

## **CUSTODY ACROSS CONTINENTS: THE LEGAL LABYRINTH OF INTERNATIONAL PARENTAL CHILD ABDUCTION IN INDIA**

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### **I. Introduction**

In the age of increased global mobility, families relocate themselves across continents, searching for a better life. With increased migration and fractured parental relationships come complex legal challenges, such as International Parental Child Abduction, which is the unilateral removal or retention of a child across the jurisdictional borders, breaching another parent's custodial rights. Such disputes have a grave impact on the psychological and social welfare of the child but also strain the legal system, especially in countries where there is an absence of a clear remedy.

The Hague Convention on the Civil Aspects of International Parental Child Abduction established a uniform mechanism which was devised to address such cases. However, India remains withdrawn from the application of this treaty and instead using a combination of several legal remedies across various legislations and forums to decide such cases. As a result of this patched-together legal framework, International Parental Child Abduction cases in India are seen to proceed with simultaneous applications for guardianship, injunctions and interim reliefs, habeas corpus petitions and enforcement applications, without one central adjudicating authority available to respond to one all-encompassing application.

This disjointed approach has led to several contradictory and inconsistent judicial outcomes, tiresome litigation full of inordinate delays and a heightened emotional suffering for children as well as their parents. Several landmark rulings exhibit the discrepancies in the application of the law, which is often judge-made in the common law framework, which complicates the process for all the pillars of the legal system, including lawyers and judges too. However, the Rajesh Bindal Committee report proposed a comprehensive statute mirroring the principles laid out in the Hague Convention, in order to mitigate the procedural fallacies that the Indian legal system suffers from with regards to cases of International Parental Child Abduction. Through an analysis of domestic remedies, procedural lapses and the recommendations laid out by the Rajesh Bindal Committee, this paper seeks to answer whether India's prospective

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accession to Hague Convention could alleviate the holes in the law and finally deliver timely, predictable resolutions that serve the interests of the child as well as the parents.

## II. Understanding International Parental Child Abduction

International Parental Child Abduction (hereinafter “IPCA”) occurs when a parent unlawfully removes the child from the child’s country of habitual residence in the absence of consent of the lawful authority of the other parent who has custody or visitation rights. The 1980 Hague Convention on the Civil Aspects of International Child Abduction,<sup>1</sup> is an “international attempt to hasten the return of children wrongfully abducted and to deter such abductions in the future”.<sup>2</sup> In order to invoke this convention, “there must be a wrongful removal or retention of the child in question. A removal is wrongful if it is in breach of the “rights of custody” accorded by the state of the child’s habitual residence”.<sup>3</sup>

Article 3 of the Hague Convention, 1980 states that the removal or retention of a child is considered to be wrongful where “a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention”.<sup>4</sup>

Article 4 further states that the Convention shall cease to apply when the child attains the age of 16 years.<sup>5</sup> Apart from procedural safeguards, the primary objectives of the Convention are “to provide a prompt and secure return of the child; and to ensure the rights of the legal custodian and the access granted to them under the law”.<sup>6</sup> There are several factors that contribute to the occurrence of IPCA, such as higher rates of transnational marriages involving Indian citizens, familial imperatives, domestic violence and any other situation which would compel one parent to forcibly remove the child from the custody of the other parent and the country of habitual residence.

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<sup>1</sup> Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11,670, 1343 U.N.T.S. 89 [hereinafter Hague Convention].

<sup>2</sup> Julia A. Todd, *The Hague Convention on the Civil Aspects of International Child Abduction: Are the Convention’s Goals Being Achieved?*, 2 INDIANA JOURNAL OF GLOBAL LEGAL STUDIES 553-576 (1995).

<sup>3</sup> Kathleen A. McKee, *A Primer on International Parental Abduction*, 6 REGENT J. INT’L L.37 (2008).

<sup>4</sup> Hague Convention, *supra* note 1, art. 3.

<sup>5</sup> Hague Convention, *supra* note 1, art. 4.

<sup>6</sup> Ninad Shah, *International Parental Abduction, A Study of Foreign & Domestic Laws with Judicial Decisions on Cross Border Child Disputes.*, SSRN ELECTRONIC JOURNAL (2021).

This phrase- ‘habitual residence’ is imperative to the determination of breach of rights; the party that invokes the Convention “must be able to show that the child was “habitually resident” in his country immediately before any breach of the party’s right to determine where the child would live or of the party’s right to access the child”,<sup>7</sup> however, ‘habitually resident’ has not been defined by the Convention and is left up to the discretion of the Court. Despite the Hague Convention providing a framework to deal with cases of IPCA, it is only soft law and is not binding. India is not a signatory to the Convention and has no comprehensive domestic legislation addressing this issue. It is only through a broadened interpretation of several provisions of the Hindu Minority and Guardianship Act, 1956,<sup>8</sup> the Guardians and Wards Act, 1890,<sup>9</sup> and the constitutional remedy of the Writ of Habeas Corpus under Articles 32 and 226 of the Constitution of India.<sup>10</sup> “The absence of a comprehensive legislation updated to the contemporary needs of global families, coupled with non-accession to the Convention has resulted in disputes related to international parental child abduction being decided in a summary and inconsistent manner”.<sup>11</sup>

India’s non-accession to the Convention stems from a multitude of reasons, including sovereignty, cultural factors, judicial inability to implement the Convention’s procedures and most importantly, domestic violence. The presumption is that many mothers who flee with their children from toxic or abusive households must be protected from forcefully being returned to dangerous environments. While these reasons do seem well founded, it still poses a challenge to those who have not been perpetrators of violence. In many cases where couples have been separated or divorced, the party who has not been given primary custody of the child has been seen to flee, where one of the parents is a dual citizen or a citizen in a different country than that of the child’s habitual residence.

### III. India’s Domestic Remedies for IPCA

In the absence of a multilateral treaty, cases of IPCA are resolved using domestic legislations and constitutional remedies. Section 17 of the Hindu Minority and Guardianship Act, 1956 confers the power to appoint a guardian for Hindu minors upon civil courts. The purpose of this provision is to provide a mechanism for the restoration of a parent’s custodial rights when

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<sup>7</sup> Kathleen A. McKee, *A Primer on International Parental Abduction*, 6 REGENT J. INT’L L.37 (2008).

<sup>8</sup> Hindu Minority and Guardianship Act, 1956.

<sup>9</sup> Guardians and Wards Act, 1890.

<sup>10</sup> India Const. arts. 226, 32.

<sup>11</sup> Stellina Jolly & Sai Ramani Garimella, *International Parental Child Abduction and India- Attempting Engagement with the Hague Convention*, 19 AUSTRALIAN JOURNAL OF ASIAN LAW 47-66 (2018).

a child has been unlawfully retained in India.<sup>12</sup> However, this legislation applies only to Hindus and does not contemplate issues of cross-border custody battles, due to which its scope is limited. The Guardians and Wards Act, 1890, on the other hand is a secular legislation, thereby offering a broader forum to avail remedies. The scheme of the Act is to provide for the welfare of the minor, as is exhibited in Section 17(2), which substantiates the matters to be considered by the Court when appointing a guardian, such as the age, sex and religion of the minor, the character and capacity of the proposed guardian and his nearness of kin to the minor, wishes of a deceased parent, if any, and any existing or previous relations of the proposed guardian with the minor or his property.<sup>13</sup> Section 17(3) confers some autonomy on the minor, where if the minor is old enough to form an intelligent preference, the Court may consider that preference.<sup>14</sup> However, the appointment of a guardian by the Court, the process laid down by these domestic legislations, fail to account for situations of wrongful detention by a parent.

When such allegations are raised, the Writ of Habeas Corpus under Articles 32 and 226 of the Constitution of India can be invoked. By issuing a Writ of Habeas Corpus, a Constitutional Court may compel the parent who has wrongfully detained the child to produce the child in court and justify the legality of the detention. Where the detention is deemed unlawful, the Court may order the parent to return the child to the lawful custody of the petitioner or may arrange a joint custody system as an interim measure. However, the effectiveness of this remedy is limited to cases where the child is present in the Indian jurisdiction and cannot be invoked if the child has been taken abroad. In such cases, foreign decrees would be passed by the Court having competent jurisdiction. Under Section 13 of the Code of Civil Procedure, 1908, a foreign judgement shall be conclusive where the judgement has been pronounced by a Court of competent jurisdiction, in keeping with standards of international law and principles of natural justice.<sup>15</sup> Section 14 further creates a presumption in favour of such foreign judgement, where it shall be presumed that the judgement was passed by a Court of competent jurisdiction, unless proved otherwise. In practice, however, Indian Courts have hesitated to enforce foreign judgements that were *ex parte*,<sup>16</sup> which in cases of IPCA, they typically are.

India's domestic regime, composed of the aforementioned legislations, Writ of Habeas Corpus and enforcement of foreign decrees under civil procedure laws, provide multiple remedies but

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<sup>12</sup> Hindu Minority and Guardianship Act, 1956 §17.

<sup>13</sup> Guardians and Wards Act, 1890 §17(2).

<sup>14</sup> Guardians and Wards Act, 1890 §17(3).

<sup>15</sup> Code of Civil Procedure, 1908 §13.

<sup>16</sup> Code of Civil Procedure, 1908 §14.

an overall fragmented system to address cases of IPCA. The lack of a unified treaty-based framework results in procedural complexity, uncertainty with regards to jurisdiction and overarching delays that impact the welfare of the child in question and the rights of the parent who the child was taken away from.

#### IV. Doctrines Relied Upon in the Adjudication of IPCA Cases

Indian Courts, in the absence of a conclusive framework to address IPCA cases, have explored several doctrines and material considerations. The paramount consideration in such cases is the “welfare of the child”. The leading case on this behalf is *McKee v. McKee*, which held that “in all questions relating to the custody of an infant the paramount consideration is the welfare of the infant”.<sup>17</sup> In the Indian context, section 25 of the Guardians and Wards Act, 1890 stipulates that if “a ward leaves or is removed from the custody of a guardian of his person, the Court, if it is of the opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return, and for the purpose of enforcing the order, may cause the ward to be arrested and to be delivered into the custody of the guardian”.<sup>18</sup> The Apex Court has clarified that this provision is attracted only when a ward leaves or is removed from the custody of a guardian of his person and the Court is empowered to make an order for the return of the ward to his guardian if it is of the opinion that it will be for the welfare of the ward, thus entrusting the Court with judicial discretion.<sup>19</sup>

Further, in the case of the Court considered that since the child was immature and unable to form an independent opinion as to which parent he should stay with, the factors used for determination were that the child was an American citizen, he had spent his entire life in the United States of America and he was doing well in school there, and that his mother is full of genuine love and affection and can be safely trusted to look after the child, educate him and bring him up properly.<sup>20</sup> Additionally, it was affirmed that “whenever a question arises before Court pertaining to the custody of a minor child, the matter is to be decided not on considerations of the legal rights of parties but on the sole and predominant criterion of what would best serve the interest and welfare of the minor”.<sup>21</sup>

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<sup>17</sup> *McKee v. McKee* [1950] SCR 700.

<sup>18</sup> Guardians and Wards Act, 1890 §25.

<sup>19</sup> *Rosy Jacob v. Jacob A. Chakramakkal* (1973) AIR 2090.

<sup>20</sup> *Mrs. Elizabeth Dinshaw v. Arvand M. Dinshaw And Anr.* (1987) AIR 3.

<sup>21</sup> *Id.*

However, the term “welfare” hadn’t expressly been laid down until the Apex Court in the case of *Dhanwanti Joshi v. Madhav Unde*,<sup>22</sup> relied on an English judgement, which stated that “the welfare of the child is not to be measured by money alone nor by physical comfort only. The word ‘welfare’ must be taken in its widest sense. The moral and religious welfare must be considered as well as its physical well-being. Nor can the ties of affection be disregarded”.<sup>23</sup>

Further, it relied on a decision of the New Zealand Court, wherein the meaning of “welfare” was expanded to include “material welfare, both in the sense of adequacy of resources to provide a pleasant home and a comfortable standard of living and in the sense of an adequacy of care to ensure that good health and due personal pride are maintained... More important are the stability and the security, the loving and understanding care and guidance, the warm and compassionate relationships, that are essential for the full development of the child’s own character, personality and talents”.<sup>24</sup> Another set of factors when it comes to determining residence of which country may be in the best interests of the welfare of the child is whether the native language of the child is spoken, whether his social customs and contacts exist there, or if his education in his native land is interrupted and he is being subjected to a foreign system of education, since any disturbance to the above could psychologically disturb the child.<sup>25</sup>

Another consideration is the “habitual residence” of the child. Although not statutorily defined under Indian law, it is deemed the status-quo locale to which the child should ordinarily be returned to. This principle has been utilized in several case laws, one of the first being *Surindar Kaur Sandhu v. Harbax Singh Sandhu*,<sup>26</sup> wherein the father removed the child from the territory of England and brought him to India. Thereafter, the English Court had granted custody to the mother and directed the husband to hand over the child to the mother, which he failed to do. The mother then came to India and filed a Writ Petition, asking for production and custody of her minor son. The Supreme Court held that since the matrimonial home of the spouses was in England, the child was born in England and was a British citizen, the jurisdiction of the State which has the most intimate contact with the issues arising in the case must be preferred.<sup>27</sup> Unlike “domicile”, habitual residence focuses on the acclimatization and integration of the child into society. In the case of *Shilpa Aggrawal v. Aviral Mittal*, the Supreme Court

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<sup>22</sup> *Dhanwanti Joshi v. Madhav Unde* (1998) 1 SCC 112.

<sup>23</sup> *Re. v. McGrath (Infants)* [1893] (1) Ch. 143 (148).

<sup>24</sup> *Walker v. Walker & Harrison* [1981] New Ze Recent Law 257.

<sup>25</sup> *Nithya Anand Raghavan v. State of NCT of Delhi & Anr.* (2017) 7 S.C.R. 281.

<sup>26</sup> *Smt. Surindar Kaur Sandhu v. Harbax Singh Sandhu & Anr.* (1984) AIR 1224.

<sup>27</sup> *Id.*

emphasized that the habitual residence of the child in the United Kingdom and not the parent's unilateral relocation to India, helps determine the correct forum for custody disputes.<sup>28</sup> In this case, since the child had been born and brought up in the United Kingdom, the Indian Courts conferred jurisdiction upon the English Court. By anchoring jurisdiction to habitual residence, Indian jurisprudence aims to curb forum shopping.

The third consideration is the principle of comity, which at its core, is concerned with respect for the territorial sovereignty of all nations".<sup>29</sup> The Indian judiciary believes that the court having the most intimate contact, and which is the closest concerned Court to the child has a more competent jurisdiction to decide the case, since those Courts would be better while examining the social and cultural atmosphere of the child.<sup>30</sup>

In accordance to Section 13 of the Code of Civil Procedure, 1908, as previously mentioned, a judgement of a foreign court can only be disregarded under special circumstances, in the absence of which, such decree may be enforced. The Supreme Court has observed that comity of courts is a "self-restraining principle, applicable when a foreign court is seized of the issue of the custody of a child prior to the domestic court, whereas the best interests and welfare of the child are of paramount importance while deciding merits of the case court".<sup>31</sup> When determining the jurisdiction, "the Court must be satisfied and of the opinion that the proceeding instituted before it was in close proximity and filed promptly after the child was removed from his/her native state and brought within its territorial jurisdiction, the child has not gained roots here and further that it will be in the child's welfare to return to his native state because of the difference in language spoken or social customs and contacts to which he/she has been accustomed or such other tangible reasons".<sup>32</sup> With regards to foreign decrees, they are deemed a factor to be taken into consideration, but may not achieve finality or enforceability in the Indian jurisdiction. Where the reasoning of such judgement is deemed to be in favour of the welfare of the child, the Indian Court may exercise its summary jurisdiction and order the prompt return of the child.<sup>33</sup>

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<sup>28</sup> Shilpa Aggarwal v. Aviral Mittal & Anr. (2009) AIR SCW 7694.

<sup>29</sup> James Edelman & Madeline Salinger, *Comity in Private International Law and Fundamental Principles of Justice*, A CONFLICT OF LAWS COMPANION 325-356 (2021).

<sup>30</sup> Ninad Shah, *International Parental Abduction, A Study of Foreign & Domestic Laws with Judicial Decisions on Cross Border Child Disputes.*, SSRN ELECTRONIC JOURNAL (2021).

<sup>31</sup> Surya Vadanam v. State of Tamil Nadu & Ors. (2015) AIR SC 2243.

<sup>32</sup> Nithya Anand Raghavan v. State of NCT of Delhi & Anr. (2017) 7 S.C.R. 281.

<sup>33</sup> *Id.*

## V. Procedural Lapses and Inconsistent Judicial Outcomes

India's domestic regime to address cases of IPCA suffers from procedural lapses that hamper its efficiency and predictability, leading to inconsistent judicial outcomes. The Hague Convention requires the designation of a Central Authority to coordinate cross-border child custody cases,<sup>34</sup> and the same has been set up in signatory countries. India, being a non-signatory to the Convention, does not have such Authority, which leaves the parties to navigate the legal field and its disparate forums, family court, civil court and constitutional courts, themselves. Suits and petitions are often filed in multiple courts, and even in multiple jurisdictions, which is a tiresome process for the left-behind parents but also duplicates judicial effort. Further, Indian statutes do not provide a timeline for the adjudication of guardianship applications or writ petitions, which forces parties to put their lives on hold while awaiting justice.

The Hague Convention, on the other hand, prescribes a six-week target period for the resolution of such disputes, keeping in mind that the speedy resolution of such disputes is in the best interest of the child.<sup>35</sup> The issue of jurisdiction lacks a straitjacket formula; while Courts agree that the physical presence of the child in India triggers jurisdiction, they do not see eye to eye on the interpretation of habitual residence. The dilemma is whether habitual residence is determined by a prolonged stay in a particular jurisdiction. In *Shilpa Aggrawal v. Aviral Mittal*, the Court favored the doctrine of habitual residence and ordered the repatriation of the child to the United Kingdom,<sup>36</sup> whereas in *V Ravi Chandran v. Union of India*, the Court considered that since the child had been enrolled and integrated into an Indian school and his family life had become retrenched, repatriation should not be considered.<sup>37</sup> Further, the redressal mechanism in India is plagued with judicial ambiguity, and inconsistencies in the application of the aforementioned principles. In *Nithya Anand Raghavan v. State of NCT of Delhi*, the Supreme Court has held that they may disregard the judgement of the foreign court if they are of the belief that it does not favour the welfare of the child,<sup>38</sup> which is in contravention to Section 13 of the Code of Civil Procedure, 1908, since it does not fall under the circumstances under which a foreign decree can be disregarded. The invocation of the doctrine of *parens patriae* adds another complex layer of judicial intervention in cases of IPCA. This doctrine

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<sup>34</sup> Hague Convention, *supra* note 1, art. 6.

<sup>35</sup> Hague Convention, *supra* note 1, art. 11.

<sup>36</sup> *Shilpa Aggarwal v. Aviral Mittal & Anr.* (2009) AIR SCW 7694.

<sup>37</sup> *V. Ravi Chandran v. Union of India & Ors.* (2009) 15 S.C.R. 960.

<sup>38</sup> *Nithya Anand Raghavan v. State of NCT of Delhi & Anr.* (2017) 7 S.C.R. 281.

empowers Courts to take charge as the ultimate guardian of the child and serve his best interests. The fallacy here is that the invocation of *parens patriae* involves immense judicial discretion which can often undermine legal certainty and a clear application of the law. Additionally, since this doctrine necessitates the protection of the child, it may cause further emotional harm by paradoxically locking the child into an adversarial litigation environment, delaying repatriation or conclusive custody arrangements.<sup>39</sup> Therefore, IPCA disputes lead aggrieved parents into a complex, arduous process to simply enjoy visitation rights and thereafter determine which jurisdiction their child should live in. While Indian Courts do consider the welfare of the child as a paramount consideration, they fail to acknowledge the burden that falls on the aggrieved parent; to first seek a foreign order or to file a claim for custody in the family court to no avail, thereafter move the constitutional courts under Articles 226 or 32 to seek mere production of the child in Court, all while putting their lives on hold. The judicial inconsistency only exacerbates this problem, since the natural consequence would be preferring appeals and approaching different forums for any sort of relief. In light of these observations, some legal reform should take place.

## VI. What is the way forward?

On 18<sup>th</sup> May 2017, the Ministry of Women and Child Development constituted a committee to examine issues relating to inter-country parental child removal and suggest a model legislation to safeguard the interest of parents and children alike.<sup>40</sup> The Committee was chaired by Justice Rajesh Bindal, with the objective of India's accession to the procedural framework of the Hague Convention. The report examined several facets of IPCA disputes and charted a proposed legislation, which consolidated definitions, remedies and jurisdictional rules and even establishes a Central Authority within the ministry to handle administrative tasks such as receiving applications, maintenance of a case registry, coordination with foreign counterparts and supporting affected families, with the inclusion of strict timelines, in line with the Hague Convention, to ensure seamless adjudication. It also tackles the issue of domestic violence, which has been claimed to be a reason for several mothers taking their children outside of the territorial boundaries of their country of habitual residence. The Act also provides for mediation, which is a significant leap in progress, as it could serve as a method to circumvent

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<sup>39</sup> Stellina Jolly & Sai Ramani Garimella, *International Parental Child Abduction and India- Attempting Engagement with the Hague Convention*, 19 AUSTRALIAN JOURNAL OF ASIAN LAW 47-66 (2018).

<sup>40</sup> Bindal R Justice, *Report of Justice Rajesh Bindal Committee to Examine the Civil Aspects of International Child Abduction Bill, 2016 and the Protection of Children (Inter-Country Removal and Retention) Bill, 2016 (Volume I)* MINISTRY OF WOMAN AND CHILD DEVELOPMENT (2018).

the long, arduous litigation process. This Act mitigates the dispersion across the Hindu Minority and Guardianship Act, 1956, the Guardians and Wards Act, 1890, the Code of Civil Procedure, 1908 and the writ of Habeas Corpus. However, this draft bill was not enacted since it was claimed that “the treaty did not provide adequate protection to the mother”.<sup>41</sup> However, scholars have claimed that this fear is ill-founded since the Convention treats child abduction as a civil matter and jurisdictions across the world address the custody issue through the prism of the welfare of the child and has notoriously favoured non-custodial mothers and takes into account the gender dimension linking it with child welfare.<sup>42</sup> Although the enactment has been tabled, the feasibility of the timelines laid out can be called into question. In an overly burdened judiciary that suffers from immense delays, who is to decide that these cases are to be given precedence over others and adjudicated upon in a timelier manner than other different pressing issues? These are questions that remain unanswered.

## VII. Conclusion

The issue of International Parental Child Abduction confronts India with one choice: whether the legal system should continue to navigate through a fragmented regime that subjects children and their parents to a costly, tiresome, multi-faceted process to seek a simple relief, or accede to an internationally recognized and endorsed treaty that focuses on the welfare of the child, in line with the object of the Indian Courts. As this paper has exhibited, India’s current domestic remedies, while examining each dispute on a case-to-case basis, falls short when it comes to uniformity, application of the law and is plagued with judicial overreach and inconsistency.

What is more striking is the blatant contravention of the Code of Civil Procedure, 1908, when the Courts disregard the judgement of a foreign jurisdiction with their sole excuse being the welfare of the child. Since welfare is the primary consideration, then it is not rational for the legislature to outrightly reject the accession to the Hague Convention, which provides a comprehensive framework, cohesive process and predictable principles. The principles applied by the Indian Courts, while certainly progressive, have no bearing on the prompt return of the child or his holistic welfare in the absence of a properly laid down procedure.

The Bindal Committee’s report offers some hope, with the consolidation of the IPCA procedures into one detailed statute and easing out the overall process, it eases the burden on

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<sup>41</sup> Ninad Shah, *International Parental Abduction, A Study of Foreign & Domestic Laws with Judicial Decisions on Cross Border Child Disputes.*, SSRN ELECTRONIC JOURNAL (2021).

<sup>42</sup> Stellina Jolly, *International Parental Child Abduction: An Explorative Analysis of Legal Standards and Judicial Interpretation in India*, 31 INTERNATIONAL JOURNAL OF LAW, POLICY AND THE FAMILY 20 (2017).

the parents as well as the judiciary. The proposed law exhibits the intention to transform the current labyrinthine legal system into a streamlined regime. The emphasis on procedural clarity and collaboration with parallel systems internationally aligns with the fundamentals of private international law, which is international cooperation. Further, it has been tailored to fit India's social dynamic, addressing concerns such as domestic violence.

Moving forward, India must enact some sort of reform to streamline the process of IPCA cases, and the Law Commission must immediately reconsider drafting recommendations to the legislature. The law must deliver on the promise of protection, which here is the welfare of the children who have been put in a strenuous situation as a result of their parents but also to some extent, the legal system.

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