

IMPACT OF NRI MARITAL DISPUTES ON THE RIGHTS AND WELFARE OF MINOR CHILDREN: AN EMPIRICAL STUDY

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Abstract

The increasing incidence of matrimonial disputes involving Non-Resident Indians (NRIs) has generated serious legal and social challenges, particularly affecting the rights and welfare of minor children. Children involved in transnational matrimonial disputes frequently experience emotional trauma, uncertainty regarding custody and guardianship, jurisdictional conflicts, and difficulties arising from differences in citizenship and legal systems. The fragmented legal framework governing NRI marriages often fails to provide adequate safeguards for the welfare of children, resulting in prolonged litigation and inconsistent judicial outcomes. The present study examines the impact of NRI marital disputes on minor children and evaluates whether the existing legal framework sufficiently protects their interests. The study adopts a socio-legal research methodology combining doctrinal and empirical approaches. The doctrinal component analyses the relevant statutory provisions, judicial decisions, and government reports relating to child custody, guardianship, and cross-border matrimonial disputes. The empirical component is based on primary data collected through a structured questionnaire administered to 100 Hindu wives who experienced matrimonial disputes with NRI husbands residing in the United States of America or Canada. The research hypothesis was tested using the Chi-square (χ^2) test. The statistical analysis revealed a significant consensus among respondents ($p < 0.001$). Approximately 90% of respondents agreed that NRI marital disputes adversely affect the well-being and emotional and psychological health of minor children, while 76% believed that the existing Indian legal framework is inadequate to protect their interests. The study concludes that the welfare of minor children should remain the paramount consideration in resolving NRI matrimonial disputes. It recommends strengthening legal provisions relating to child custody, guardianship, counselling, cross-border enforcement of custody orders, institutional support mechanisms, and international cooperation to ensure that the rights and best interests of children are effectively protected in transnational family disputes.

Keywords: NRI Marital Disputes; Minor Children; Child Custody; Guardianship; Child Welfare; Cross-Border Family Disputes; Hindu Wives; Socio-Legal Research.

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1. Review of Literature

A review of the existing literature is essential to understand the legal framework, judicial developments, and scholarly perspectives relating to the rights and welfare of minor children affected by NRI marital disputes. The available literature comprises authoritative books on Hindu family law and guardianship, research articles on child custody and cross-border family disputes, government reports recommending reforms in custody and guardianship laws, and landmark judicial decisions emphasising the welfare of the child as the paramount consideration. The review reveals the extent of existing legal scholarship, identifies the limitations of the present legal framework, and highlights the need for further empirical research on the impact of NRI marital

disputes on minor children. Accordingly, the literature has been reviewed under the following heads: Books, Research Articles and Journal Papers, Government Reports, Landmark Judicial Decisions, and Research Gap.

1.1 Books

1.1.1 Poonam Pradhan Saxena – Family Law Lectures: Family Law II

Poonam Pradhan Saxena comprehensively discusses guardianship, custody, legitimacy, adoption, and the welfare principle governing minor children under Indian family law. The author critically examines the Guardians and Wards Act, 1890, the Hindu Minority and Guardianship Act, 1956, and judicial interpretation of the "best interests of the child" doctrine. The book also analyses the changing role of parents in custody disputes and emphasises that child welfare must prevail over parental rights.

Research Gap: The work primarily examines domestic custody disputes and does not specifically address legal complications affecting children in transnational NRI matrimonial disputes.

1.1.2 N.R. Raghavachariar – Hindu Law: Principles and Precedents

The book explains the legal principles governing minority, guardianship, custody, legitimacy, and parental rights under Hindu law. It analyses statutory provisions together with judicial precedents relating to custody and guardianship of Hindu minors.

Research Gap: The discussion is confined to traditional guardianship principles and does not evaluate citizenship conflicts or cross-border custody disputes arising from NRI marriages.

1.1.3 U.P.D. Kesari – Modern Hindu Law

Kesari examines the provisions of the Hindu Marriage Act, 1955 and the Hindu Minority and Guardianship Act, 1956 relating to custody, guardianship, maintenance, and welfare of children. The author emphasises that the welfare of the child is the paramount consideration in matrimonial disputes.

Research Gap: The book explains the statutory framework but does not analyse the unique legal challenges faced by children involved in NRI marital disputes.

1.1.4 B.M. Gandhi – Family Law

B.M. Gandhi discusses custody, guardianship, maintenance, and parental responsibilities under Hindu law, with detailed reference to judicial decisions. The book explains how courts balance parental rights with the welfare of the child while deciding custody disputes.

Research Gap: The work focuses primarily on domestic family disputes and does not examine international custody disputes involving NRI parents.

1.1.5 S.K. Kapoor – International Law and Human Rights

The author discusses international human rights principles relating to children, family unity, parental responsibility, and cross-border legal protection. The book explains international conventions relevant to child welfare and international family disputes.

Research Gap: Although the book analyses international legal principles, it does not specifically examine their application to children affected by NRI matrimonial disputes.

1.2 Research Articles and Journal Papers

1.2.1 Child Custody in India: The Paramount Welfare Principle

The article analyses judicial interpretation of the "best interests of the child" doctrine in Indian custody disputes and explains how courts increasingly prioritise child welfare over the legal rights of parents.

Research Gap: The study is confined to domestic custody disputes and does not examine international custody conflicts arising from NRI marriages.

1.2.2 Cross-border Child Custody Disputes and Private International Law

The article examines jurisdictional conflicts, enforcement of foreign custody orders, and application of private international law principles in international child custody disputes.

Research Gap: It analyses conflict-of-law principles but does not examine the practical difficulties faced by Indian mothers in NRI matrimonial disputes.

1.2.3 Hague Convention and International Child Abduction

The study analyses the legal framework governing international parental child abduction and discusses India's position regarding the Hague Convention on the Civil Aspects of International Child Abduction, 1980. (Law Commission of India)

Research Gap: The article focuses on international child abduction and does not analyse custody disputes specifically arising from NRI marriages.

1.2.4 Shared Parenting and Child Welfare in India

The article examines shared parenting models and their impact on child welfare after matrimonial disputes.

Research Gap: It discusses domestic shared parenting but not cross-border parenting arrangements involving NRI parents.

1.2.5 Citizenship and Guardianship Issues in Cross-border Families

The study analyses citizenship, parental rights, and guardianship issues affecting children born in transnational marriages.

Research Gap: It does not empirically examine the legal and emotional impact of NRI marital disputes on minor children.

1.2.6 Psychological Impact of High-Conflict Divorce on Children

The article explains the emotional, behavioural, and psychological consequences of prolonged parental disputes on children.

Research Gap: The study does not evaluate the additional trauma caused by international jurisdictional conflicts in NRI marriages.

1.2.7 Judicial Trends in Child Custody Cases in India

The article analyses recent Supreme Court decisions emphasising the welfare of the child as the paramount consideration.

Research Gap: It does not focus on custody disputes involving foreign jurisdictions.

1.2.8 Legal Protection of Children in International Family Disputes

The article discusses legal mechanisms available for protecting children involved in cross-border matrimonial disputes and recommends stronger international cooperation.

Research Gap: The article lacks empirical evidence regarding the experiences of children affected by NRI marital disputes.

1.3 Government Reports

1.3.1 Law Commission of India, Report No. 83 (1980): The Guardians and Wards Act, 1890 and Certain Provisions of the Hindu Minority and Guardianship Act, 1956. (AdvocateKhoj)

1.3.2 Law Commission of India, Report No. 133 (1989): Removal of Discrimination against Women in Matters Relating to Guardianship and Custody of Minor Children and Elaboration of the Welfare Principle. (Law Commission of India)

1.3.3 Law Commission of India, Report No. 218 (2009): Need to Accede to the Hague Convention on the Civil Aspects of International Child Abduction (1980). ([Law Commission of India](#))

1.3.4 Law Commission of India, Report No. 257 (2015): Reforms in Guardianship and Custody Laws in India. ([AdvocateKhoj](#))

1.3.5 Law Commission of India, Report No. 263 (2016): The Protection of Children (Inter-Country Removal and Retention) Bill, 2016. ([Law Commission of India](#))

1.4 Landmark Judicial Decisions

1.4.1 Gaurav Nagpal v. Sumedha Nagpal, (2009) 1 SCC 42 — welfare of the child is the paramount consideration.

1.4.2 Nithya Anand Raghavan v. State (NCT of Delhi), (2017) 8 SCC 454 — Indian courts are not bound to automatically return a child merely because a foreign court has passed a custody order; the welfare of the child prevails.

1.4.3 Lahari Sakhamuri v. Sobhan Kodali, (2019) 7 SCC 311 — reiterates the paramountcy of child welfare in international custody disputes.

1.4.4 Githa Hariharan v. Reserve Bank of India, (1999) 2 SCC 228 — interprets the Hindu Minority and Guardianship Act, 1956 to recognise the mother's role as a natural guardian, advancing gender equality in guardianship. ([AdvocateKhoj](#))

2. Research Methodology

2.1 Objective

To examine the impact of NRI marital disputes on the rights, welfare, and well-being of minor children, with particular reference to citizenship, guardianship, and child custody issues.

2.2 Hypothesis

H₀: NRI marital disputes do not have a significant adverse impact on the rights, welfare, and well-being of minor children.

H₁: NRI marital disputes have a significant adverse impact on the rights, welfare, and well-being of minor children.

2.3 Research Design

The present study adopts a **combination of doctrinal and non-doctrinal research methodologies** to examine the impact of NRI marital disputes on the rights and welfare of minor children. The doctrinal component is based on an analysis of primary and secondary legal sources, including the **Hindu Marriage Act, 1955**, the **Hindu Minority and Guardianship Act, 1956**, the **Guardians and Wards Act, 1890**, relevant constitutional provisions, judicial decisions, authoritative books, research articles, and government reports relating to child custody, guardianship, citizenship, and cross-border matrimonial disputes.

The non-doctrinal component comprises empirical data collected through a structured questionnaire administered to **100 Hindu wives** who experienced matrimonial disputes with NRI husbands residing in the **United States of America or Canada**. The questionnaire included statements relating to the impact of NRI marital disputes on the emotional, psychological, legal, and social well-being of minor children, as well as the adequacy of the existing legal framework for protecting their interests.

The collected data were classified, tabulated, and analysed using descriptive statistics. To test the research hypothesis, the **Chi-square (χ^2) test** was applied to determine whether respondents'

perceptions regarding the adverse impact of NRI marital disputes on minor children were statistically significant.

3. Data Analysis

To examine the impact of NRI marital disputes on the rights and welfare of minor children, a **one-sample Chi-square (χ^2) test** was applied to three statements relating to the well-being of children, the emotional and psychological consequences of parental disputes, and the adequacy of the existing Indian legal framework for protecting the interests of minor children. The Chi-square test was employed to determine whether the observed responses differed significantly from the expected frequencies.

The analysis revealed statistically significant differences between the observed and expected responses for all three statements. The calculated Chi-square values exceeded the critical value at **4 degrees of freedom**, and the **p-values were less than 0.001** in each case. Consequently, the null hypothesis was rejected and the alternative hypothesis was accepted. These findings indicate a strong consensus among respondents that NRI marital disputes adversely affect the rights, welfare, and overall well-being of minor children and that the existing legal framework does not adequately safeguard their interests.

Table 1: Chi-square Test Statistics

Test Statistics			
	Question: NRI marital grievances have a negative impact on the well-being of minor children involved in such disputes.	Question: The unresolved marital grievances between NRI parents often lead to detrimental effects on the emotional and psychological health of minor children.	Question: The current Indian legal framework is insufficient to protect the interests of minor children affected by NRI marital disputes.
Chi-Square	126.900 ^a	106.900 ^a	58.800 ^a
Df	4	4	4
p-value	.000	.000	.000
a. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 20.0.			

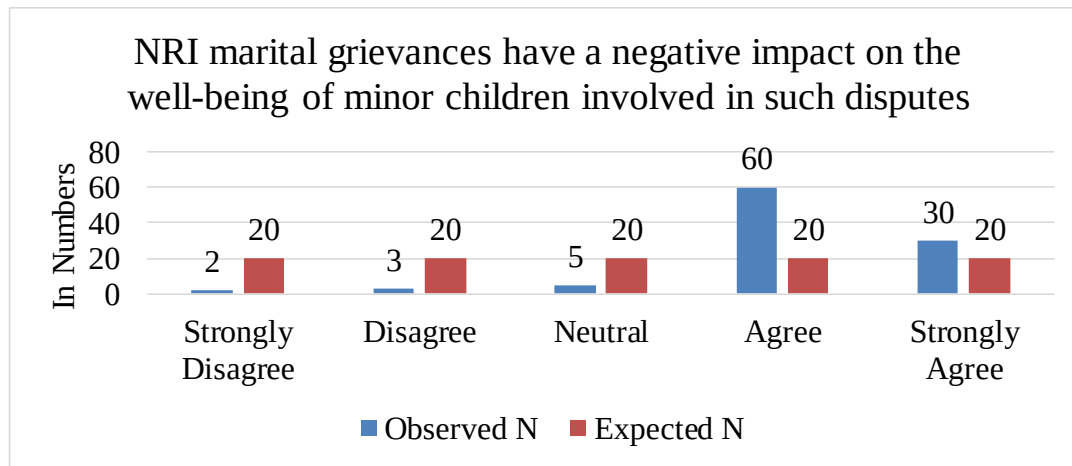
Interpretation

The above results indicate that the **p-values are less than 0.05** for all three statements. Therefore, the null hypothesis is rejected, and the alternative hypothesis is accepted. There is a statistically significant consensus among respondents regarding the adverse impact of NRI marital disputes on minor children.

Table 2: Question: NRI marital grievances have a negative impact on the well-being of minor children.

NRI marital grievances have a negative impact on the well-being of minor children involved in such disputes.			
	Observed N	Expected N	Residual
Strongly Disagree	2	20.0	-18.0
Disagree	3	20.0	-17.0
Neutral	5	20.0	-15.0

Agree	60	20.0	40.0
Strongly Agree	30	20.0	10.0
Total	100		



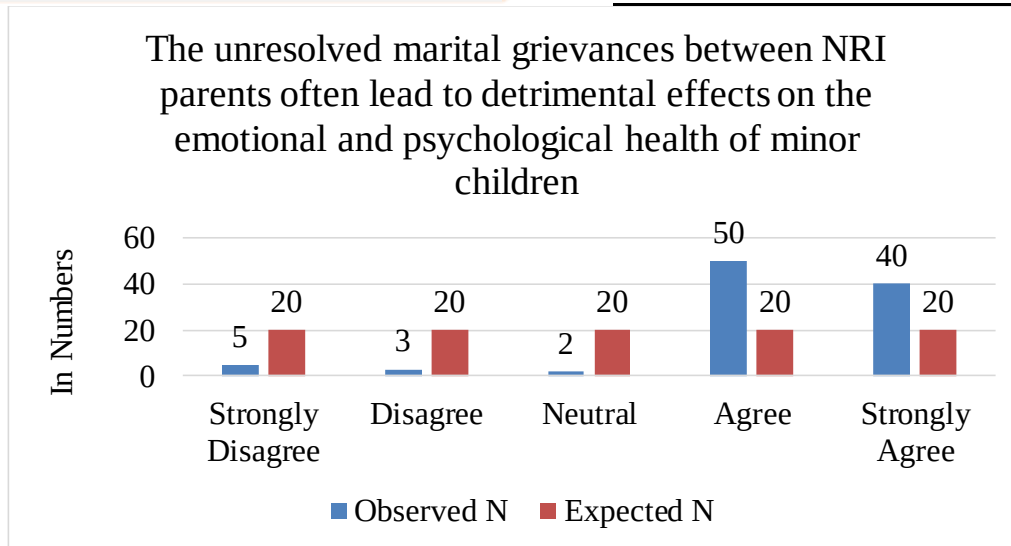
Graph 1

Interpretation

The majority of respondents agreed that NRI marital grievances adversely affect the overall well-being of minor children, indicating widespread recognition of the negative consequences of parental disputes on children's welfare.

Table 3: Question: Unresolved marital grievances between NRI parents adversely affect the emotional and psychological health of minor children.

The unresolved marital grievances between NRI parents often lead to detrimental effects on the emotional and psychological health of minor children.			
	Observed N	Expected N	Residual
Strongly Disagree	5	20.0	-15.0
Disagree	3	20.0	-17.0
Neutral	2	20.0	-18.0
Agree	50	20.0	30.0
Strongly Agree	40	20.0	20.0
Total	100		



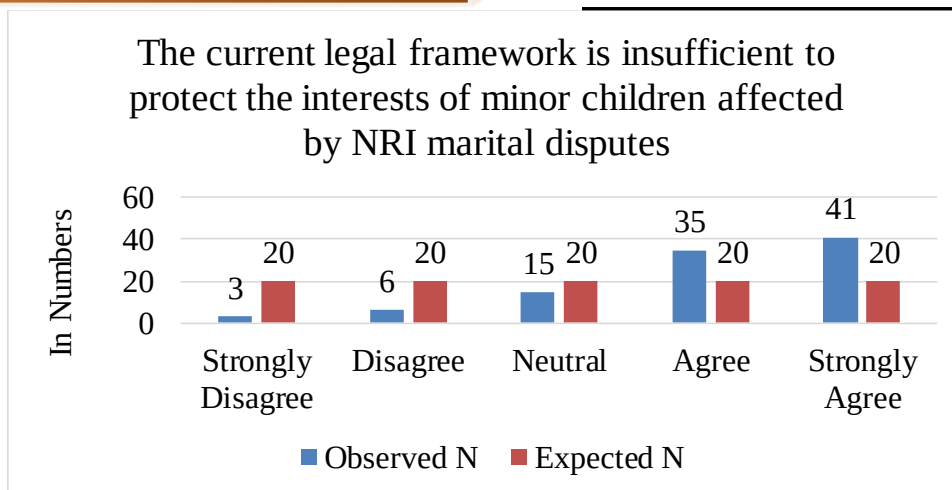
Graph 2

Interpretation

The responses demonstrate a strong consensus that prolonged parental disputes have a significant adverse effect on the emotional and psychological health of minor children, increasing stress, anxiety, and emotional insecurity.

Table 4: Question: The existing Indian legal framework is insufficient to safeguard the interests of minor children affected by NRI marital disputes.

The current Indian legal framework is insufficient to protect the interests of minor children affected by NRI marital disputes.			
	Observed N	Expected N	Residual
Strongly Disagree	3	20.0	-17.0
Disagree	6	20.0	-14.0
Neutral	15	20.0	-5.0
Agree	35	20.0	15.0
Strongly Agree	41	20.0	21.0
Total	100		



Graph 3

Interpretation

A substantial majority of respondents believed that the present legal framework does not provide adequate protection to minor children involved in NRI matrimonial disputes, highlighting the need for stronger legal safeguards and child-centric reforms.

Discussion

The empirical findings reveal overwhelming agreement among respondents that NRI marital disputes have serious adverse consequences for minor children. Most respondents believed that prolonged parental conflict affects children's emotional stability, psychological well-being, and overall development. They also expressed concern that the existing Indian legal framework does not adequately address issues relating to child custody, guardianship, citizenship, and welfare in cross-border matrimonial disputes. The findings reinforce the need for a child-centric legal framework that prioritises the **best interests of the child**, ensures effective custody mechanisms, and provides psychological, legal, and institutional support for children affected by NRI marital disputes. These findings are consistent with the welfare principle recognised under the **Guardians and Wards Act, 1890**, the **Hindu Minority and Guardianship Act, 1956**, and judicial decisions emphasising that the welfare of the child must remain the paramount consideration in custody disputes.

4. Findings

4.1 The Chi-square analysis revealed a statistically significant consensus among respondents regarding the adverse impact of NRI marital disputes on the rights and welfare of minor children ($p < 0.001$).

4.2 A substantial majority of respondents agreed that NRI marital disputes have a significant negative impact on the overall well-being of minor children, affecting their physical, emotional, and social development.

4.3 Most respondents believed that prolonged marital disputes between NRI parents adversely affect the emotional and psychological health of minor children, exposing them to stress, anxiety, insecurity, and emotional trauma.

4.4 The majority of respondents perceived that the existing Indian legal framework is inadequate to effectively safeguard the interests of minor children involved in NRI matrimonial disputes, particularly in matters relating to custody, guardianship, and cross-border enforcement.

4.5 The findings indicate that respondents favour a child-centric legal approach in which the welfare and best interests of the child remain the paramount consideration while deciding custody and guardianship disputes arising from NRI marriages.

4.6 The study highlights the need for stronger legal and institutional mechanisms, including specialised custody procedures, international cooperation, counselling services, and effective enforcement of child custody and guardianship orders, to ensure comprehensive protection of minor children affected by NRI marital disputes.

5. Suggestions

5.1 Strengthening Child-Centric Legal Framework

The Central Government should strengthen the existing legal framework governing NRI matrimonial disputes by incorporating specific provisions that prioritise the rights, welfare, and best interests of minor children in all custody and guardianship matters.

5.2 Prioritising the Best Interests of the Child

Indian courts should continue to treat the welfare of the child as the paramount consideration while deciding custody disputes involving NRI parents. Custody decisions should focus on the child's emotional, educational, physical, and psychological well-being rather than the competing claims of the parents.

5.3 Establishing Uniform Guidelines for Cross-Border Child Custody

Comprehensive guidelines should be framed for adjudicating international child custody disputes involving NRI marriages to ensure consistency, minimise jurisdictional conflicts, and facilitate timely disposal of custody proceedings.

5.4 Strengthening Guardianship and Citizenship Protection

Appropriate legislative measures should be introduced to protect the guardianship rights, citizenship interests, and legal identity of children born out of NRI marriages. Clear procedures should be established to prevent children from becoming victims of jurisdictional uncertainty or parental disputes.

5.5 Providing Psychological Counselling and Child Support Services

Professional counselling and psychological support services should be made available to children affected by NRI marital disputes to help them cope with emotional stress, anxiety, parental separation, and prolonged litigation.

5.6 Strengthening International Cooperation

The Government of India should strengthen cooperation with foreign governments through bilateral and multilateral arrangements to facilitate recognition and enforcement of child custody orders, protection of children's rights, and prompt resolution of cross-border family disputes.

5.7 Expediting Child Custody Proceedings

Specialised Family Courts should ensure the expeditious disposal of child custody disputes involving NRI marriages so that prolonged litigation does not adversely affect the emotional development and stability of minor children.

5.8 Promoting Mediation in Child Custody Disputes

Family mediation should be encouraged in appropriate cases to reduce parental conflict and facilitate amicable custody arrangements, provided that such settlements are consistent with the welfare and best interests of the child.

5.9 Enhancing Institutional Support

Indian Missions and Consulates abroad should provide assistance to Indian parents and children involved in cross-border custody disputes by facilitating legal aid, communication with foreign authorities, and coordination with Indian courts wherever necessary.

5.10 Promoting Legal Awareness

The Government should conduct awareness programmes to educate NRI families and prospective spouses about child custody laws, guardianship rights, parental responsibilities, and the legal consequences of international matrimonial disputes involving minor children.

6. Conclusion

NRI marital disputes have far-reaching consequences that extend beyond the spouses and significantly affect the rights, welfare, and overall development of minor children. Children caught in cross-border matrimonial conflicts often experience emotional distress, psychological insecurity, uncertainty regarding custody and guardianship, and difficulties arising from jurisdictional conflicts and differences in citizenship. The empirical findings of the present study reveal a statistically significant consensus among respondents that NRI marital disputes adversely affect the well-being of minor children and that the existing legal framework is inadequate to provide effective protection for their interests. The study further establishes that the welfare of the child must remain the paramount consideration in all custody and guardianship proceedings involving NRI marriages.

The study also highlights the need for a more child-centric legal framework capable of addressing the unique challenges associated with international matrimonial disputes. While the Hindu Minority and Guardianship Act, 1956, the Guardians and Wards Act, 1890, and judicial precedents recognise the welfare principle, practical difficulties relating to cross-border jurisdiction, enforcement of custody orders, guardianship, and international cooperation continue to impede effective protection of children. These challenges necessitate stronger institutional mechanisms, specialised judicial procedures, and greater coordination between Indian authorities and foreign jurisdictions.

The study concludes that safeguarding the rights of minor children requires not only legal reforms but also timely judicial intervention, effective international cooperation, psychological support services, and child-sensitive dispute resolution mechanisms. A comprehensive and welfare-oriented approach would ensure that children affected by NRI marital disputes are protected from the adverse consequences of prolonged parental conflict while preserving their right to safety, emotional security, education, and healthy development. The findings of this study are expected to contribute to legal scholarship and assist policymakers in strengthening child protection measures within the evolving framework of cross-border matrimonial law.

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