

**Children are the world's
most valuable resource and
its best hope for the future.**

John F. Kennedy



Free the child's potential,
and you will transform
him into the world.

Maria Montessori





“

Above all, children
need our unconditional
love, whether they
succeed or make
mistakes; when
life is easy and when
life is tough.

Barack Obama

GH

CHILDHOOD



“When they fight, I lose. When they shout, I break. When they hurt each other, they hurt me.”





My world shouldn't be a courtroom battleground.
I just need a safe space to grow.
Prioritize my peace, not your conflict.





parens patriae jurisdiction

Ashish Ranjan vs Anupam Tandon on 30 November, 2010

Equivalent citations: 2011 AIR SCW 249, 2010 (14) SCC 274,

- It is settled legal proposition that while determining the question as to which parent the care and control of a child should be given, the paramount consideration remains the welfare and interest of the child and not the rights of the parents under the statute.
- Such an issue is required to be determined in the background of the relevant facts and circumstances and each case has to be decided on its own facts as the application of doctrine of stare decisis remains irrelevant insofar as the factual aspects of the case are concerned.
- While considering the welfare of the child, the "moral and ethical welfare of the child must also weigh with the court as well as his physical well-being".
- The child cannot be treated as a property or a commodity and, therefore, such issues have to be handled by the court with care and caution with love, affection and sentiments applying human touch to the problem.
- Though, the provisions of the special statutes which govern the rights of the parents or guardians may be taken into consideration, there is nothing which can stand in the way of the court exercising its parens patriae jurisdiction arising in such cases. (vide *Gaurav Nagpal v. Sumedha Nagpal*, AIR 2009 SC 557).

Parens patriae jurisdiction

Definition and Meaning: Power to act as a guardian

Parens patriae is a Latin term meaning "parent of the nation" or "parent of the country." In law, it refers to the inherent power and authority of the state or courts to act as a guardian for those who are unable to care for themselves, such as minors, persons with mental incapacity, or others who are legally incompetent.

The doctrine originated in English common law, where the King was seen as the ultimate guardian of his subjects, especially those unable to protect their own interests.

“The parens patriae jurisdiction is...founded on necessity, namely the need to act for the protection of those who cannot care for themselves.

The courts have frequently stated that it is to be exercised in the ‘best interest’ of the protected person, or again, for his or her ‘benefit’ or ‘welfare’.”

Types of Cases Where Parens Patriae is Exercised:

Child custody and welfare: Courts intervene in custody disputes to protect the welfare of minors, especially when parents are unfit, absent, or in conflict.

The Supreme Court of India, in a custody dispute, emphasized that "courts exercising parens patriae jurisdiction must prioritize the welfare of the child over the bitterness and acrimony between estranged parents".

Kerala High Court permitted a mother to relocate her children abroad, invoking parens patriae to protect vulnerable minors, especially when one child had autism and the other a learning disability.

DESERVING CASES

Medical treatment for minors or incapacitated persons: Courts may authorize medical procedures (such as chemotherapy, blood transfusions, or vaccinations) when parents refuse consent, provided it is in the best interests of the child or patient.

In *Re Ryder* [2020], the court allowed chemotherapy for a child over parental objection, focusing solely on the child's best interests.

In *Department of Community Services v Y* (1999), the court intervened in the treatment of a minor with anorexia whose parents were hindering recovery.

Protection of persons with mental incapacity: Courts can appoint guardians or committees for adults unable to manage their affairs due to mental illness or incapacity.

The Bombay High Court appointed a daughter as the legal guardian of her elderly mother with dementia under *parens patriae*.

In *Re Binder* (2022), the court appointed a guardian for an incapacitated adult to manage property and care decisions.

Summary Table: Typical Application of Parens Patriae Jurisdiction

| Area of Law | Who is Protected | Example of Court Action |
|--------------------------------|-----------------------------------|---|
| Child custody/welfare | Minors | Deciding custody, overriding parental wishes if unfit |
| Medical treatment | Minors/incapacitated adults | Authorizing treatment over parental or patient objection |
| Mental incapacity/guardianship | Adults lacking capacity | Appointing guardians, managing property or health decisions |
| Public interest litigation | Groups unable to sue individually | State suing for environmental harm, antitrust, or welfare |



Conclusion:

Parens patriae jurisdiction empowers courts to **act as ultimate guardians for those unable to protect themselves**, ensuring their welfare even in the absence of statutory remedies or in the face of inadequate or abusive guardianship. It is exercised judiciously, always with the best interests of the vulnerable individual or group as the guiding principle ^{1 2 14 8 7 9}.

Lahari
Sakhamuri
vs. Sobhan
Kodali
(15.03.2019
- SC) :
MANU/SC/038
2/2019

Expression "**Best interest of child**" which was always kept to be of paramount consideration was indeed **wide in its connotation** and it could not remain love and care of primary care giver, i.e., mother in case of infant or child who was only a few years old.

Definition of "best interest of the child" was envisaged in **Section 2(9) of Juvenile Justice (Care & Protection) Act, 2015**, as to mean "basis for any decision taken regarding child, to ensure fulfilment of his basic rights and needs, identify, social well-being and physical, emotional and intellectual. development



Lahari Sakhamuri vs. Sobhan Kodali
(15. 03. 2019 - SC) : MANU/SC/0382/2019

- Doctrines of comity of courts, intimate connect, orders passed by foreign courts having jurisdiction in matter regarding custody of minor child, citizenship of parents and child etc., could not override consideration of best interest and welfare of child. Direction to return child to foreign jurisdiction must not result in any physical, mental, psychological, or other harm to child.

Doctrine of Comity of Courts – Explained

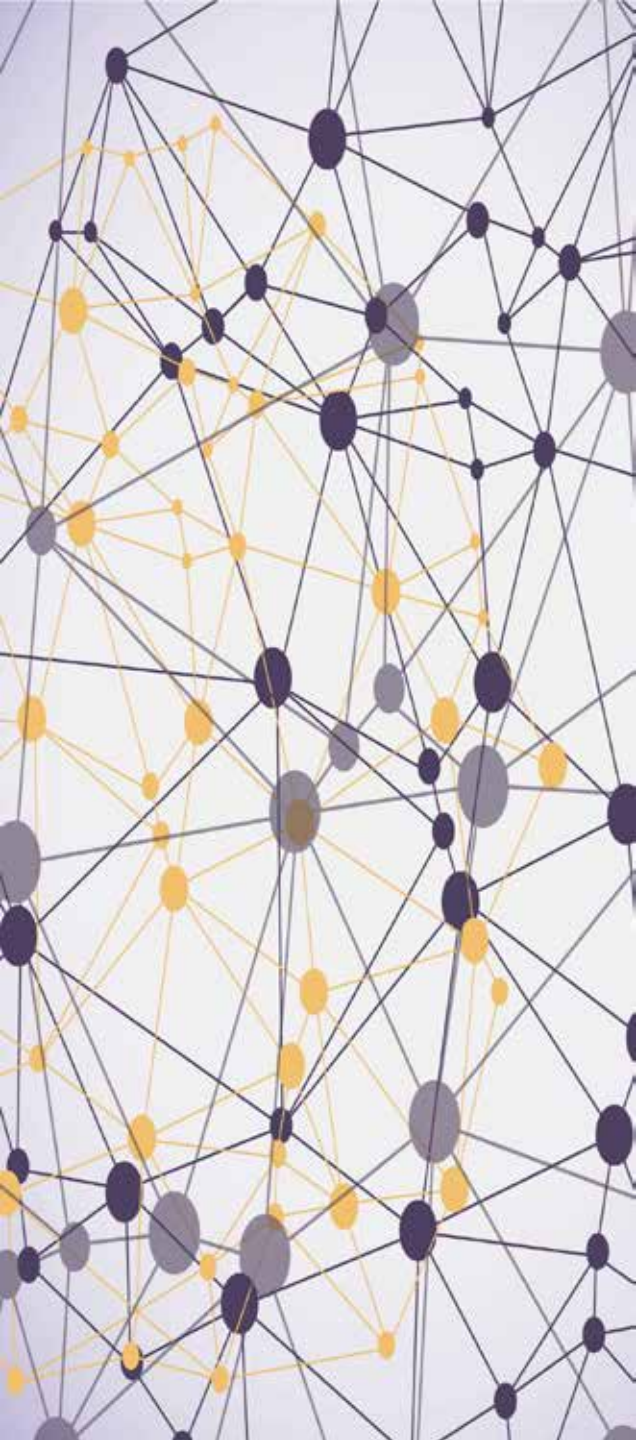


- The doctrine of comity of courts is a well-recognised principle in both municipal and private international law. It signifies that courts in one jurisdiction will show respect and, where appropriate, recognition to the laws, judicial decisions, and acts of courts of another jurisdiction, provided they do not conflict with public policy or statutory law of the forum court.
- **This principle is grounded in mutual respect, reciprocity, and the need to ensure harmonious coexistence among different legal systems.** It does not impose a legal obligation but promotes courtesy, consistency, and orderly administration of justice, thereby avoiding conflicts and duplication of proceedings.
- The Supreme Court of India has on several occasions endorsed this principle to respect the decisions of foreign courts or even coordinate jurisdiction between Indian courts to avoid contradictory rulings.

Alcon Electronics Pvt. Ltd. v. Celem S.A. of France, (2017) 2 SCC 253

- The Supreme Court of India recognised the principle of comity of courts while dealing with an anti-suit injunction.
- The respondent had initiated proceedings in France, while the appellant sought to restrain those proceedings in India.
- The Supreme Court, applying the comity of courts doctrine, held that anti-suit injunctions must be granted sparingly, keeping in mind respect for the jurisdiction of foreign courts.
- The Court observed: "The courts in India would exercise caution in granting anti-suit injunctions, keeping in view the principle of comity of courts which requires one court to respect the jurisdiction of another."
- This case reinforces that Indian courts will not lightly interfere with foreign proceedings, respecting the autonomy of foreign jurisdictions, unless compelling reasons exist such as oppression or manifest injustice





Doctrine of Intimate Connection – Explained

- The doctrine of intimate connection (also known as proximate connection) is a principle applied by courts to determine whether certain facts, events, or statements are admissible in evidence, particularly as part of the same transaction. The doctrine recognises that evidence of closely connected facts, even if they might otherwise be irrelevant or inadmissible, becomes relevant if they form an intimate or integral part of the transaction under inquiry.
- **This doctrine is codified under Section 6 of the Indian Evidence Act, 1872 as part of the rule on res gestae.** The rationale is that events closely connected in time, place, or circumstance are so interwoven that they form part of the same transaction, and therefore should be seen together for a truthful and complete picture.
- In simpler terms, where the continuity and proximity of events are so intimately connected that they form part of the same chain, they become relevant and admissible.



Sukhar v. State of Uttar Pradesh, (1999) 9 SCC 507,

- Sukhar v. State of Uttar Pradesh, (1999) 9 SCC 507, the Supreme Court held that the statement of a victim made immediately after being shot, naming the assailant, was admissible as part of the same transaction because it was intimately connected with the occurrence and left no room for fabrication.
- The Hon'ble Court observed:
- **"Spontaneity and immediacy of the statement, intimately connected with the occurrence, lend it a ring of truth."**

Nil Ratan Kundu and Ors. vs. Abhijit Kundu (08.08.2008 - SC)

MANU/SC/7935/2008: 2008 INSC 920

- The key issue in Nil Ratan Kundu and Ors. vs. Abhijit Kundu was the custody of minor Antariksh Kundu, following the death of his mother, allegedly at the hands of his father, Abhijit Kundu. The appellants, Nil Ratan Kundu and Smt. Kabita Kundu, the maternal grandparents, opposed the custody being granted to the father, **citing his pending criminal case**. The Supreme Court emphasized the welfare of the child as the paramount consideration, noting that the lower courts failed to adequately consider this principle and did not **ascertain the child's wishes**. The Court, after interviewing Antariksh, who expressed a desire to stay with his grandparents, allowed the appeal, dismissing the father's application for custody.

ABC Vs. The State (NCT of Delhi) MANU/SC/0718/2015

- Facts
- The Appellant after her marriage gave birth to a child and raised him without any assistance from the putative father. With the desire of making her son her nominee in all her savings and other insurance policies, she took steps in this direction, but was informed that she must either declare the name of the father or get a guardianship/adoption certificate from the Court. She thereupon filed an application u/s 7 of Guardians and Wards Act, 1890 for declaring her the sole guardian of her son. Though the Appellant has published a notice of the petition in a daily newspaper, but she was strongly averse to naming the father. Consequently, **the Guardian Court directed her to reveal the name and whereabouts of the father and consequent to her refusal to do so, dismissed her guardianship application.** On appeal, the High Court confirmed the order of lower authority by holding that no case can be decided in the absence of a necessary party. Hence, present appeal has been preferred.





SINGLE MOTHERS FIGHT

- Section 11 is purely procedural; we see no harm or mischief in relaxing its requirements to attain the intendment of the Act. Given that the term "parent" is not defined in the Act, we interpret it, in the case of illegitimate children whose sole caregiver is one of his/her parents, to principally mean that parent alone. Guardianship or custody orders never attain permanence or finality and can be questioned at any time, by any person genuinely concerned for the minor child, if the child's welfare is in peril. The uninvolved parent is therefore not precluded from approaching the Guardian Court to quash, vary or modify its orders if the best interests of the child so indicate. There is thus no mandatory and inflexible procedural requirement of notice to be served to the putative father in connection with a guardianship or custody petition preferred by the natural mother of the child of whom she is the sole caregiver. Implicit in the notion and width of welfare of the child, as one of its primary concomitants, is the right of the child to know the identity of his or her parents. This right has now found unquestionable recognition in the Convention on the Rights of the Child, which India has acceded to on 11th November, 1992. [16] and[17]
- **ABC vs. The State (NCT of Delhi) (06.07.2015 - SC) :**
MANU/SC/0718/

SINGLE MOTHERS FIGHT

- It is a misplaced assumption in the law as it is presently perceived that the issuance of a Birth Certificate would be a logical corollary to the Appellant succeeding in her guardianship petition. It may be recalled that owing to curial fiat, **it is no longer necessary to state the name of the father in applications seeking admission of children to school, as well as for obtaining a passport for a minor child.** However, in both these cases, it may still remain necessary to furnish a Birth Certificate. The law is dynamic and is expected to diligently keep pace with time and the legal conundrums and enigmas it presents.
- There is no gainsaying that the identity of the mother is never in doubt. Accordingly, **we direct that if a single parent/unwed mother applies for the issuance of a Birth Certificate for a child born from her womb, the Authorities concerned may only require her to furnish an affidavit to this effect, and must thereupon issue the Birth Certificate, unless there is a Court direction to the contrary.**
- We think it necessary to also underscore the fact that the Guardian Court as well as the High Court which was in seisin of the Appeal ought not to have lost sight of the fact that they had been called upon to discharge their parens patriae jurisdiction.
- **Upon a guardianship petition being laid before the Court, the concerned child ceases to be in the exclusive custody of the parents; thereafter, until the attainment of majority, the child continues in curial curatorship.**
- Having received knowledge of a situation that vitally affected the future and welfare of a child, the Courts below could be seen as having been **derelict in their duty in merely dismissing the petition without considering all the problems, complexities and complications concerning the child brought within its portals**
- *ABC vs. The State (NCT of Delhi) (06.07.2015 - SC) : MANU/SC/0718/*

NEWZEALAND HIGH COURT ORDER NOT GIVEN EFFECT

- *Amit Sandeep Khanna vs. Union of India (UOI) and Ors.*
(03.05.2011 - JHRHC) MANU/JH/0657/2011:
- The High Court of Jharkhand addressed a writ petition filed by Amit Sandeep Khanna seeking a Habeas Corpus order to have his minor daughter, Mitali, returned to New Zealand, as per a New Zealand High Court order, arguing that her mother, Sheena, was unlawfully detaining her in India.
- The court considered the welfare of the child as paramount, noting that Mitali had been in India for three years and was well-settled with her mother.
- The court found that enforcing the New Zealand order could cause psychological harm to Mitali and dismissed the petition, instructing Sheena to withdraw certain legal cases against Amit within two weeks.

NO CUSTODY TO FATHER

Shaik Moidin v. Kunhadevi, AIR 1929 Madras 33 (Full Bench)

- Shaik Moidin v. Kunhadevi, AIR 1929 Madras 33 (Full Bench). The above was a case of a father, a motor driver, applying for writ of Habeas Corpus to get custody of his 7 year aged child. Nobody was available in his house to look after such child.
- The Full Bench held that the Court has to look to an application under Habeas Corpus in the interest of the child as being paramount.
- The Court held that prima- facie in the eye of the law, the father is the natural guardian and custodian of the person of his child.
- But it has been the law for a very long time both in England and in this country that what a Court has to look to on applications under habeas corpus is the interest of the child as being paramount. **Custody was refused to father.**



Anjali Kapoor Vs. Rajiv Baijal

MANU/SC/0613/2009:

Grandmother preferred over Father

- Guardians and Wards Act, 1890 - Sections 7 and 9--Custody of minor female child--Child born to daughter of appellant out of wedlock with respondent -- **Appellant's daughter could not survive to see new born baby**--Child with appellant after discharge from hospital where kept in incubator for nearly 45 days--As child born premature--Appellant financially sound to look after minor child--Appellant has taken proper care and attention in upbringing child--
- Respondent father of child--Is indebted person--Also has married second wife--Under Guardians and Wards Act natural guardians of child--**Have right to custody of child--But that right is not absolute--Courts to give paramount consideration to welfare of child--**
- Direction to allow appellant to return custody of child--Impugned order set aside--Appellant to have custody of child till she attains majority.
- Ratio Decidendi:
- "Even though natural guardians of the child have the right to the custody of the child, welfare of the minor child has to be given paramount consideration."

Paramount Consideration

- Court's Analysis Paramount Consideration: Under the Guardians and Wards Act, legal rights of a parent are subordinate to the child's welfare supreme today..
- Evaluation of Evidence: **The grandmother** provided a nurturing, stable environment; strong emotional bonding with Anagh.
- Rajiv's poor financial health, lack of persistent interest, second marriage, and inability to care adequately were seen as adverse factors. Final Holding:
- The Supreme Court set aside the High Court's order and restored custody to Anjali Kapoor until the child reaches majority, underlining that the natural guardian's right is not absolute when the child's welfare is at risk.



MANU/SC/0197/2020

Soumitra Kumar Nahar Vs. Respondent: Parul Nahar

- In a custody battle, **no matter which parent wins but the child is always the loser** and it is the children who pay the heaviest price as they are shattered when the Court by its judicial process tells them to go with the parent whom he or she deems fit. It is a kind of dispute which has arisen initially from the Family Court and reached to this Court.

Raj eswari Chandrasekar Ganesh vs The State of Tamil Nadu
(Writ Petition (Criminal) No. 402 of 2021), decided by
the Supreme Court of India on July 14, 2022

- Inherent equitable powers as parens patriae for the protection of its minor ward.
- **Respect for Foreign Court Orders (Comity of Courts) vs. Child's Welfare:** While acknowledging the principle of comity of courts (respecting orders of foreign courts), the Supreme Court held that it is not an absolute rule. In cases involving child custody, **if adhering to a foreign court's order would be detrimental to the child's welfare, the Indian courts are not bound by it.** The welfare of the child takes precedence over strict adherence to foreign decrees, especially when the child has been brought to India.

Protection of Children from Parental Conflict: Discourage Parental Alienation

- Discouraging Parental Alienation: The Supreme Court strongly condemned the phenomenon of "parental alienation syndrome," where **one parent attempts to poison the child's mind against the other parent.** The Court observed that **such actions are psychologically destructive for the child, putting them in a loyalty conflict and forcing them to assess reality based on the alienating parent's biased viewpoint.** The Court emphasized the need to protect the innocence of children and prevent them from being burdened by adult problems
- .Directions for Repatriation and Shared Parenting: In this specific case, the Court directed the father (who had brought the children from the USA to India without the mother's consent, violating a shared parenting agreement and US court orders) to apply for a visa to travel back to the USA with the children. If the father was unwilling to return, the mother was to travel to India to pick up the children and take them back to the USA. The Court also left it open for the parties to revive the shared parenting plan in the Ohio court.
- . Consequences of Non-Compliance: The Supreme Court made it clear that any impediment or non-cooperation from the father or his family in facilitating the children's return to the mother in the USA would amount to contempt of court.

Condemnation of Parental Alienation Syndrome

- Protection of Children from Parental Conflict: The Court emphasized the critical need to maintain boundaries between adult problems and children, stating that children "must not be burdened by any adult problem.
 - " This directly relates to shared parenting in that, even when parents are separated or in conflict, the focus must remain on the child's well-being and their ability to have a healthy relationship with both parents.
 - Condemnation of Parental Alienation Syndrome:
 - The Court explicitly addressed the "Doctrine of Parental Alienation Syndrome." It observed that efforts by one parent to turn a child against the other parent (which can undermine shared parenting arrangements) have two psychologically destructive effects:
 - It places the child in an impossible loyalty contest.
 - It forces the child to distort reality by requiring them to blame one parent.
- Court's Intent to Circumvent Ill Effects: The Court's observation highlighted that the intent of the court should be to prevent such "ill effects" of parental alienation, thereby promoting a healthy environment for shared parenting, even if it's through a modified arrangement like online communication when parents are in different countries.

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

- The case of Roxann Sharma v. Arun Sharma, 2015 (8) SCC 318, is a significant judgment by the Supreme Court of India concerning child custody, particularly for children of tender age.
- The case involved a dispute between Roxann Sharma (the mother) and Arun Sharma (the father) over the interim custody of their minor son, Thalbir Sharma. The couple had married in the USA and their child was born there. They later returned to India and faced marital discord, leading to an application for dissolution of marriage and a petition for guardianship and custody of the child under the Hindu Minority and Guardianship Act, 1956 (HMG Act).
- The Trial Court initially granted interim custody of the child (**who was below five years of age**) to the mother, emphasizing the paramount interest of the child.
- However, the High Court reversed this order and granted interim custody to the father. The mother then appealed to the Supreme Court.
- Allegations were made by the father that the mother suffered from bipolar disorder, while the mother alleged that the father was an alcoholic, drug addict, and unemployed. The mother was a highly qualified postgraduate from a foreign university and a tenured college professor in the US.

Interpretation of "Ordinarily" in Section 6(a) HMG Act

- Interpretation of "Ordinarily" in Section 6(a) HMG Act:
- The word "ordinarily" in Section 6(a) of the Hindu Minority and Guardianship Act, 1956, means that the mother is generally considered the most suitable custodian for a child of tender age (below five years). This presumption is strong and not easily displaced. Mother's Suitability:
- The Court noted that for a child of tender years, the mother's care and presence are crucial for proper upbringing and emotional development. Unless there is substantial evidence to prove the mother's unfitness or a risk to the child's well-being, custody should remain with her.
- Father's Allegations: In this specific case, the Court found a lack of concrete evidence to prove the mother's alleged bipolar disorder to such an extent that it would impact the child's welfare.
- Conversely, the Court noted the father's admitted unemployment, history of alcoholism, and drug addiction, which raised concerns about his suitability. No Disqualification of Mother after Five Years: **The Court clarified that no provision of any law disqualifies the mother from having custody of a child even after the age of five years.**

Impact of Delay in Child Custody: Detailed Judicial Analysis1. Paramount Consideration of Welfare

- It is well settled that in custody matters, the welfare of the child is of paramount importance (Section 13, Guardians and Wards Act, 1890). Delay in resolving custody proceedings undermines this paramount consideration.
- The Hon'ble Supreme Court in **Roxann Sharma v. Arun Sharma (2015) 8 SCC 318** cautioned that courts must avoid delay, holding: "The welfare of the minor cannot brook delay. **An early decision is mandated, lest the child is made to suffer the uncertainties of unsettled care and affection.**"
- The principle has consistently been applied to prioritize the mental, emotional, and educational stability of the child.

Smt. Kanika Goel v. State of Delhi (2018) 9 SCC 578.

Deliberate delay must not be permitted to alter custody dynamics .

- Doctrine of Status Quo and Fait Accompli Courts have observed that delays can embolden one party to create a fait accompli by keeping the child, thereby pleading that it would be traumatic to change the arrangement later.
- In Smt. Kanika Goel v. State of Delhi (2018) 9 SCC 578, the Supreme Court disapproved of a litigant seeking advantage through prolonged retention of the child.
- It observed: **"Litigation strategy cannot override the best interest of the child. A fait accompli cannot be permitted to defeat welfare."**
- Therefore, deliberate delay must not be permitted to alter custody dynamics.

Visitation and Bonding Rights

- Delay even in interim visitation harms the fundamental right of the child to parental love and bonding.
- In Lahari Sakhamuri v. Sobhan Kodali (2019) 7 SCC 311, the Hon'ble Court remarked that:
- **"Visitation cannot be kept in abeyance indefinitely; the child deserves the affection of both parents.**
- "Such observations underline the urgency of ensuring interim arrangements during pending proceedings, which, if delayed, can cause irreparable alienation".

Psychological Harm from Delay

- Repeated postponements exacerbate the child's psychological distress.
- In *Gaurav Nagpal v. Sumedha Nagpal* (2009) 1 SCC 42, the Supreme Court highlighted that prolonged disputes have a severe impact on the mental health of the child.
- The Court strongly warned that: **"Protracted litigation tends to make the child a victim of the parents' bitterness, which is antithetical to the child's welfare."**

Statutory Guidance and Judicial Duty

- The Guardians and Wards Act, 1890, read with the Hindu Minority and Guardianship Act, 1956, requires courts to decide custody matters with utmost expedition.
- In fact, Family Courts Act, 1984, by establishing specialized courts, embodies a legislative policy for speedy disposal, keeping in view the unique vulnerability of minors.
- Hence, any delay amounts to a denial of statutory protections meant for the welfare of children.

Right to Privacy of Adolescents (23.05.2025 -SC)

MANU/SC/0782/2025: 2025 INSC 778

- The Supreme Court of India addressed the issue of sentencing and rehabilitation in the case of "In Re: Right to Privacy of Adolescents" involving the State of West Bengal and an accused convicted under the POCSO Act and IPC.
- The Court set aside the High Court's acquittal, restoring the Special Court's conviction but postponed sentencing, emphasizing the systemic failures in protecting the victim.
- The Court exercised its extraordinary jurisdiction under **Article 142 to prevent further injustice by not sentencing the accused**, focusing instead on the victim's rehabilitation and directing the State to provide educational and financial support.
- The Court also called for broader systemic reforms to prevent similar cases in the future.

Kumari Rekha vs. Shambhu Saran Paswan (06.05.2025 - SC)
MANU/SC/0637/2025: 2025 INSC 631

- The Supreme Court of India addressed the appeal by Kumari Rekha challenging the High Court's decision upholding the Family Court's dismissal of her divorce petition and granting her husband, Shambhu Saran Paswan, a decree for restitution of conjugal rights. The core issue was **the irretrievable breakdown of the marriage**, with the parties living separately for over 12 years. Despite the husband's opposition, the Court invoked its powers under Article 142 of the Constitution, citing the prolonged separation and failed reconciliation attempts, to dissolve the marriage. The appeal was allowed, and the marriage was dissolved without any alimony claim, referencing the precedent set in Shilpa Sailesh v. Varun Sreenivasan.

Ruhi Agrawal and Ors. vs. Nimish S. Agrawal
(22.01.2025 - SC)

MANU/SC/0097/2025: 2025 INSC 99

- The Supreme Court of India addressed the dispute between Ruhi Agrawal and Nimish S. Agrawal regarding **the visitation rights of their minor daughter**. The court considered the Chhattisgarh High Court's decision to expand the father's visitation rights while maintaining the mother's sole custody. The Supreme Court upheld the interim visitation arrangement, emphasizing the child's welfare and safety, and mandated **the presence of a female court-appointed Commissioner during visitations**. The court directed that these arrangements continue until the petition is heard on merits, with the case listed for further hearing in two months.

Kiran Raju Penumacha vs. Tejuswini Chowdhury (17.03.2025 - SC)

MANU/SC/0347/2025: 2025 INSC 358

- The Supreme Court of India addressed the dispute between Kiran Raju Penumacha and Tejuswini Chowdhury regarding the execution and modification of a custody decree for their minor son. **The core issue was whether the execution petition filed by the father should proceed independently of the mother's modification petition.** The Court emphasized the child's welfare, noting the son's reluctance to visit his father and the mother's obstruction of visitation rights. The Court upheld the High Court's decision to remand the matter to the Family Court for fresh consideration, while granting the father limited visitation rights on Sundays. The Family Court was directed to resolve the matter within three months, and the appeal was disposed of accordingly.

Maatr Sparsh an Initiative by Avyaan Foundation vs. Union of India (UOI) and Ors. (19.02.2025 - SC)
MANU/SC/0296/2025: 2025 INSC 302

- The Supreme Court of India addressed a public interest writ petition filed by Maatr Sparsh, an initiative by Avyaan Foundation, against the Union of India, seeking the establishment of **feeding and child care rooms in public places** to protect the rights of nursing mothers and infants. The court recognized the fundamental rights under Articles 14, 15(3), and 21 of the Constitution, emphasizing the importance of breastfeeding and the state's obligation to provide supportive facilities. The court directed the Union of India to remind state governments and Union Territories to implement an advisory for creating gender-friendly spaces, ensuring privacy and comfort for nursing mothers, and to incorporate these facilities in public buildings. The writ petition was disposed of with these directions.

Society for Enlightenment and Voluntary Action and Ors. vs. Union of India (UOI) and Ors. (18.10.2024 - SC)
MANU/SC/1126/2024: 2024 INSC 790

- In the case of Society for Enlightenment and Voluntary Action and Ors. vs. Union of India and Ors., the Supreme Court of India addressed the issue of child marriage, focusing on the failure of authorities to prevent such marriages despite existing laws like the Prohibition of Child Marriage Act 2006. The court emphasized the need for stronger enforcement mechanisms, awareness programs, and comprehensive support systems for child brides. It issued detailed guidelines for the effective implementation of the PCMA, emphasizing prevention, protection, and penalization, and directed the appointment of dedicated Child Marriage Prohibition Officers. The court also suggested legislative amendments to address gaps in the PCMA, such as its interface with personal laws and the issue of child betrothals. The writ petition was disposed of with these directions.

4 Summarising the distinction

| Concept | Focus | Power given |
|----------------|--------------------------------------|--|
| Custody | Day-to-day physical care | Daily supervision and care |
| Guardianship | Legal authority over person/property | Decisions about education, marriage, property |
| Shared Custody | Cooperative parenting, time-sharing | Both parents share daily care and some decisions |

5 Code references with practical sense

- ✓ Section 6, Hindu Minority and Guardianship Act, 1956 — father is natural guardian
- ✓ Section 8, HMGA — court permission needed for property alienation
- ✓ Section 26, Hindu Marriage Act, 1955 — custody of minor children during divorce
- ✓ Guardians and Wards Act, 1890 (Sections 7, 12, 17) — appointment of guardian, interim orders, paramount consideration of welfare
- ✓ Family Courts Act, 1984 (Section 10 read with Section 14) — procedural flexibility and admissibility of evidence to determine welfare

"Childhood cannot be reheard on appeal."

Action plan

- Concisely bullet:
- Ensure mandatory child counselling in conflictual custody matters
- Avoid repeated exposure to conflict (courtroom or otherwise)
- Prioritise child-friendly custody and visitation arrangements
- Monitor parental compliance with court directions on child well-being