devise a UCC that may act as a balancing factor for uniformity and recognition of the intrinsic value of diversity.

Encouragement of Joint Custody Arrangements

Providing clearer guidelines on shared custody allows both parents to take a greater responsibility in the upbringing of their child. Providing both emotional support and giving children a comprehensive understanding that parents have equal responsibilities for care and upbringing, shared custody is highly vital. The courts should be urged and encouraged to embrace shared custody unless compelling circumstances arise where sole custody is awarded; for example, cases of abuse, neglect, or substance use.

Legal Frame Work for Joint Custody The enactment of a structured legal frame work on joint custody shall advise judges in the determination of custodial decisions²¹. A frame-work within the standards guiding the evaluation of joint custody arrangements would include whether or not both parents can cooperate over issues of the child, and be able to fulfill the child's emotional and practical needs for shared living.

Mediation and Conflict Resolution: Incentivizing mediation for parents would enable the possibility of more amicable custody terms. Mediation would allow parents to more meaningfully bargain over terms and conditions in regard to terms of shared custody without causing conflict and acting more in collaboration concerning meeting the needs of the child. Courts should access trained mediators who specialize in family law and are an expert on matters relating to child development and psychology.

Cultural Shift: This is another essential aspect if ground is to be won concerning shared custody. This involves changing the mind-set of the public regarding the roles a parent should

²¹ Thoennes N, and Tjaden PG. The extent, nature, and validity of sexual abuse allegations in custody/visitation disputes. *Child Abuse Neg*, 1990; 14(2): 151–163.

play²². Change can be achieved through various public information programs, for example, educating the public on the mutual role that both parents play in the life of their child and emotional development.

International Models: India could learn from successful shared custody models in other parts of the world. Sweden and Australia, for example, have implemented a shared custody framework that requires the involvement of both parents, whose outcomes for children post-divorce have been excellent.

Despite drawbacks, the introduction of shared custody guidelines will benefit. Perhaps some courts may resist what would amount to a change from deep-rooted habits. Other cultural beliefs about gender roles in parenting may oppose the directive²³. Moreover, family features such as parental conflict might make it hard to enforce shared custody arrangements.

Another significant reform would be the further strengthening and developing of specialization in such courts in India. Generally, family law matters, including child custody cases, remain to be decided in general civil courts that do not possess specialized knowledge or sensitivities that would enable them to grapple effectively with these issues.

Conclusion

The advancement in this respect of the march of India is marked by a strong direction to uphold the child's welfare more than the claims of parents and rigid adherence to the customs found in religions. Traditionally, custodial precedents have been greatly influenced by personal laws governed by traditional gender roles wherein the rights of the parents have tended to take precedence over emotional and psychological needs of the child. Still, however, judicial attitudes recently have begun to shift, and legislative initiatives indicate an expanding concern for the supremacy of children's interests in custody determinations.

Despite these developments, very significant challenges persist on account of the pluralistic legal framework that underlies custody law in India. Personal laws relating to custody are

²² Herman SP. Practice parameters for child custody evaluation. *J Am Acad Child Adolesc Psychiatr*, 1997; 36(10): 57S–68S.

²³ Patel S, and Choate L. Conducting child custody evaluations: Best practices for mental health counselors who are court-appointed as child custody evaluators. *J Ment Health Counsel*, 2014; 36(1):18–30.

jurisprudentially fractured into an almost countless number of laws based on religious and otherwise distinct sets of guidelines and interpretations. This inconsistency does not only negate uniformity in justice but also puts children under a vulnerable position, dependent on religious affiliations of their parents rather than the child's needs. Gender biases, which are beyond control at times, still affect many judges while making decisions in regard to the custody of a child. Such judgments often betray reality in modern parenting and the capability of both parents to build up their child.

These issues need to be dealt with the application of reforms in the form of a Uniform Civil Code (UCC). A UCC would provide standardized custodial orders even though the religion of the parents may be different, so that each child gets the same treatment. It is owing to these inconsistencies which are now being witnessed while carrying out custodial orders and with the benefits of application of clear criteria for ascertaining best interest in relation to children, leading to consistency in such rulings. Simultaneously, promoting joint custody arrangements will help ensure every recognition of the immense importance of both parents to the child. Joint custody encourages emotional stability and support from both parents towards the children who will eventually benefit from this overall development. By persuading courts to consider joint custody in more cases, Indian law has taken the first step forward in adopting modern views of both parenting and family organization.

More important, a good development and a real strength could be seen in the specializations of family courts and their potentials to improve legal capacity in dealing with custody cases within a more sensitive and efficient manner. They are highly specialized courts manned by trained professionals in family law, ensuring that child welfare is always present and accounted for in every custody decision made, thus preventing delays and further serving the children's best interests.

To end, while Indian child custody laws have made some very commendable strides toward the welfare of children, much remains to be done. There is much that can be adopted in a more streamlined and welfare-centric approach-for instance, a Uniform Civil Code and joint custody support-for custody laws in India to evolve better toward their requirements in the interest of children. A law that actually serves the interest of the child also is an investment in the future of Indian society and quite just as it allows children to grow up in nourishing environments that enhance healthy development and well-being.