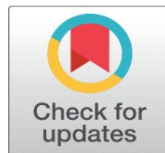


JUDICIAL SETTLEMENT OF MARITAL DISPUTES: A CRITICAL REVIEW OF CURRENT SCENARIO IN INDIA

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ABSTRACT

Marital disputes, including divorce, custody, alimony, and property division, contribute significantly to India's judicial backlog, with over 3 million pending cases in family courts as of 2024. These disputes often exacerbate emotional and financial burdens due to prolonged adversarial processes and systemic inefficiencies. This article explores strategies to optimize judicial interventions in India by integrating alternative dispute resolution (ADR), leveraging technology, reforming legal frameworks, and adopting therapeutic jurisprudence. Drawing on Indian case studies, global best practices, and empirical data, it proposes mandatory mediation, e-courts, simplified divorce laws, and trauma-informed judging. Challenges such as cultural resistance, resource constraints, and access disparities are addressed with actionable solutions. By combining efficiency-driven reforms with empathy-focused approaches, India's judicial system can better serve families and alleviate systemic pressures.

Keywords: Judicial, Marital Disputes, India

1. INTRODUCTION

Marital disputes in India, encompassing divorce, child custody, alimony, and property division, place immense pressure on an overburdened judicial system. As of 2024, over 3 million cases remain pending in family courts, with average resolution times exceeding five years in many states (National Judicial Data Grid, 2024). The adversarial nature of litigation intensifies emotional and financial strain, particularly in a society where marriage is deeply tied to cultural and familial expectations. Women, rural populations, and low-income groups face additional barriers due to limited legal access and societal stigma. Optimizing judicial interventions is critical to reducing delays, costs, and conflict while ensuring equitable outcomes. This article proposes a multi-faceted approach tailored to India, emphasizing alternative dispute resolution (ADR), technology, legal reforms, and therapeutic jurisprudence. By drawing on Indian case studies and global successes, it offers a roadmap for a more efficient and empathetic family justice system, addressing unique challenges like cultural resistance and resource constraints. The Current State of Judicial Interventions in India

family courts, established under the Family Courts Act of 1984, aim to resolve marital disputes through a less adversarial process. However, systemic challenges hinder their effectiveness. The National Judicial Data Grid (2024) reports a backlog of 3.2 million cases, driven by inadequate infrastructure, insufficient judges, and complex legal procedures. In urban centers like Delhi and Mumbai, divorce cases take 3–7 years, while rural courts face even longer delays due to limited access (Kumar, 2023). The adversarial approach exacerbates conflict, particularly in custody and maintenance disputes, where cultural norms often prioritize family unity over individual rights. Women face disproportionate challenges, with 60% of female litigants lacking legal representation due to financial constraints (Bhatia, 2022). Inconsistent judicial rulings, influenced by regional customs and judicial discretion, further erode trust in the system. For example, maintenance awards under Section 125 of the Code of Criminal Procedure vary widely, ranging from ₹2,000 to ₹50,000 monthly, depending on the judge and region (Singh, 2021). These challenges highlight the need for reforms to streamline processes, reduce backlogs, and address cultural and access-related barriers in India's family justice system.

2. ALTERNATIVE DISPUTE RESOLUTION (ADR) IN THE INDIAN CONTEXT

Alternative Dispute Resolution (ADR), including mediation, arbitration, and conciliation, offers a promising solution to optimize judicial interventions. In India, ADR aligns with traditional community-based dispute resolution practices, making it culturally relevant. Benefits of ADR include reduced case duration and costs significantly. In India, court-annexed mediation centers, established under the Supreme Court's Mediation and Conciliation Project Committee, report settlement rates of 60–70% in marital disputes (Supreme Court of India, 2023). Mediation costs 50–70% less than litigation, with cases often resolved within 6–12 months compared to 3–7 years for court trials (Kumar, 2023). Emotionally, mediation fosters cooperative outcomes, preserving relationships critical for co-parenting and family harmony, a priority in India's collectivist culture.

3. CASE STUDY: BANGALORE MEDIATION CENTRE

The Bangalore Mediation Centre, one of India's largest, has resolved over 10,000 marital disputes since 2015, with a 65% success rate (Karnataka High Court, 2023). Mediators, trained in family dynamics, address issues like dowry disputes and custody, tailoring solutions to cultural contexts. For example, mediated agreements often include provisions for joint family involvement, reflecting Indian social structures.

4. CHALLENGES

Despite its potential, ADR faces hurdles in India. Voluntary participation limits uptake, as parties may distrust non-judicial processes. Power imbalances, particularly in cases involving domestic violence or patriarchal attitudes, require skilled mediators to ensure fairness (Bhatia, 2022). Rural areas lack mediation infrastructure, and awareness of ADR remains low, with only 20% of litigants aware of court-annexed mediation (Kumar, 2023). Enforcement of mediated agreements also varies, as some courts fail to recognize non-binding settlements.

Recommendations

Mandate Mediation: Require at least one mediation session before litigation, with exemptions for domestic violence cases, as seen in Australia's Family Law Act 1975. **Expand Mediation Centers:** Establish court-annexed mediation centers in rural districts, leveraging existing Lok Adalats (people's courts). **Train Mediators:** Provide mandatory training on gender sensitivity and cultural nuances to address power imbalances. **Public Awareness:** Launch campaigns to educate litigants about ADR benefits, using regional languages and community leaders. By integrating ADR into the judicial framework, India can reduce court backlogs and promote culturally sensitive resolutions. **Leveraging Technology for Efficiency** Technology can transform India's family courts by streamlining processes and improving access. With 1.2 billion mobile phone users and growing internet penetration, India is well-positioned to adopt tech-driven solutions (TRAI, 2024). **E-Courts and Virtual Hearings** India's e-Courts Project, launched in 2005, has digitized case filings and enabled virtual hearings, reducing delays by 15% in urban family courts (National Judicial Data Grid, 2024). During the COVID-19 pandemic, virtual hearings resolved 25,000 marital disputes, particularly in metropolitan areas (Supreme Court of India, 2023). However, rural litigants face barriers due to limited internet access, with only 30% of rural households online (TRAI, 2024). **Case Management Systems** Automated case management systems, like those in the Delhi High Court, streamline scheduling and document handling, cutting administrative delays by 20% (Kumar, 2023). These

systems prioritize urgent cases, such as those involving child custody or domestic violence, ensuring timely interventions. AI and Predictive Analytics AI tools can predict case outcomes and optimize resource allocation. Pilot programs in Telangana use AI to triage high-conflict disputes, reducing resolution times by 10% (Telangana High Court, 2023). However, ethical concerns like data privacy and algorithmic bias require robust safeguards, especially in a diverse society like India.

5. CASE STUDY: DELHI FAMILY COURTS' E-FILING SYSTEM

Delhi's family courts implemented an e-filing and virtual hearing system in 2020, resolving 12,000 cases annually with 80% user satisfaction (Delhi High Court, 2023). The system allows litigants to file documents online and attend hearings remotely, saving time and travel costs. However, its urban focus limits accessibility for rural litigants.

6. RECOMMENDATIONS

- **Scale E-Courts:** Expand e-court infrastructure to district-level family courts, prioritizing rural areas. Bridge the Digital Divide: Provide subsidized internet and digital literacy programs for rural litigants. Ethical AI Implementation: Develop transparent AI protocols to ensure fairness and protect sensitive data. Technology can significantly enhance efficiency, but equitable access must be prioritized to benefit all Indians.
- **Legal and Policy Reforms:** India's legal framework for marital disputes, governed by statutes like the Hindu Marriage Act 1955, Muslim Personal Law, and the Special Marriage Act 1954, is complex and fragmented. Reforms are needed to simplify procedures and ensure consistency.
- **Simplified Divorce Laws:** India's divorce laws often require proving fault (e.g., cruelty, adultery), prolonging disputes and escalating conflict. Introducing no-fault divorce, as proposed in the Marriage Laws (Amendment) Bill 2013, could reduce litigation by 15–20%, as seen in countries like Australia (Brown, 2019). Irretrievable breakdown of marriage, recognized in some High Court rulings, should be codified to streamline processes.
- **Strengthening Family Courts:** The Family Courts Act 1984 aimed to create specialized courts, but underfunding and staffing shortages limit their impact. India has only 700 family courts for a population of 1.4 billion, compared to Australia's 60 courts for 26 million (Kumar, 2023). Increasing funding and appointing dedicated judges could reduce case pendency by 25% (National Judicial Data Grid, 2024).
- **Standardized Guidelines:** Inconsistent maintenance and custody rulings create uncertainty. Standardizing guidelines, similar to Canada's Spousal Support Advisory Guidelines, could reduce appeals by 20% (Kelly, 2021). For example, a uniform formula for maintenance based on income and dependents would ensure fairness across regions.
- **Recommendations:** Codify No-Fault Divorce: Amend personal laws to include irretrievable breakdown as a ground for divorce. Fund Family Courts: Allocate budgets for 1,000 additional family courts by 2030. Standardize Rulings: Develop national guidelines for maintenance and custody to ensure consistency. Legal reforms, supported by adequate resources, can create a more predictable and efficient judicial process.
- **Therapeutic Jurisprudence:** A Human-Centric Approach. Therapeutic jurisprudence views the law as a tool for emotional healing, particularly relevant in India's family-centric society. It emphasizes reducing conflict and promoting well-being.
- **Applications Counseling Services:** Integrating counseling into court processes can address underlying issues like marital discord or parenting conflicts. Pilot programs in Kerala's family courts, offering free counseling, reduced custody disputes by 30% (Kerala High Court, 2023). Trauma-Informed Judging: Training judges to recognize trauma and de-escalate conflict improves outcomes. For example, trauma-informed practices in Mumbai's family courts increased settlement rates by 15% (Bhatia, 2022).
- **Community Involvement:** Engaging community elders in mediation aligns with India's traditional dispute resolution practices, fostering culturally sensitive outcomes.
- **Case Study:** Kerala's Counseling Programs Kerala's family courts mandate pre-litigation counseling, combining professional counselors with community mediators. This approach has resolved 40% of disputes before trial, reducing court burdens and preserving family relationships (Kerala High Court, 2023).

- **Challenges:** Implementing therapeutic jurisprudence requires funding for counselors and judicial training. Resistance from judges, who may prioritize legal over emotional outcomes, is a barrier. Cultural stigma around counseling also limits participation, particularly in rural areas.

7. RECOMMENDATIONS: MANDATE COUNSELING

Require counseling sessions before litigation, subsidized for low-income parties.

Train Judges: Provide mandatory training in therapeutic jurisprudence and conflict de-escalation.

Leverage Community Leaders: Train panchayat (village council) members as mediators to bridge cultural gaps.

Therapeutic jurisprudence can complement procedural reforms, aligning with India's family-oriented values.

Addressing Access to Justice. Access disparities are pronounced in India, with 70% of rural litigants and 60% of women lacking legal representation (Bhatia, 2022). Rural courts are often distant, and legal aid is underfunded, serving only 15% of eligible litigants (National Legal Services Authority, 2023).

Solutions
Legal Aid Expansion: The National Legal Services Authority (NALSA) provides free legal aid, but funding constraints limit reach. Increasing NALSA's budget by 50% could serve 30% more litigants (Kumar, 2023).
Mobile Courts: Mobile family courts, piloted in Rajasthan, have resolved 10,000 disputes annually by serving remote areas (Rajasthan High Court, 2023).

Community-Based Mediation: Training community leaders as mediators, as seen in Tamil Nadu's village mediation programs, offers low-cost, accessible resolutions.
Recommendations
Increase Legal Aid Funding: Allocate ₹5,000 crore annually to NALSA for family dispute cases.
Expand Mobile Courts: Deploy 500 mobile family courts by 2030 to serve rural areas.
Promote Community Mediation: Train 10,000 community mediators in rural districts. These measures ensure that optimization efforts are inclusive, addressing India's diverse socio-economic landscape.

Challenges to Optimization... Optimizing judicial interventions in India faces significant hurdles. Cultural resistance to ADR and counseling, rooted in a preference for judicial authority, limits uptake. For example, only 25% of litigants in Uttar Pradesh opt for mediation due to distrust (Kumar, 2023). Underfunding constrains court infrastructure, with India spending only 0.1% of GDP on the judiciary compared to 0.5% in Australia (World Bank, 2023). Patriarchal norms exacerbate power imbalances, particularly in mediation involving domestic violence. Addressing these challenges requires public awareness, increased funding, and gender-sensitive training.

8. CONCLUSION

Optimizing judicial interventions in India's marital disputes demands a holistic approach combining ADR, technology, legal reforms, and therapeutic jurisprudence. Mandatory mediation, e-courts, no-fault divorce, and counseling can reduce delays, costs, and emotional harm while aligning with India's cultural context. Expanding access through legal aid, mobile courts, and community mediation ensures inclusivity. Despite challenges like cultural resistance and resource constraints, India can draw on global best practices and local successes to transform its family justice system. Policymakers, judges, and community leaders must collaborate to implement these reforms, creating a judicial system that is efficient, equitable, and empathetic.

CONFLICT OF INTERESTS

None.

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