

Interest of Child: Paramount Consideration

In recent judgments by the Kerala High Court and the Supreme Court of India, the paramountcy of a child's welfare in custody disputes has been emphatically reiterated, marking a significant stride toward child-centric legal practices. These rulings underscore a judicial recognition that amidst the acrimony of parental disputes, the best interest of the child can be overshadowed, necessitating vigilant legal oversight.

Kerala High Court's Proactive Approach

The Kerala High Court's intervention in a custody battle where the father, a lawyer, managed to maintain interim custody by not pressing the original petition, demonstrates the Court's proactive stance in safeguarding child welfare. Observing the lack of adequate representation for the child's interests in parental disputes, the Court made an unprecedented move by appointing an independent counsel to represent the child. This direction was aimed at ensuring that legal arguments and decisions are framed with the child's best interests as the focal point.

Supreme Court's Ruling on Child Custody

The Supreme Court of India, in another landmark decision, upheld the custody of a minor child with her aunt, against the wishes of the biological father, emphasizing that no personal law or statutory provision should override the child's welfare. This ruling is particularly poignant as it reflects the Court's dedication to considering the child's stability and expressed wishes, reinforcing that a child is not merely a passive subject in custody disputes but an individual whose opinions and desires matter.

Judicial Wisdom and Child Welfare

Both courts have illustrated that in the midst of legal complexities and parental rights, the child's welfare remains the supreme consideration. This approach not only aligns with international conventions on child rights but also paves the way for more humane and just legal processes in India. By appointing child representatives and considering psychological impacts on the child, the judiciary is taking significant steps to ensure that children are seen and heard, and their

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futures are not compromised by adult conflicts.



Moving Forward

These decisions serve as a clarion call for the evolution of family law, urging legal practitioners and courts to prioritise the psychological and emotional well-being of children above all.

They also invite policymakers to consider legislative reforms that would institutionalise such practices, ensuring that every child caught in parental disputes is afforded the protection and advocacy they rightfully deserve.

Legal practitioners and courts are urged to adopt a child-centric perspective, which involves actively considering how each decision could affect the child's current and future emotional and psychological state.

This might mean appointing independent representatives for the child, as seen in the Kerala case, or it could involve more thorough evaluations of the child's living conditions and familial relationships, as illustrated by the Supreme Court's decision.