

Family Disputes and Dowry Cases : ADR Mechanisms, Need of Judicial Reform

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Abstract

Family disputes, particularly those arising from dowry demands, have increasingly burdened the Indian judicial system. Traditional litigation often intensifies conflicts rather than resolving them amicably. Alternative Dispute Resolution (ADR) mechanisms—such as mediation, arbitration, and conciliation—offer effective pathways to address such sensitive matters with empathy and efficiency. This paper explores the critical role ADR plays in de-escalating dowry-related disputes and highlights the urgent need for judicial reforms to strengthen these mechanisms. A reformed approach would not only expedite justice but also promote social harmony by reducing adversarial confrontations. Emphasizing accessibility, fairness, and timely resolution, the study advocates for a robust integration of ADR in family law practices. The evolving legal landscape necessitates reforms that are sensitive to the socio-cultural realities while ensuring the protection of vulnerable individuals.

Keywords : Family disputes, Dowry cases, ADR, Mediation, Judicial reforms

Introduction

Family disputes in India, particularly those stemming from dowry-related issues, have become a pressing concern for both the legal system and society at large. Despite decades of legislative interventions aimed at curbing the dowry menace, the persistence of such cases reflects deeply entrenched socio-cultural norms and systemic inadequacies. The traditional approach to resolving these disputes—through adversarial court proceedings—often exacerbates familial tensions, prolongs emotional and financial distress, and fails to deliver timely justice. Moreover, the overwhelming burden on the Indian judiciary has led to significant delays, thereby diminishing public confidence in the justice delivery system.

This paper aims to explore the intersection of dowry-related family disputes and ADR mechanisms in India, while critically examining the urgent need for judicial reforms to support and expand the use of ADR in such cases. By emphasizing the role of empathy, cultural sensitivity, and procedural efficiency, the study underscores the potential of ADR to transform the landscape of family justice in India.

Understanding Dowry and Its Legal Implications in India

The practice of dowry, deeply rooted in Indian society, involves the transfer of money, goods, or property from the bride's family to the groom or his family as a precondition of marriage. Despite its historical justification as a voluntary gift, in modern times, dowry has often become a coercive demand, leading to exploitation, domestic violence, and even deaths of women. The Dowry Prohibition Act, 1961 was enacted as a landmark legislation to curb this social evil by criminalizing both the giving and taking of dowry. The Act defines 'dowry' means any property or valuable security given or agreed to be given either directly or indirectly in by one party to the other party to the marriage, which is punishable under

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Section 3 and Section 4 of the Act. In addition to the Dowry Prohibition Act, several provisions of the Indian Penal Code have been invoked to address dowry-related violence. Section 498A IPC specifically deals with cruelty by the husband or his relatives, which includes harassment for dowry demands. Furthermore, Section 304B IPC relates to dowry deaths, prescribing stringent punishment if a woman dies under unnatural circumstances within seven years of marriage and soon before her death, she was subjected to dowry-related cruelty or harassment shortly before her death .

Moreover, the adversarial nature of litigation frequently turns the courtroom into a battleground, causing further trauma for women who are already victims of violence. In many instances, the prolonged legal process does not yield effective remedies but instead worsens the familial conflict. It is also worth noting that there have been concerns about the misuse of Section 498A IPC, with allegations that some complaints are filed with the intention of harassing the husband and his family. The Supreme Court, in *Rajesh Sharma v. State of U.P.*, expressed concern over the indiscriminate arrests and the need for safeguards to prevent abuse of the law. While such misuse does not undermine the necessity of protective legislation, it highlights the complexity of balancing legal accountability with procedural fairness in family disputes.

Definitions and Legal Context

Family disputes cover legal conflicts arising among relatives, spouses or couples – typically matrimonial issues (divorce, judicial separation, and restitution of conjugal rights, validity of marriage, maintenance, and custody of children) and related property or domestic matters. The Family Courts Act, 1984 was created “to help people in family and marriage disputes resolve their disagreements peacefully and quickly”. Under that Act, Family Courts have jurisdiction over divorce, annulment, maintenance, custody, inheritance and related disputes.

Dowry cases involve the illegal demands, taking or giving of dowry – defined by the Dowry Prohibition Act, 1961 as any property or valuable things given (directly or indirectly) by the bride’s family to the groom (or vice versa) at or before marriage, or even after marriage “in connection with” the marriage. Section 3 of the Act makes giving or taking dowry, a criminal offence (punishable by 5+ years’ imprisonment and fine). In practice, many dowry disputes become criminal cases under IPC

Sections 498A (cruelty by husband/relatives, punishable up to 3 years) and 304B (dowry death, punishable by life imprisonment). The Protection of Women from Domestic Violence Act, 2005 and CrPC Section 125 (maintenance) also touch on marital violence and support claims often linked to dowry disputes. Thus, family-law statutes (like the Hindu Marriage Act, 1955 and Special Marriage Act, 1954), criminal laws (Dowry Act, IPC) and procedural laws (CPC, Criminal Procedure) together form the legal framework for these disputes.

Challenges in The Judiciary

Family and dowry cases burden Indian courts with complex challenges. A huge backlog looms large: as of Feb 2025, district courts had 4.60 crore pending cases nationwide (nearly half over 3 years old) – and many are family cases. Courts also face a shortage of judges, with a 27% vacancy in judicial posts. Victims (especially women) may avoid litigation due to social stigma and costs; one report notes that the “stigma associated with legal battles in domestic violence and dowry disputes prevents women from approaching the judiciary”.

Alternative Dispute Resolution Mechanism

Alternative Dispute Resolution (ADR) offers non-judicial paths to settle disputes. ADR methods like mediation, conciliation, arbitration, negotiation and Lok Adalat – are designed to be faster, cheaper and more flexible than litigation. The Constitution’s Directive Principles emphasize the goal of speedy justice, and ADR aligns with that vision. The Civil Procedure Code (Sec. 89, now Order X Rule 1-A CPC) explicitly authorizes courts to refer civil and matrimonial disputes to ADR methods when settlement seems possible. In 2024, the government noted that Section 89 “recognises Arbitration, Conciliation, Mediation and Judicial Settlement including Lok Adalat” and mandates court referral when a compromise is feasible. The new Mediation Act, 2021 (effective 2023) even allows courts to refer compoundable matrimonial offences (e.g. IPC 498A cruelty) to mediation, provided the parties agree.

Under the Family Courts Act 1984, courts are legally required to try to reconcile the parties. Section 9(1) states that “endeavour shall be made in the first instance to assist and persuade the parties in arriving at a settlement”. Similarly, the Hindu Marriage Act (s. 23) directs that before granting any relief, the court “make every endeavour to bring about reconciliation” between spouses. Common ADR modes in family dowry contexts include:

- **Mediation and Conciliation:** A neutral mediator (or conciliator) helps the spouses or family members negotiate terms (e.g. divorce settlement, alimony, asset division, or return of dowry gifts). Mediators focus on communication and mutual agreement. Mediation need not involve lawyers and is strictly confidential. Because it is voluntary and private, parties often feel safe expressing needs.
- **Arbitration:** While rare in family matters, couples can agree to arbitrate certain disputes (like property division) under the Arbitration & Conciliation Act, 1996. An arbitrator's award is binding enforceable just like a court decree. .
- **Lok Adalat:** Established under the Legal Services Authorities Act 1987, Lok Adalat are statutory conciliatory forums that can take up pending or the pre-litigation stage. Lok Adalat frequently organize special drives (e.g. National Lok Adalat) to settle large numbers of family and maintenance cases in bulk.
- **Nari Adalat (Women's Courts):** These are community-based women's courts (part of the Mission Shakti initiative) that mediate local disputes. Typically composed of trained local women ("Nyaya Sakhi"), Nari Adalat handle issues like domestic violence, dowry harassment and inheritance claims at the grassroots level. The WCD Ministry, under Mission Shakti, has piloted Nari Adalat in village panchayats – in 2023–24 over 1,000 meetings led to 497 registered cases– providing an accessible ADR option in rural areas.
- **Counselling and Court Settlement Programs:** Family courts often have family welfare committees or panel counsellors who seek to reconcile spouses. Initiatives like mandatory pre-divorce counselling or court-annexed mediation (under judicial supervision) fall under this approach.

These ADR methods contrast with litigation. As Justice M.R. Shah observed, "When a plant is tender, you can mould it. But if a dispute goes to court, there will be difficulty in settling it... it will save cost, time and relationship among parties". In other words, nurturing a resolution early (through ADR) preserves relationships better than adversarial trials.

Effectiveness of ADR in Family/Dowry Contexts

Empirical data indicate that ADR is widely used and often successful in family matters. A Vidhi Centre study (cited in Mapping ADR) found that out of 46,000 court-referred mediations, 41,503 (90%) were

family disputes. In 2011–2015 alone, over 25,000 matrimonial and maintenance cases (about 80% of all mediations) were referred to court-connected mediation. It includes petitions under the Dowry Act, maintenance, Domestic Violence Act, Guardianship Act, divorce and related cases. This large share reflects that parties and courts increasingly turn to ADR in domestic cases.

Studies of Nari Adalat (a form of ADR) report high "success" rates. For example, one UP study found 65% of cases handled by Nari Adalat were resolved without formal litigation. Government reports confirm that many women prefer the non-adversarial Nari Adalat, finding its mediations more timely, affordable and fair compared to court trials. In Gujarat, for instance, over 400 Nari Adalat achieved a 75% resolution rate in women's cases. By contrast, similar disputes take 2–5 years in regular courts but only 3–6 months in Nari Adalat.

Advantages of ADR include speed, lower cost and confidentiality. Mediation can conclude in a single day (with follow-ups) versus years of litigation. It keeps family matters private (citing *Moti Ram v. Ashok Kumar*, Indian courts emphasize confidential ADR for sensitive issues). Lok Adalat settle tens of thousands of cases in one day, and their awards – though final – often reflect compromise and cooperation.

However, ADR has limitations in family cases. It cannot legally resolve non-compoundable offenses like dowry death (IPC 304B) or serious cruelty; such cases must proceed in court. Since ADR (except Lok Adalat) is generally voluntary, either side can walk away, forcing litigation.

Overall, case studies suggest that well-structured ADR can produce durable resolutions. For instance, through a Nari Adalat a woman in Patna successfully reclaimed a rejected dowry gift, and in Varanasi another secured alimony and child custody via mediation.

Need for Judicial Reform

First, the shortfall of specialized courts and personnel must be addressed. Currently only 848 family courts exist for 1.4 billion people (covering a fraction of districts), leading to over 12 lakh pending family cases nationwide. Legal scholars urge creation of many more Family Courts staffed with "trained counsellors, mediators... and specialist family law judges" to form a multi-disciplinary team capable of ADR. Increasing judicial vacancies (filling the 27% gap) and adding evening or fast-track benches for matrimonial cases (as the Law Ministry proposes)

would also cut delays.

Second, the ADR framework needs strengthening. The government has already enacted laws (CPC 89, Mediation Act) and policies (Mission Shakti's Nari Adalat) to promote ADR. These should be fully implemented: for example, making family mediation mandatory in tribunals and recognizing mediated settlements in dowry/maintenance cases. Lok Adalat should regularly host special matrimonial sessions.

Third, procedural reform is needed. Provisions like Hindu Marriage Act Section 23 and Family Courts Act Section 9 already require efforts at conciliation, but in practice judges do not always enforce them. Use of technology – online mediation platforms, virtual family hearings, and digital monitoring of settlements – could make dispute resolution more accessible.

Fourth, legal aid and protection must be expanded. Many litigants are poor and unaware of ADR options. Strengthening free legal services and conducting awareness campaigns about family counselling or

Lok Adalat can improve uptake.

Finally, expert guidance and jurisprudence should evolve. High courts and the Supreme Court have repeatedly noted that “family matters should not be litigated in any court unless of an extraordinary grave nature; they should be amicably resolved”. Judicial policy should embody this. Law commissions have long recommended instituting mandatory ADR for matrimonial disputes.

Conclusion

In my conclusion, comprehensive reform – expanding specialized courts, mandating ADR, easing procedures, and resourcing support – is needed to make justice in family and dowry cases faster, fairer and more humane. As one senior judge aptly put it, resolving disputes early “will save cost, time and [preserve] relationships among parties”. By combining ADR mechanisms with targeted judicial reforms, India can better uphold the interests of families and vulnerable spouses alike.

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