

Alternative Dispute Resolution and Criminal Dimensions in Family Conflicts In India

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Abstract

Disputes within Indian families often touch on social, emotional, and legal matters that go beyond the purview of conventional family law. The interaction of civil and criminal law within family relationships is highlighted by matters such as marital breakdown, domestic violence, cruelty, dowry harassment, and even more severe consequences like female-perpetrated killing. Although remedies are available under both criminal statutes and family laws in India, the adversarial character of litigation often makes matters worse instead of better. Mediation, conciliation, and counselling are examples of ADR processes that have grown in popularity in this setting as means to lessen the load on the judicial system while simultaneously fostering reconciliation. In order to provide a more equitable and compassionate framework for dealing with marital offences, this study investigates how ADR might operate in tandem with initiatives in criminal law. It also examines the authority of India's Family Courts, which were set up by the Family Courts Act, 1984, to help family disputes be settled quickly, peacefully, and expertly. This research emphasizes the need for a holistic legal strategy that combines empathy with fairness by combining the study of marital crimes with the criminal aspects of domestic disputes, such as allegations of female-perpetrated assault.

Keywords: *Alternative Dispute Resolution; Criminal; Family; Conflict; Legal*

1. Introduction

The ancient Indian view of the family as the bastion of social and moral order persists to this day. The delicate equilibrium between one's private life and the authority of the law is often put to the test when disputes emerge within this framework. Indian family law has its roots in civil law and was originally enacted to govern civil issues such as marriage, divorce, adoption, maintenance, and inheritance. As a result of crimes such as dowry-related harassment and domestic violence, the lines between criminal law and family law have blurred when domestic disputes escalate into acts of brutality, exploitation, or violence, the criminal justice system steps in to guarantee justice. When family members commit crimes, the criminal justice system steps in, while family law tries to mend wounds via mediation and civil remedies. Section 498A of the Indian Penal Code makes it illegal for a husband or his family to brutally abuse his wife, and Section 304B of the same code makes it illegal to cause death as a dowry. Likewise, the Protection of Women from Domestic Violence Act, 2005 unites the two spheres by establishing both civil remedies, including protection orders, and criminal penalties for those who disobey these orders. Therefore, there is a profoundly social as well as a technically complex link between family law and criminal law. Justice, gender equality, and the government's role in citizens' lives are all issues that this brings up. To ensure victims obtain justice without

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compromising the integrity of family connections, a framework that maintains both protection and fairness must be created.

2. Literature Review

Dubey, Bishnanand & Das, D. (2025). An alternative to contentious litigation, mediation in India places an emphasis on mutual agreement, confidentiality, and the maintenance of long-term relationships as means to resolve family problems. This essay delves deeply into the Indian legal framework that governs mediation in family disputes, covering all the bases: relevant statutes, relevant case law, and the multi-level functioning of mediation processes. Different legislation in India provides the groundwork for the legality.

Sunger, Aarvi & Kumar, Dr. (2024). In every culture, marriage has always been a cornerstone. Ancient Indian women had a prominent social position, as described in the Rigveda and other holy writings. Historically, marriage was a significant social event, and women had equal status as men. Despite marriage's historical significance, it has historically reduced women's agency. Women gradually declined in social and economic standing as a result of changes in political and economic norms. On crimes about marriage, the Indian Penal Code (IPC) has Chapter XX. Marriage itself is the ultimate authority on all these sins. What follows is a socio-legal analysis of the causes of marriage-related crimes in India. Even though there are laws in place to protect women from violence in marriage, the crime is nonetheless on the rise. Our culture accepts domestic violence against women as an inevitable aspect of marriage, and the vast majority of these crimes go unreported by use of this methodological framework for both doctrinal and non-doctrinal studies. In this study article, we looked at what causes criminal behaviour. Obstacles to control, and last, think about ideas that might assist in lowering, if not eradicating, these crimes.

Kaur, Dr. (2024) A key component of societal harmony and peace is the ability to resolve disputes. Courts, governed by qualified judges and operating under strict protocol, came to be almost entirely charged with the duty of conflict resolution as modern governments and complex legal systems developed. The quest for a comprehensive method to expedite the court process for conflict resolution became necessary due to the slow pace of administration of disputes brought about by the high degree of formalization, which caused the number of cases to grow. It may seem like a novel idea given the entire buzz about it, but in reality, it stems from an ancient practice in India for settling legal problems outside of court. The phrase "alternative dispute resolution" (ADR), which is sometimes known as "appropriate dispute resolution," is used to describe methods of resolving conflicts that do not involve the traditional judicial system. Arbitration, conciliation, mediation, and Ombudsman programs are all forms of alternative dispute resolution (ADR), which spans from formal, binding arbitration and adjudication to informal, open-door policy and everything in between. In this article, we will look closely at the various ways used in India to settle legal issues out of court and the mechanisms put in place to do so.

Singh, Bandana & Mishra, Prakash (2023). One major change to India's legal system is the creation of family courts. There has been a marked improvement in the accessibility and efficiency of conflict resolution services since the formation of family courts, which are specifically designed to handle cases involving domestic and family problems. Several family courts have been set up in several states throughout India since the first one was formed in 1976 in Chennai. This study aims to fill readers in on the history of family courts in India, including its inception, the difficulties they encountered, and the lasting effects they have had on the country's legal system.

Kamenecka-Usova, Marina. (2016) A new perspective on marriage and its social role has emerged in recent decades. The traditional view of marriage as a lifelong vow has evolved. An increase in the frequency of family conflicts and a normalization of divorce as a result of the concept of equality's replacement of hierarchy as the guiding principle of family law are two unfortunate outcomes of this shift. The purpose of this piece is to propose mediation as a viable alternative to traditional methods of family dispute resolution.

3. Alternative Dispute Resolution in Family Disputes

In 1953, the late Smt. Durgabai Deshmukh had the opportunity to visit and observe the Family Courts in China. She was a genuine leader and a fighter for the liberation and justice of women. Justices Chagla and Gajendra Gadkar, with whom she conferred on the topic of family courts, also advocated for their creation in India. The courts should use a sophisticated approach when dealing with family concerns, according to the fifty-ninth report of LCI. In cases involving family issues in particular, the Law Commission of India has urged the courts to make every effort to resolve the conflicts as they arise. For cases involving family law, the Civil Procedure Code underwent revisions in 1976 with the goal of establishing a new standard of procedure for trial courts to follow. Following these events, it became clear that the establishment of family courts was necessary for the public good in order to resolve the conflict amicably and quickly. India is a place where many different faiths coexist. Because each faith has its own set of rules, there can be no true unity among them. On the other hand, personal laws have evolved as well. When disagreements arise inside a devout family, the time-consuming and money-sucking legal system isn't going to cut it.

We can keep family ties amicable by using alternative dispute resolution (ADR) techniques, which are the only answer to this problem. In addition, the use of ADR procedures is the only way to promote amicable relations between members of the disputing party. The many tactics utilised for conflict resolution in ADR procedures were diverse. The guiding principle of alternative dispute resolution (ADR) mechanisms is the peaceful resolution of disputes through mediation, which is a voluntary process that enables the disputing parties to sit down and discuss the issues at hand in an effort to reach a settlement agreement, rather than focusing on what they must seek or what the law will allow them to fight for. The two most beneficial forms of alternative dispute resolution (ADR) are mediation and conciliation. These methods have been an integral part of Indian civilization since the beginning of time, making them the second most accepted in our culture after negotiation. It was common practice for the oldest family member to mediate family disputes in an effort to settle.

Legislative power, executive power to carry out the laws, and judicial power to formulate and interpret those laws are the three cornerstones of India's legal system. Family courts will be little more than a legislative dream unless reconciliation is liberally interpreted and mandatorily applied in marital disputes. Therefore, it is the sacred responsibility of the Indian courts to urge the disputing parties to exhaust all reasonable avenues for settling outside of court. The principles of society are reflected in ADR, which is a dynamic process. The mediation process is crucial, and it will unquestionably improve the system's ability to provide justice. Because of their voluntaristic mode of operation, alternative dispute resolution (ADR) approaches like mediation and conciliation increase sociability and decrease friction within society by letting the disputing parties resolve their issue on their own and by helping them keep their conflict private. Because of its quickness, lower cost, and more fairness compared to adjudication, alternative dispute resolution (ADR) helps keep the parties calm and is useful in many types of problems, but especially those involving marriage. It would be instructive to learn whether judicial decisions have prioritised family reconciliation.

3.1 Marital Breakdown and Female-Perpetrated Homicide

Marriage is seen as a sacred institution in Indian culture. But not every marriage blossoms into a safe space where both partners feel valued and respected. Murders committed by women against their husbands have emerged as a disturbing new trend in domestic violence in recent years, according to the criminal court system. These incidents challenge traditional gender norms and raise disturbing issues about the motivations of women who are traditionally seen as caretakers and why they commit domestic violence.

- **Retaliation for Long-Term Domestic Abuse:** Some women may resort to violent behavior as a form of retaliation after years or even decades of mental, sexual, or physical abuse at the hands of their abusers. A lack of self-control after long-term trauma is usually the root cause of retaliatory murder, which may be legally construed as murder.

- **Mental Health Disorders:** Women's judgment may be significantly impaired by mental health disorders such as Post-Traumatic Stress Disorder (PTSD), postpartum depression, or battered woman syndrome. Under the insanity defense, Indian courts have sometimes upheld such mental states.
- **Property and Financial Disputes:** Inheritance disputes, financial schemes, or dowry-related stress may lead to murder, which is the opposite of the typical situation in situations of domestic violence.
- **Infidelity and Emotional Instability:** Some cases have described love triangles, suspicions of infidelity, or affairs on both sides as precipitants.

There has been a shift away from the traditional view of women as helpless victims of domestic abuse. A greater focus is necessary since the number of spousal murder cases involving women is on the rise. The vast majority of the time, such activities are unintentional responses to years of emotional, psychological, or physical abuse. As a social issue, this highlights the pervasive impact of patriarchal norms, unequal power dynamics within marriages, and limited access to social support systems. When no longer supported by society, a battered woman may turn to extreme methods after reaching a psychological breaking point. Not that this justifies violence; what it does mean is that we need to think about more than just the act itself, including the mental health and surrounding factors. By bringing more nuance and empathy into the legal and social systems, this acknowledgement has the potential to undermine rigid gender dualisms. In situations of female-on-spousal murder, these verdicts show that the judiciary is slowly beginning to consider the psychological and contextual factors at play.

4. Jurisdiction of Family Courts in India

The institution of marriage has recently been the focus of extensive legal scrutiny. The need for a specialised process in family conflict resolution is widely acknowledged globally. Specific protocols were established to address these disparities and provide adequate support. When it comes to family law, the conventional adversarial process has to give way to a less formal one since the subject matter, culture, and law are all completely different. The many facets of marriage are addressed by a variety of judicial regulations. The late Smt. Durgabi Deshmukh was the one who first brought attention to the need to set up the Family Courts. Smt. Deshmukh proposed the idea of establishing family courts in India to Pt. Jawahar Lal Nehru, after returning from China in 1953, where she had witnessed the operation of such courts. She discussed the matter with Justices Chagla and Gajendragadkar. Consequently, the Family Courts statute, 1984 was passed by Parliament. This statute initially mandates the creation of Family Courts in cities and municipalities with a population of over one million. On the other hand, other sections of the Act allow the state government to establish family courts. Under subsection (a) of section 4(1), the State Government, with the approval of the State High Court, is authorized to appoint judges to the family courts when a family court has more than one judge. According to section 4(b) of the Act, any judge has the authority to carry out the duties and responsibilities of the family court.

To facilitate discussion and the expedited settlement of disputes pertaining to marriage, families, and other matters, the Family Courts Act of 1984 was enacted. Despite initial optimism, the goal of eradicating gender bias in statutes remains unfulfilled. In order to put an end to violence against women, the system of family courts has to establish guidelines and processes, maybe with the help of non-governmental organizations. The establishment and strengthening of family court action forums should include non-governmental organizations (NGOs), officials from elected offices, and active members of relevant departments (such as Urban Community Development). Implementing state-level monitoring tools might provide light on how and why family court matters affecting women are resolved. It is imperative that judges be appointed who are both qualified and experienced in mediating disputes between families.

4.1 Law Relating to Matrimonial Offences in India

Offences concerning marriage are addressed under several sections of the Indian Penal Code, 1860 (IPC). The many facets of marriage and the associated crimes are discussed in these sections. Domestic abuse, adultery, bigamy, hiding

prior marriages, and fraudulent behaviour during wedding ceremonies are all offences that pertain to marriage. The Cruelty Law (Section 498-A) is one such provision. The goal of both this statute and the 2005 Domestic Violence Act is to safeguard women who have been victims of abuse at home. The fundamental rights guaranteed by the Indian Constitution, including the right to life and dignity, are protected by these laws. Another legitimate reason for a divorce is cruelty. Chapter XX of the Indian Penal Code also addresses the following offences:

- Mock marriages (Section 493)
- Bigamy (Section 494 and 495)
- Fraud Marriage (Section 496)
- Adultery (Section 497)
- Criminal elopement (Section 498)

Inflicting insults on women is neither new nor contemporary. Women have been the targets of violence and abuse for countless generations throughout every continent, city, and religious group in the United States. Since the 'position' of cruelty and violence against women in society is strongly related to it, it is important to see it through a historical lens. The number of marriage-related crimes is increasing at an alarming rate, and we are all aware that men and women alike are victims of this pervasive problem in the modern era. Any wrongdoing committed by one spouse against the other is considered a marital offence. Nevertheless, the Indian Penal Code grants many rights to both spouses under several sections, and some of these sections even mention each other by name. There are several factors and causes that contribute to matrimonial crimes of nature. Handling them equally is challenging for a straitjacket method. Culture and socioeconomic standing are not the only factors at play here. However, there are basic shared factors. The gender specificity of these crimes makes it clear that ignorance and indifference are deeply ingrained in the rise of marital crimes against women. These crimes are mostly a result of the general perception of men's superiority over women.

5. Conclusion

We can conclude that criminal responsibility, reconciliation, and societal healing must all be part of the answer to family conflicts in India. The significance of strong judicial action is shown by the frequency of crimes related to matrimony, including cruelty and dowry killings. Restoring trust and rebuilding families cannot be achieved only via punitive measures. Mechanisms for Alternative Dispute Resolution (ADR) provide a necessary supplement to criminal and family law by providing non-adversarial alternatives to resolve conflicts, especially when mending fences or reaching a mutual agreement is feasible. A vital institutional link between empathy and the law exists in the Family Courts, thanks to their unique authority and counselling-oriented processes. The public's knowledge of these alternatives, the sensitivity of mediators, and the training of judges are all factors that determine how successful they are. Justice in India must be expedited, empathetically administered, and premeditatively restored via the eventual development of an integrated system in which alternative dispute resolution (ADR), family law, and criminal law collaborate. More equitable and peaceful settlement of family disputes in India is possible by strengthening mediation units within Family Courts, encouraging counselling before criminal prosecution, and guaranteeing gender-neutral legal solutions.

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