

# Parents at War

Poonam A Bamba

It's dangerous to label and pigeonhole children

I am the child.  
All the world waits for my coming,  
All the earth watches with interest  
To see what I shall become.  
Civilisation hangs in the balance,  
For what I am, the world of tomorrow will be.  
I am the child.  
I have come into your world  
About which I know nothing.  
Why I came I know not.  
How I came I know not.  
I am curious, I am interested.  
I am the child.  
You hold in your hand my destiny,  
You determine largely,  
Whether I shall succeed or fail.  
Give me, I pray you,  
Those things that make for happiness.  
Train me, I beg you,  
That I may be a blessing to the world.

-Mamie Gene Cole

# Contents

*Acknowledgements ix*

*Preface xi*

## **FROM MY DIARY 1-152**

New Beginnings 3

Scarred Forever 21

A Special Child 31

Obsessed Mother 39

Tug of War 65

A Way Out 77

Tormentor Denied Custody 84

Remarriage Complexities 95

Mr Right 110

The Technology Trap 120

A Vast Canvas 125

A Breakthrough 140

## **THE LEGAL PROCESS 153-189**

The Legal Process 156

## **WHAT THE LAW SAYS 190-235**

Laws 191

Delhi High Court Rules (Practice & Procedure) 199

257th Report of Law Commission

(Summary of Recommendation) 203

Hague Convention on the Civil Aspects of International Child Abduction

(Concluded 25 October 1980) 218

*Epilogue 237*

*Related Readings/References 241*

## Acknowledgements

This book would not have come into existence, had I not been recording my experiences in court, in my daily journal, a habit which is a gift from my father. I am deeply indebted to my father, Dr Janak Raj Jai, who has been a great inspiration.

I am indebted to Ms Sujata Madhok for painstakingly tidying up the manuscript and for her invaluable inputs.

I am also thankful to Man Mohanji for his suggestion to explain the legal process one needs to follow for obtaining child custody. It has been immensely useful.

I also record my gratitude to the editor Kanagam King for fine-tuning the manuscript.

I am indebted to my husband Anil, my sons Apoorv and Ishaan, my daughter-in-law Vidushi, and my grandson Meir for sparing me for this work.

I am grateful to Ishita Pandey for her sensitive poetry compositions, which I have used in this manuscript.

I would like to thank Young Myra, Nitya, and the other children who contributed the lovely pictures that have been included in the manuscript.

I acknowledge the contribution of litigating parents, their children, and other family members who presented varied life situations before me, which set me thinking, and led to the book you have in your hands.

Support of Jyoti, the caretaker of my home, cannot go unacknowledged. Without her help, it would not have been possible for me to spare any time in pursuing my passion.

My heartfelt gratitude to each and every one who, in any manner, has been associated with me in bringing this work to its fruition.

## Preface

In my decade-and-a-half long career as a Judge, I have found custody litigation to be the most painful litigation not only for children and parents but also for judges. The increase in break-up of families and the rising divorce rate has many types of fallout. Children of divorced couples are the ones who really bear the brunt. The parents may move on with their lives but children carry the trauma for a lifetime. It is the children, who get manipulated and torn apart emotionally during the process of separation, divorce, and custody. When the parents separate, the immediate question that arises is— who shall have the custody of the child? Courts are also faced with the predicament of how to ensure

the access of the non-custodial parent; and how to make both parents aware of their responsibility for the protection, safety, health, education, and general well-being of the child.

Behind the dusty files, I met so many children whose lives had been tossed and turned because of the turbulent relationship between their parents. These files threw up poignant tales of despair and trauma faced by children of broken or breaking marriages, which I privately poured into my daily journal. This book is an attempt to present to parents, their families, and their advocates, the stories of these unhappy children, so that they put first, the interests of the little angels whose custody they seek so determinedly and often aggressively.

Bringing this book to a conclusion was quite a task. When I told my dear friend, Maninder, that this was giving me stress she asked, 'Why do you want to write the book?' That set me thinking. A few days ago while I was fine-tuning my draft, the answer presented itself to me. I realised that I feel connected to myself, when I write. I find myself in my writings.

May I call it serendipity, that *Impersonal Life*, a book by Joseph S Benner written in 1914, came my way at this juncture. Benner says that all writings are channelled/impersonal. Though he made this comment in the context of spiritual writing, it further clarified my 'need' to write. Maybe, I am the chosen one to share the stories of pain and trauma of little children.

I also came across another perspective on such writing. I read that such writing is not *lekhan* (writing), but *abhivyakti* (expression). Perhaps expression of one's own self.

I thus allowed myself to be used for sharing these stories in the hope that parents may get a glimpse of what they make children undergo in their zeal to win their custody.

Now, a little bit about the nature of cases that are filed for child custody and the varied reasons for these. May I say that, like drugs, custody litigation can also be spurious. Such cases may seem genuine at first glance but all are not so. Though I have not carried out any empirical study, it will not be incorrect to say that roughly 40 to 50 per cent of custody litigation has actually nothing to do with the custody of the child.