

Child Abduction - India

Disclaimer: Any information contained in these pages relating to the legal system in India is provided for general information only. Independent legal advice should be sought in India for specific information relating to individual cases.

Parental Child Abduction

Parental child abduction is not a criminal offence in India. Under Indian law, parents are considered natural guardians of their children. They are therefore not treated as 'abductors', and are not liable for criminal action.

There is also no agreed international system in place to return children abducted from India to the UK or vice versa. India is not party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction (a treaty that establishes procedures to promptly return children to their country of habitual residence if they have been wrongfully retained or removed). You will therefore have to use the courts in India and the UK to seek the return of your child if you cannot come to an agreement with the other parent.

What to do if you are in India and your child has/may be abducted

The British government or FCDO cannot prevent a child from being taken out of the country. You should speak to a lawyer urgently for advice on what is possible.

If your child has been wrongfully removed from your custody, you may be able to lodge a police complaint stating that your child is missing. You may also be able to approach the High Court with an application for a Writ of Habeas Corpus. This is a petition seeking the production of your child before the court, so the judge can decide where your child should live.

What to do if your child is wrongfully removed to another country where they do not normally live

- Try to come to an agreement with the other parent.
- Report it to your local police, who can contact Interpol. If you are in India, do this at your nearest police station. Provide copies of any court orders you may have, and give as much detail as possible on the abduction.
- Seek legal advice and get a court order in the UK or in India depending on the advice of [your lawyer](#). We strongly advise you to use a lawyer who has experience of international children's cases.
- You should be aware that Indian law does not **automatically** recognise foreign court orders, but it may help to have one.

What we can and cannot do

- We can register an interest with the local police when you have made your complaint. However, you should be aware that the police are under no obligation to disclose any information to us.
- We can give you information on NGOs who may be able to assist or provide advice.
- The British government or the FCDO cannot force either a parent or the Indian government to return a child to the country where they normally live.
- We cannot serve UK court orders on your behalf, even if it says so on the order.
- We cannot locate or rescue a child and return them to you. It is the responsibility of the police to locate and/or return a child to their rightful custodian.

Custody Issues

- Parents involved in a custody dispute should seek professional legal advice as soon as possible. There is no time frame for custody cases to be heard in India and the length of time will vary across states and courts. Costs vary depending on the location or level of the court concerned, as well as the legal advice required, e.g. domestic or international dispute.
- India is a multi-religious country and laws vary widely depending on the religion of the persons involved in child abduction/custody/access cases. Even though religious or civil law applies in deciding custody disputes, the courts will usually take into account the best interests of the child when deciding custody.
- Parents have the right of appeal in custody cases as in any other civil case. It is possible for the parent who does not have custody to apply for contact with their child through the courts.
- An interim child custody order or travel ban can be obtained from a court while permanent custody is being decided.
- Foreign court orders cannot be implemented in India but may be taken into consideration when deciding custody. This will vary from case to case.

Travel

- If a child needs a new passport or emergency travel document someone with [parental responsibility](#) must apply for it. Details of both parents will be required on application.
- A parent can be stopped from taking a child out of the jurisdiction of a court or the country against the wishes of the other parent.
- A parent attempting to leave the country with a child in contravention of existing court orders could be arrested.

- Dual nationality is not recognised in India, and it is therefore not legal to hold an Indian and foreign passport at the same time.
- Travellers are required to exit India on the same passport they arrived on. If that British passport gets lost, damaged or runs out, you can apply to [replace or renew](#) it from within India. If there is an urgent need to travel, you can apply for a British Emergency Travel Document (ETD) [online](#). Applications are determined on a case by case basis. **ETDs are not automatically issued to children unless they meet strict criteria under our policy. You should contact your nearest consular team for further information.**
- Foreign citizens are required to obtain a visa to enter India and must exit before its expiry. If you are leaving on a travel document other than the one on which you entered, you must obtain an exit visa from the Foreigners' Regional Registration Office (FRRO). Applications for exit visas must be made [online](#).

Mediation and Legal Aid

- There are over 800 mediation centres in India. Mediation services can be accessed through a court and are available at no cost to those who have a dispute pending in the court. Your lawyer can advise you further on how to access these services.
- Some lawyers offer *pro bono* services. Additionally, anyone arrested has the right to free legal aid which must be applied for via the courts.

Other Services

Reunite is the leading UK charity specialising in international parental child abduction. The services range from offering practical impartial advice and mediation to providing a helpful support network aimed at those who have had their child abducted. For more information about Reunite and their services, visit Reunite's website www.reunite.org or call: +44 (0)116 255 5345 or +44 (0)116 255 6234.

Support in India

If you are worried about your child's welfare you may approach local services for advice and assistance. Childline India has a pan-India presence and may be able to assist with welfare checks. Their website is <https://www.childlineindia.org/>.