Delaying Child Abduction Law

What is the issue?

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- US Congress recently passed International Child Abduction Return Act of 2017 that seeks to punish countries that do not adhere to US court orders on the return of abducted children.
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- Despite repeated recommendations from courts and Law Commission, Indian government is reluctant to ratify The Hague Convention on international child abduction.
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What is the Hague Convention?

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- It is an international treaty to ensure the return of a child who has been “abducted” from the country of their “habitual residence”.
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- This is to address the issue of **custody of children caught in transnational marital discord.**
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- Under the Convention, contracting countries must establish a central authority to trace unlawfully removed children and secure their return to the country of habitual residence.
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- This is irrespective of the country’s own laws on the issue and applies to children under the age of 16.
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What is India's stance on this?

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- The Law Commission of India has suggested signing the Convention, because it will facilitate the return to India of children who have their home in India.
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- It had observed that in the absence of a law in this regard, Indian courts had not followed a pattern in such cases.
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- On the other hand, the government is apprehensive that it would force Indian women who return with their children after conflict with their husbands, to go back to the foreign country for settlement of custody.
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- The chance of Indian women being charged or prosecuted in foreign countries is also a reason to refuse the ratification of the law.
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What is the way forward?

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- **Law Commission** submitted The International Child Removal and Retention **Bill**, 2016, making recommendations in this regard.
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- The commission cautioned that a woman must not be put in a situation where she has to make the impossible choice between her children and an abusive relationship in a foreign country.
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- The Commission dropped the word ‘abduction’ from the title of the proposed Bill as the so called “parental abduction” is out of love and not to harm the child.
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- It made a provision that gave the **central authority** the power to secure the voluntary return of any such child to the country of habitual residence, and to bring about an amicable **resolution**.
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- Deciding on the proposals and formulating a suitable **law** and then ratifying the convention would decide the fate of children in dispute.
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Source: The Indian Express

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