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New Cell to Resolve Child Custody Disputes

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The government has recently decided to establish a Mediation Cell under the National Commission for Protection of Child Rights (NCPCR) to resolve child custody disputes arising from cases of transnational marital discord.

- The cell will resolve the cases of children who were taken away by one of the spouses without the permission of the other due to marital discord from India to other countries or vice versa.
- It will also prepare a parental plan taking into account the best interest of the child.

National Commission for Protection of Child Rights

- The National Commission for Protection of Child Rights (NCPCR) was set up in 2007 under the Commission for Protection of Child Rights Act, 2005.
- The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child (UNCRC).

Note:

- UNCRC defines Child Rights as the minimum entitlements and freedoms that should be afforded to every citizen below the age of 18 regardless of race, national origin, colour, gender, language, religion, opinions, origin, wealth, birth status, disability, or other characteristics.
- These rights encompass freedom of children and their civil rights, family environment, necessary healthcare and welfare, education, leisure and cultural activities and special protection measures.
- The UNCRC outlines the fundamental human rights that should be afforded to children that suitably cover all civil, political, social, economic and cultural rights of every child.

Though the Government has not yet taken a decision on either acceding to the Hague Convention on the Civil Aspects of International Child Abduction or framing a domestic law on the issue.

Hague Convention on the Civil Aspects of International Child Abduction

- Hague Convention is a multilateral treaty which came into existence on 1st December, 1983.
- It is an international treaty to ensure the prompt return of a child who has been “abducted” from the country of their “habitual residence”.
- The Convention applies to children under age of 16 years.

Background

- In 2009, the Law Commission of India recommended signing The Hague Convention, because it “will in turn bring the prospects of achieving the return to India of children who have their home in India”.
- In February 2016, Punjab and Haryana High Court again referred the matter to the Law Commission and Ministry of Women and Child Development.
- In June 2016, a draft Civil Aspects of International Child Abduction Bill, 2016, with provisions similar to The Hague Convention, was proposed.
- After examining the Bill and the issue, the Law Commission submitted a revised version of the Bill, called The International Child Removal and Retention Bill, 2016, in October.
- In July 2017, the committee, comprising two HC judges, a Delhi HC judge, the chairman of the Punjab NRI Commission, a family law expert, and six representatives of various Ministries released a concept note for public suggestions.