

COMPARATIVE ANALYSIS OF CHILD CUSTODY LAWS IN INDIA AND NORWAY: RIGHTS, CHALLENGES, AND BEST PRACTICES

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Abstract

This research provides a cross-sectional comparison of child custody laws in India and Norway and more focus is given on the ordeals of immigrants and migrant parents. It traces the legal landscape which constructs parental rights, the obstacles that families have to overcome in the course of disputing custodial rights and the reality that children experience when relationships end. In addition to summarizing legislation and procedures, the paper contextualizes the results of any custody case in the respective cultures and socio-economic situations of countries, where gender norms and the quantity of court litigation affect all the course of trials and provide relief when it was needed. To give the comparison a basis, the research identifies effective practices that place children at center-stage; i.e. structured mediation, child-friendly court practices, and workable shared-care arrangements and evaluates how these practices are operating in each jurisdiction. In the analysis, the concept of the best interests of the child is used as the touchstone and the fact that systems operationalize that requirement in varying degrees of commitment is acknowledged. Lastly, the survey develops nation-specific recommendations that should enhance speed, standardization, and equity in custody decisions, enhance protections to vulnerable families, and make sure that children and their welfare should be paramount during divorce and separation. By doing so, it tries to increase the awareness of custody rights and establish more human, efficient procedures both to the parents and to the children.

Key words: Child, Custody, Parental rights, Guardianship, Minor, visitation, jurisdiction

Introduction

Child custody is both legal and emotional and therefore determines the lives of parents and children in cases of divorce or separation. As can be seen through the lens of two very different countries when it comes to credit spending India and Norway provide a compelling

point of reference in terms of custody understanding and resolution. This paper conducts a critical assessment of the two systems with particular focus on the experiences and issues of immigrant/migrant parents, presents parent rights and considers practical issues that exacerbate these custody battles. We want to explain the rights under consideration and the challenges facing families and connect formal legal rules with the social and cultural aspects that impact the results. Legal underpinnings are incorporated together with other factors such as gender dynamics and barriers of proceedings in the court system to draw a full-scale account of custody in India and Norway. Major similarities and differences are delineated in the article with the best interests of the child being foregrounded. It tests established experience, high profile practice-mediation, child-friendly courtrooms and practical shared-care—in the context of each country. It then provides practical, country-specific recommendations to ease processes, enhance fairness and protect children as families change. This way, the study enhances the already acquired knowledge on custody laws and practices within the two jurisdictions and provides direction concerning reforms that can help all members of the society, particularly children.

Statement of the Problem: Child custody struggles are complicated by legal systems, socio-cultural processes and gender biases. Such disputes are challenging and need an extensive understanding to be solved. Child custody battles may be influenced by law and other social norms whose main consequence is imposing a burden on the parents and more importantly children. These are some of the complexities that should be understood in order to enhance child custody laws. The law and the legal system can continue inequality, increase the pain upon families and cause losses to children enmeshed in family turmoil with no such knowledge.

Purpose: This paper sheds light on where parents and children stand in the struggle of child custody, including barriers that affect them. The paper focuses on reviewing the laws and socio-cultural factors that drive the laws on child custody in India and Norway to shed light on child custody rights and welfare of individuals who undergo changes in their families. This discovery allows identifying patterns, inequalities, and areas that need refinement in current systems and make informed decisions and policy shifts. It accepts the fact that children are influenced by the laws of child custody and the society. It does not just refer to eligibility of custody but goes further to look at social and cultural influences. The study aims at offering a

comprehensive picture of the nature of child custody battles, where legal answers to questions are not considered quite sufficient unless the entire society and cultural context are understood.

Study Importance: Major impacts in the parties of child custody surround this study. The study improves the knowledge on child custody by bringing out the legal foundation of child custody, the socio-cultural effects of child custody and barriers to child custody. This information is needed by policymakers, lawyers, social workers, and other family law experts. It aims to enhance the child custody proceedings by exploring the best practices. Child-centered policy and legal reforms can be plotted on the basis of successful domestic and international models and practices. The final destination is to have child custody regulations to be more responsive, just, and kid-friendly when going through convoluted family changes. This could have the capability to inform and change legislation and customs that protect the rights of parents and most importantly focus on the well-being of the children during family transitions. It calls upon a more comprehensive, advanced and compassionate child custody policy.

Objective

1. Compare legal frameworks governing child custody in India and Norway, highlighting variations.
2. Examine sociocultural and economic factors influencing custody outcomes, including gender biases systemically.
3. Identify best practices and propose reforms for child centered, timely, equitable procedures.

Research Questions:

1. How do child custody laws vary between India and Norway, considering legal frameworks, cultural influences, and socio-economic factors?
2. What specific rights and challenges do parents encounter in the context of child custody disputes in both India and Norway?
3. How does gender play a role in child custody outcomes in India and Norway, and what efforts have been made to address gender biases in these legal systems?

4. What are the prevailing best practices in child custody laws for each country, and how do these practices contribute to the well-being of children during family transitions?
5. To what extent do the legal frameworks in India and Norway align with international standards for child custody, and what recent developments or reforms have been implemented to enhance these legal systems?

II. Literature Review:

- **Child Custody Law Overview:** In such a way Indian and Norwegian laws are different under the impact of legal structures, culture, and economical reasons. Religion personal restrictions influence Indian child custody environment that is complicated. India has the guardian and wards act, 1890, and the juvenile justice act, 2015, which show the country has interest in international law. The 1981 Children Act of Norway assumes joint custody and underlines the right a child has to communicate with the two parents.
- **Parental rights and child custody challenges:** Such issues as legal intricacy, social-cultural factors, gender biases in India and Norway make child custody battles seem different. The custody decision is experienced by Indian parents as the fathers and mothers are considered on legal grounds. Nevertheless, it is possible that best interests of the child will introduce bias and subjectivity. Problems are worsened by courtroom congestion, delay on the part of the judges, socio-cultural issues that influence custody determination. The Norwegian assumption of shared custody acknowledges the participation in this process by both parents but introduces complexity in the situation as the views are disagreed upon by parents. An impartial and emotionally supportive guideline looks into the best interest of the child.
- **Gender dynamics** impact the child custody outcome at India & Norway considering legal decisions and cultural viewpoint. Legal reform progress implies correcting gender discriminations. Historical gender prejudices in India may have one parent's advantage in decision to grant custody. New legislation promotes gender-neutral custody regulations that is comparable to international guidelines. Norwegian example of default shared custody reinforces neutral take on genders, but gender is still an influence on parenting. Reforms address unequal gender based resolution of custody.
- **Identifying best practices:** When addressing the child custody cases, it is essential in improving the legal process and supporting the welfare of the child going through the family changes in India and Norway. Mediation also enables both countries to solve disputes in a

friendly manner and ameliorate the emotional stress of lawsuits. Kid-centeredness manifests itself through Norwegian kid-friendly courtrooms and Indian child psychologists and social workers. In two jurisdictions, joint custody is supported, and this is in line with the trends all over the world that also ensure that child custody should be given priority when it comes to the parents. The use of these processes hastens the court proceedings and educates child-centered divorce cases.

- **International Standards and Recent Developments:** India and Norway have an obligation to align the law on the custody of children with global best practices and current developments to secure full parental safety of children during the transition in the family. The recent amendment of Indian law is to align the global standard of dispute resolution, safety of children, and gender equality. The Children Act of the Norwegian and legal changes concentrate on the rights of children and prevention of conflict within the family. The laws governing child custody are in line with the global watermark of globalization. The child custody laws in India and Norway vary in terms of the legal system and the impacts of such an approach; this includes the approaches to socioeconomic challenges in their timelines as observed in the literature review. To make the relative study in the sections below, the nature of the rights and issues concerning parents, gender issues, good practices, and the compatibility of various legislative frameworks and practices with the international standards are analyzed.

III. Research Design and Methodology:

Justification of Comparative Analysis: The need to have an exhaustive examination of the child custody legislation is what drove the choice of pursuing a comparative analysis between India and Norway. The comparison between these two jurisdictions allowed the study to de-tangle the complex interrelations between a legal regime and socio-cultural features which provided insight into the processes that dictate the results in the domain of child custody.

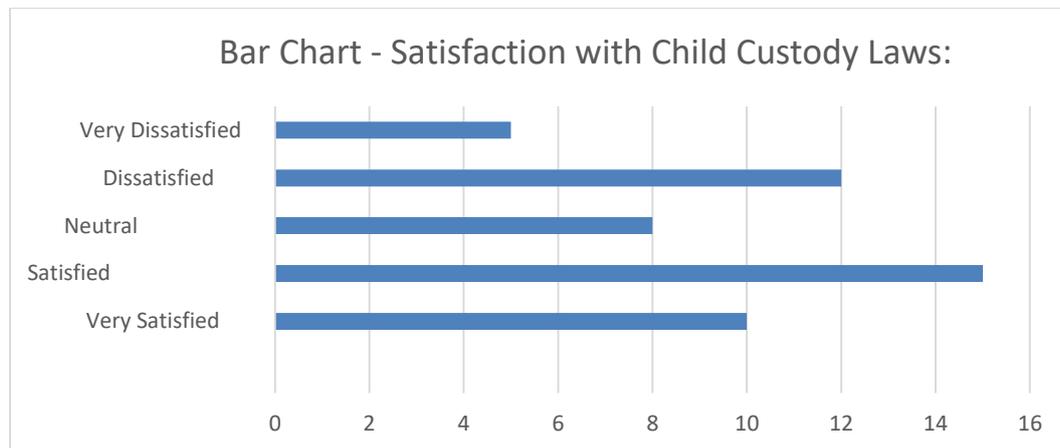
Country selection: India and Norway were deliberately selected because they had clear legal system and cultural rules, and the socio-economic environment. This was a strategic choice that added substantiveness to the compulsory study providing insightful information that has the possibility of advising and shaping child custody laws in different countries. These two countries were so different and this offered plenty to explore and at the same time they came under scrutiny of unique considerations.

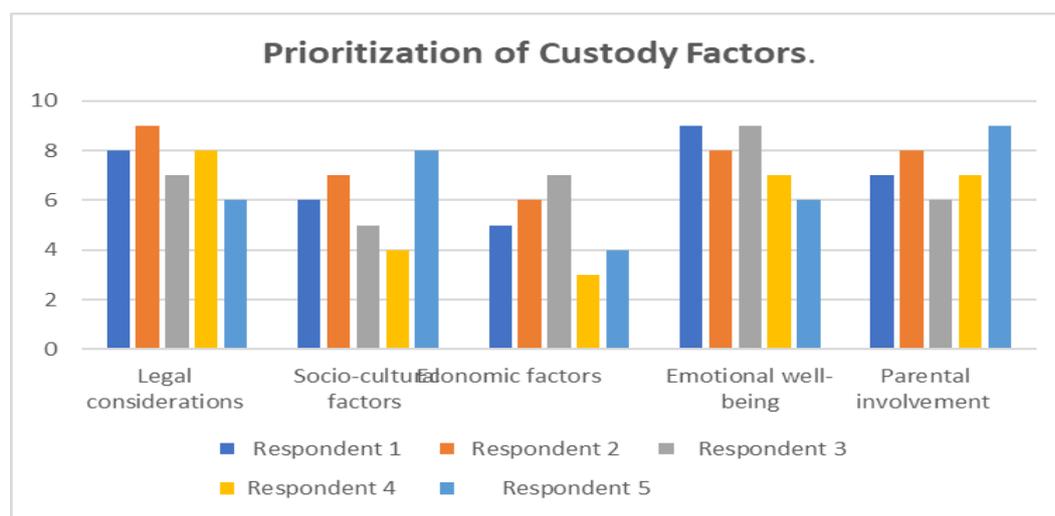
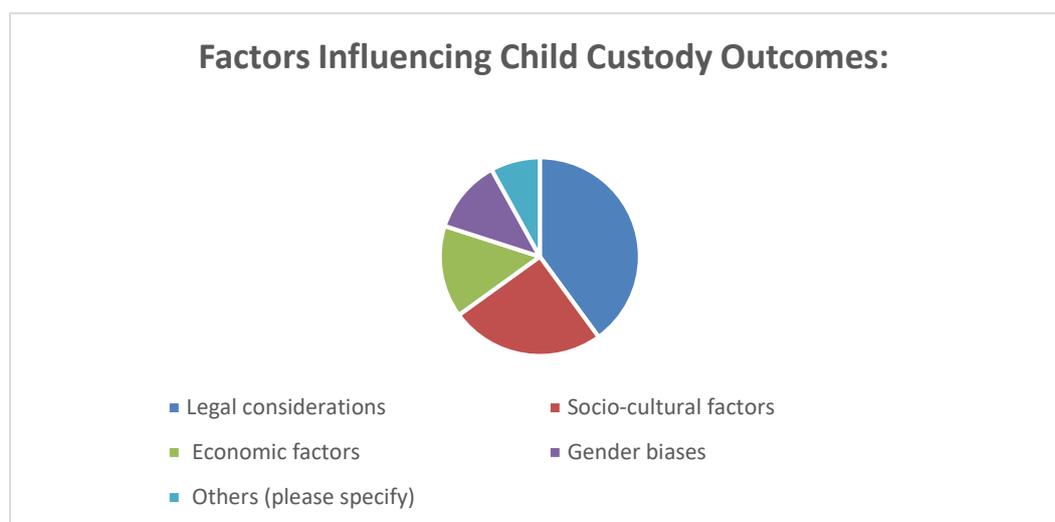
Selection of Research Methodology: A mixed-methods mode of research was adopted to make the research process inclusive, so that the richness of both quantitative and qualitative approaches will be combined. The development of this approach made it possible to conduct a holistic research of the child custody laws with the study being able to capture the statistical trends, as well as providing the in-depth views. The variety of methodology played a significant role in any subtle consideration of the topic.

Sampling Strategy: As a part of sampling strategy, a stratified sampling was used because a sample size of fifty participants was incorporated using questionnaire. This was to make them more representative of different socio-economic strata, legal backgrounds and even cultural inclinations. The presented range of opinions contributed to the proficiency of the study as a more potent examination of the intricate field of jurisdiction over children was possible.

Data Collection Methods: The data was collected by sending a questionnaire to the fifty participants, to collect quantitative data on prevailing trends. At the same time, qualitative depth was obtained through interviews and case studies, which identified the experience, perceptions, and difficulties of parents who seek to find a solution to child custody disputes.

Graphical Representation of Data that was collected.





Key Findings:

- a) the graphical illustration of the above data presented in the bar chart portrays that, though the respondents who are satisfied and very satisfied would be nearly half the respondents, there is a significant amount of those respondents who are dissatisfied.
- b) b)- Data in the pie chart showed the factors Influencing Child Custody Outcomes and outlined clearly that legal considerations are the most followed then socio-cultural considerations and economic factors.
- c) And clustered chart illustrates what factors uphold a higher interest in custody of children, the factors built around emotional well-being, legal concerns and then parental environment.

Inference: The findings stated above portray the importance of legal enactments, social values and societal perceptions on child custody in India and elsewhere in the world. India needs carefully explored legal diversity which requires attention to different laws and comparative research due to the significance of cross-cultural knowledge. The case against parents in India and Norway shows the need to balance the legality of family relations to the expectations of the society and the division of gender roles. The fact that some best practices could be identified as universally applicable, including such practices as mediation and shared custody, prompts cross-cultural learning to highlight their potential to help shape global policy and law amendments. To finish, balance in legal, cultural and societal dimensions is vital in improving the laws on custody of children, the child comes first and the legal process needs to be fair.

IV. Child Custody Laws in India

Legal framework: Hindu, Muslim, Christian, and Parsi Personal Laws:

In India, child custody is normally guided by the laws of individual communities belonging to different religions. Such legislations decree matters on marriage, divorce, and child custody. For instance:

Hindu Personal Laws: child custody among Hindus is governed by the Hindu Marriage Act, 1955, and Hindu Minority and Guardianship Act, 1956. They accept the notion of natural guardians normally the father to be the guardian to the person and property of a Hindu minor. The welfare and best interests of the child can also be used in these laws to decide on where custody of a child should go.

Muslim Personal Laws: In the case of child custody, the Islamic values, the Muslim Personal law (Shariat) Application acts of 1937 are superior amongst the Muslims. Father is seen as the natural guarantor and decisions regarding custody are usually taken on jurisprudence of Islam and well being of the boy.

Christian and Parsi Personal Laws: In India, the Christians and Parsee also have the specific personal laws which govern issues on child custody. These laws may change and depend on particular tenets of religion.

Guardians and Wards Act, 1890:The Guardians and Wards Act, 1890, is a non-secular law applicable to every community in India, it offers some arrangements towards establishing guardians to the minors. According to this act, the court reserves the right to allow appointment of a guardian to person and property of a minor. This law is applicable whereby there is the absence of pertinent individual law to regulate child custody.

The Hindu Minority and Guardianship Act, 1956:This law which applies to the Hindus also gives more insight to the issue of child custody among the Hindus. It specifies the father to be the natural guardian although it also draws attention on the welfare and best interest of the child as the overriding consideration. This act offers a legal basis in formulating child custody amongst Hindus.

The Juvenile Justice Act, 2015:Juvenile Justice Act, 2015, is a major amendment in which there is emphasis on welfare of the child in many situations, such as conflict over custody. This law provides guidelines whose care, protection and rehabilitation is focused on the best interests of the child. It also deals with the children in conflict with the law and children in need of care and protection.

Recent Legal Developments:A number of legal trends have taken place in India, which seem to enhance child custody regulations and practices. These advances aim in most cases at bringing Indian law to international standards and focus on the wellbeing of child. Recent reforms might provide that the custody disputes are resolved more efficiently, that child protection is improved, and the gender biases that potentially influence the decisions made regarding custody are addressed.

Indian child custody law is a complex interaction of personal codes enforceable to different religious communities but enhanced by nonreligious law such as the Guardians and Wards Act, 1890, the Juvenile Justice Act, 2015. Its process is defined by the legal system that is striving to identify a balance between finding natural guardians, on the one hand, at the same time having a primary concern with the best interests of the child, on the other hand. Recent changes in the law demonstrate the fact that people are trying to improve the child custody legal acts in India.

V. Child custody laws in Norway

The Children Act of 1981:In Norway the Norwegian Children Act of 1981 (Barneloven) is the centerpiece of child custody law. This holistic legislation controls many areas of child welfare such as the roles of parents and custody. The Children Act describes the principles and procedures affecting child raising and overcoming the disputes concerning the custody. It puts much emphasis on the best interests of the child.

The Children Act offers the directions to be followed in establishing the precedence of the custody and the right of visiting the child when the benefit lies in the child, and it is imperative to ensure that the child maintains and develops relationships with the parents. The aim of this act is to make the child welfare a top consideration in any decision making related to custody. It also considers questions of authority of parents, rights of access and child protection.

Joint Custody as a Default Option:The joint custody assumption, under Norwegian law is unique in that whenever there are no voluntary agreements to the contrary, joint custody occurs. Norway assumes joint custody to be in the best interests of the child with no good reason as to why this may not be the case. This implies that in instances of parent separation or divorce, the joint custody and responsibility of the child is maintained.

Angled custody in Norway implies that both parents are equally involved in critical decisions that relating to the upbringing of the child, his/her education and independent medical care. It encourages collaboration among parents and the development of an ongoing relationship with both parents and reduces the chances of conflicts that might occur in case one parent receives sole custody. It also lays emphasis on the significance of the two parents to a child.

The Barnelovutvalget (Children's Act Committee) Reform:The Children Act Committee (also called the Barnelovutvalget), wanted to undertake a substantial revision of the Children Act. This reform was aimed to achieve the transition of the Children Act to meet with the modern requirements of the society and amplifying the rights of children. The reform resulted in the modifications in the child custody legislation to further underline the right of the child to be brought up in a meaningful relationship with both of his parents. It also took an initiative in safeguarding children against parental tensions, domestic abuse, and other unfavorable conditions. Moreover, the reform was meant to enhance the power and involvement of the child in the choices which concern him/her based on their age and level of maturity. In short, Norwegian child custody regime, which is guided by the Children Act of 1981, accords best

interests of the child as the principle consideration that determines who gets the custody of the child. Ownership of a relationship with both parents, cooperation, and the avoidance of conflicts are noted by the very fact that joint custody is now the default presumption. The current drive behind the reform process, which can be illustrated with case of Barnelovutvalget(The Childrens Act Committee), demonstrates that Norway is keen on the need to reshape its legal system to adapt to the changing values in society and protect the rights of a child in the court of custody.

VI.Comparative Analysis of Child Custody Laws in India and Norway:

A. Commonalities

1. Prioritizing the Best Interests of the Child: As far as the rights of a child are concerned, both India and Norway value the best interest of the child as the central principle of determination of child custody. This principle found its place in India in the form of different personal laws, Guardians and Wards Act, 1890, and Juvenile Justice Act, 2015. The Children Act of 1981 in Norway is also a clear indication of the superiority of the welfare of the child. The focus on the fact that custodial arrangements should promote well-being and development of the child is common to both countries, and this feature is what they have in common regarding legal terminologies.

2. Mediation and Counselling Services:

In the application of the child custody law, both the Indian and Norwegian child custody processes have mediation and counselling services as their most crucial components. Regarding mediation and counselling, parties are encouraged to solve conflicts in terms of mediation and counselling in India, whereas the Juvenile Justice Act, 2015, acknowledges the significance of counselling services in the best interest of the child. On a similar note, Norway also focuses on parental cooperation and mediation that allows parents to reach pleasant solutions related to the child.

3. The Presence of Gender Bias in Custody Decisions:

Although it is factored to ensure that the decision made in custody cases is gender-neutral, both nations (India and Norway) have continued to face the repercussions of gender prejudices in certain situations. Gender biases may be implemented in various forms such as the preference of one parent over the other in regard to gender stereotypes. These prejudices continue to be a threat towards attaining genuine gender-free outcomes regarding

custody. Companies in India and Norway have some similarities when tackling the child custody laws, including focusing on child best interest and employing mediation and counselling services. Nonetheless, both of the countries still struggle with the problems associated with gender prejudice in custody determinations which indicates that further efforts should be made in order to present gender-neutral and child-oriented custody determinations.

B. Differences:

1. India's Diverse Legal Framework Based on Religion: The wide spectrum of laws which are based on religion and personal laws has a profound effect on the child custody laws in India. There are major variations between the change in custody rights and procedures in India amongst various religious groups such as Hindus, Muslims, Christians, and the Parsis. The personal laws of each community are different and may often lead to varied interpretations and practice in terms of child custody. This diversity can also give rise to the multiple problems of child custody especially in situations whereby parents belonging to a different religion are involved in conflicts. Legal differences between these communities in legal standards and practice may pose a challenge in efforts to achieve unity and consistency to custody decisions.

2. Norway's Emphasis on Shared Custody as the Default: Norway has been unique as it takes a different approach towards shared custody by placing it as the norm. The Children Act of 1981 states that the best interest of children presumes joint custody unless there are complete reasons to say it is the best interest of children. This high priority to shared custody puts strong emphasis on ensuring that a child has the right to continue having a relationship with both parents despite separation and divorce, which is contrary to the high number of cases where sole custody is implemented in many other countries such as India. The norm in Norway is sharing custody, which indicates the value attributed to the role both parents play in the life of a child even in a case of parental separation.

3. The Role of Social Services and Child Representation in Norway: The law that governs Norway regarding child custody is marked by a firm incorporation of child representation in child custody cases as well as the participation of the social services. The issue of child custody in Norway has been characterized by the involvement of child psychologists, child welfare experts, and social workers. They aid in providing an in depth picture of the well-being of the child along with his or her inclinations, which helps to make a custody

judgement. This interdisciplinary approach to conducting custody studies is not as in practice in India where the representation of the child and the presence of child experts can greatly differ depending on the unique case situation and available resources. The main difference between Norway and India in terms of custody laws can be narrowed to the distinction in the number of religious based laws used in India, the emphasis on shared custody as the standard in Norway and the tremendous role played by social services and child representation in cust. All these differences indicate the individual legal and cultural background of the countries that affect the way in which child custody isolation should be considered and made.

C.Recommendations for India:

Standardized Child Custody Laws Across the Cord Lengths: India ought to strive in enforcing the same child custody law that is applicable to all religions and communities. This will assist in removing the complexities and differences that come about as a result of different personal laws. This would streamline the criteria in making the decisions on custody, in the light of shared set of principles, and in the best interest of the child taking precedence.

Enhance Effectiveness of the Legal System: India should tackle the problem of court delays and congestion to make the resolution of cases addressed in child custody swift enough. It can be done by adding family courts, more efficient practices and ensuring that the dispute is quashed quickly. The backlogged cases will reduce the emotional and psychological impact to children.

Spread Gender-Neutral Custody Decisions: India is recommended to implement initiative-taking steps to remove gender related biases in making custody decisions. This can be achieved by conducting training on legal professionals, raising awareness and formulation of guidelines that will eliminate gender stereotype during custody decision making. When gender neutrality among the proceedings of custody is promoted, fairness and equity within a legal process will be increased.

Set up Special Family Courts: To deal with cases of child custody, India ought to contemplate having specialized family courts, to control child custody cases in an efficient and sensitive manner. These courts may have trained judges and experts specializing in family law that make the process more child oriented and attaches to the individual needs of children and parents involved in custody matters.

D. What should Norway do:

•**An opportunity to Further Stress Shared Custody as a Default:** Norway is advised to continue with its high priority of shared custody as the normative situation because doing so guarantees children the chance to keep good relations with both parents. Nevertheless, strict guidelines must be put down to define exceptions in the event where the shared custody may not be in the best interests of the child with the welfare of the child being the main priority.

Increase Child Representation in Court: The country of Norway can also work more on the part played by child representative in the legal proceedings. This can be enhanced by ensuring the child representatives are highly trained practitioners who have excellent knowledge on the rights and needs of the children and can enhance quality child-centric custody adjudication. It is possible to reach this goal by continuous training and instructions of child representatives.

Provide Assistance to Single Parents: Norway ought to be supportive of the single parents especially when the shared custody cannot be possible. This backing can be in terms of monetary aid, counselling, and access to facilities with the assistance of which single parents can give their children a stable and warm upbringing.

The Way Forward: the research strongly advocates for implementing its recommendations to address the intricate factors affecting child custody laws in India and Norway. The insights provided underscore the need for a nuanced approach, emphasizing the urgency of integrating best practices such as mediation and child-centric courtrooms. Implementation of these recommendations is crucial for creating a more equitable environment for families undergoing significant life changes and ensuring the welfare of children.

The research calls upon policymakers, legal practitioners, and stakeholders in both India and Norway to actively consider and implement these recommendations. The goal is to prioritize the welfare of children and foster positive outcomes throughout the challenging period of family restructuring. The implementation of these suggestions is pivotal for realizing positive changes in child custody laws and practices, ensuring the well-being of families in transition.

Conclusion

Through this comparative study it has been revealed that India and Norway have the same lodestar, which is the best interests of the child but have different legal channels and institutional capabilities in achieving this lodestar. The unitary structure of Norway and its innate tendency of employing mediation and shared-care resolutions bring about more

predictable and faster results. The plural legal landscape of India and the greater case-burden may extend the findings and increase ambiguity, not only in general but also particular to immigrant and migrant families who encounter language, documentation, and access challenges. In both settings, norms that govern both social and cultural practices, such as gender expectations, still influence negotiation practice and, in some cases, judiciary dispensation. There are also a few practices that appear to be generally advantageous, including early, good quality mediation; courts that listen to children safely and meaningfully; and parenting plans that focus on continuity of care instead of a winner take all approach of custody. In the effort to enhance equity and timeliness, India would be poised to do so, through leaner national policies on shared parenting, widened legal assistance and interpretation/translation services as well as more stringent perfection of interim orders. In Norway, although it is relatively sufficiently effective, there should be further spending on culturally responsive services and safeguards of non-citizen families. Both nations then need to work on better data about outcomes, require professionals to undergo trauma-informed and intercultural training, and take steps to work across borders on transnational cases.

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