

THE WORKING OF FAMILY COURTS IN INDIA: A STUDY

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ABSTRACT

The family courts in India serve as specialised judicial bodies established to address legal matters pertaining to familial and matrimonial disputes. Rooted in the principle of providing efficient and expeditious resolution to family-related conflicts, these courts play a crucial role in upholding justice and preserving the sanctity of familial relationships within the Indian legal framework. The inception of family courts in India traces back to the enactment of the Family Courts Act of 1984, which aimed to provide a comprehensive mechanism for resolving disputes related to marriage, divorce, guardianship, custody, maintenance, and other allied matters. These courts operate with a distinct focus on promoting conciliation and reconciliation, thereby emphasising the preservation of family unity and the betterment of all parties involved, especially children. The functioning of family courts is guided by principles of fairness, impartiality, and sensitivity to the unique dynamics of familial relationships. They adopt a holistic approach to dispute resolution, considering not only legal aspects but also social and psychological factors influencing the parties' lives. Through mediation, counseling, and judicial intervention, family courts strive to facilitate amicable settlements while ensuring equitable outcomes for all parties. The jurisdiction of family courts extends across the entire spectrum of family-related disputes, encompassing diverse cultural, religious, and socio-economic contexts prevalent in Indian society. In an era marked by evolving societal norms and legislative reforms, it is imperative to assess the responsiveness of these courts to emerging challenges and changing needs. Therefore, this research paper endeavors to contribute to the discourse on understanding the structure of family courts in India, challenges and reforms needed in family courts, advocating for measures that promote inclusivity, fairness, and efficiency within the legal system.

KEYWORDS: *Challenges; Dispute resolution; Family courts; Jurisdiction.*

1. INTRODUCTION

Family courts serve a crucial function within the Indian legal framework, offering a platform for addressing conflicts concerning marriage, divorce, guardianship, custody, maintenance, and related issues. The establishment of family courts in India can be attributed to the passing of the Family Courts Act in 1984, crafted with the primary objective of simplifying civil litigation concerning family matters and making the civil court system more approachable to the public. The Act in section 2(d) defines the term 'Family Court' as a court established under Section 3 of the Act.¹ It is mandatory for the State government to establish a family court for every area including city or town where population exceeds one million while for rest of the areas where population is less than one million, the establishment of family court is left at the discretion of the state government.² Family courts being a judicial body have been conferred with the judicial powers by the statute to deal with family disputes in a judicial manner and to determine

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¹ The Family Courts Act, 1984, No. 66, Acts of Parliament, 1984 (India).

² *Id.* at 3, cl. 1.

the rights of the parties accordingly. The jurisdiction of family courts extends across the entire spectrum of family-related disputes like divorce, custody, restitution of conjugal rights, judicial separation, maintenance, guardianship,³ etc., with a paramount focus on safeguarding the interests of vulnerable individuals, particularly women and children. The jurisdiction of family courts has been excluded in criminal cases i.e. offences under Indian Penal Code and other penal laws such as Dowry Prohibition Act, 1961, etc. The Government of India established Family Courts with the objectives that family disputes are dealt with separately from general criminal cases so that they are handled with a humanitarian view and to enable women to seek recourse through the court easily without having to appear with criminals.⁴ This legislation reflects the recognition that disputes within the family necessitate a distinct approach from the conventional procedures adopted by regular courts. The Act seeks to create a conducive environment for resolving familial disputes in a manner that is sensitive, empathetic, and tailored to the unique dynamics of familial relationships and realities of contemporary Indian society. They provide a conducive environment for parties to present their grievances, seek legal redressal, and explore avenues for reconciliation under the guidance of trained professionals. It is the responsibility of the court to bring about a reconciliation between parties as far as possible as per section 23(2) of the Hindu Marriage Act, 1955.⁵ These courts employ alternative dispute resolution mechanisms to alleviate the burden on traditional litigation processes, promoting timely resolution and reducing backlog. They adopt a holistic approach to dispute resolution, considering not only legal aspects but also social and psychological factors influencing the party's lives. Through mediation, counseling, and judicial intervention, family courts strive to facilitate amicable settlements while ensuring equitable outcomes for all parties.⁶

In the intricate tapestry of India's legal landscape, family courts stand as vital institutions entrusted with the delicate task of resolving familial disputes and upholding the sanctity of familial relationships. Since their inception in the late 20th century, these courts have played a pivotal role in addressing a spectrum of issues ranging from matrimonial discord to matters concerning child custody, maintenance, and property disputes. However, the effectiveness of these courts in delivering justice and safeguarding the well-being of families is a topic of significant discussion and analysis. Given India's diverse socio-cultural landscape and legal system, comprehending the operations of family courts requires a nuanced assessment. At its essence, the functioning of family courts is intertwined with broader societal dynamics, legal frameworks, and administrative

³ *Id.* at 7.

⁴ NILIMA DUTTA, *FAMILY COURTS* 7 (2d ed. 1992).

⁵ The Hindu Marriage Act, 1955, No. 25, Acts of Parliament, 1955 (India).

⁶ Mritunjai Rai, *The Family courts Act, 1984*, LAW CORNER (May 6, 2024, 10:18 AM), <https://lawcorner.in/family-court-act-1984-an-overview/>.

setups. The establishment of specialised family courts nationwide marked a notable departure from traditional judicial approaches, aiming to offer a specialised platform equipped to handle family matters sensitively and promptly. Nevertheless, achieving this objective depends on several factors, including the adequacy of infrastructure, the competence of judicial personnel, and the accessibility of legal services, which can vary across different regions.

Before the enactment of the Family Courts Act in 1984, family disputes were typically adjudicated by regular civil court judges, often leading to prolonged delays in providing relief to the involved parties. The overwhelming caseload of conventional courts, largely comprising civil matters, meant that family-related disputes received inadequate attention. Recognising this issue, the Law Commission highlighted the importance of distinguishing family disputes from common civil proceedings in its 59th Report of 1974. It advocated for reforms aimed at expediting the resolution of family disputes. In response to these concerns and to address the need for swift resolution with minimal expenses and formalities in marriage and family matters, the Parliament passed the Family Courts Act in 1984.

The primary aim of this legislation was to establish family courts throughout India. These specialised courts were intended to streamline the adjudication process for family disputes and encourage conciliation between the parties. The Family Courts Act, 1984, consists of six chapters and twenty-three sections, delineating the framework and procedures for the operation of family courts in India. This legislative measure sought to provide a dedicated platform for resolving family disputes efficiently and effectively, thereby easing the burden on regular civil courts and ensuring timely justice for families in distress. Matters addressed in family courts include nullity of marriage, restitution of conjugal rights, judicial separation, dissolution of marriage, declaration of matrimonial status, matrimonial property matters, maintenance, guardianship, custody of children, access to children, injunction applications in matrimonial matters, custody of children under the Hindu Minority and Guardianship Act 1956, and legitimacy of a child.⁷

2. OBJECTIVES OF THE STUDY

A study on the working of family courts in India aims to achieve several critical objectives. Firstly, it seeks to assess the efficiency and effectiveness of these specialized judicial bodies in handling a wide range of familial and matrimonial disputes, including issues related to marriage, divorce, guardianship, custody, and maintenance. The study aims to evaluate how well family courts facilitate timely and fair resolutions. Moreover, the study endeavors to understand the working of

⁷ Harshita Varshney, *Types of cases addressed in Family Courts*, IPLEADERS (May 11, 2024, 11:01 AM) <https://blog.ipleaders.in/types-cases-addressed-family-courts/>.

family courts through the provisions of the Family Courts Act of 1984. Finally, by identifying key challenges and areas for improvement, the study aims to contribute to ongoing discussions on reforms needed to enhance the efficacy of family courts in India.

3. RESEARCH METHODOLOGY

This study employs a doctrinal research to investigate the working of family courts in India. The doctrinal aspect involves a meticulous review and analysis of legal principles, statutes, and judicial precedents governing family court proceedings, including the Family Courts Act of 1984 and relevant case laws. This follows the constitutional and legislative mandates to elucidate the procedural frameworks and interpretative nuances influencing case outcomes in matters such as marriage, divorce, guardianship, custody, and maintenance. It also contains internet resources.

4. IMPORTANCE OF FAMILY COURTS IN INDIA

The advocacy for setting up family courts in India dates back to the initiatives of Late Smt. Durga Bhai Deshmukh, a renowned social worker from Maharashtra, who advocated for their implementation around 1953. Inspired by her observations during a visit to China, where she studied the functioning of family courts.⁸ She raised the issue upon her return to India. She engaged in discussions on this matter with esteemed figures such as Justice Bhagla and Justice Gajendra Gadkar. Despite their efforts, including a proposal presented to Prime Minister Pt. Jawaharlal Nehru, the idea did not materialise at that time. In the 1970s, the urgency for specialised courts to address family disputes resurfaced, particularly with the establishment of a committee tasked with evaluating the Status of Women in India. The resulting report, titled "Towards Equality," published in 1974, underscored the need for dedicated judicial mechanisms to handle family matters. It emphasised the significance of providing a supportive legal framework for resolving familial conflicts. It was supported by the Law Commission of India in its 59th report, published in 1974. The Commission recommended amendments to the Civil Procedure Code to facilitate the creation of family courts. Consequently, in 1976, amendments were introduced to the Civil Procedure Code, including the addition of a new section, order 32-A, aimed at facilitating the establishment of separate adjudication fora for family matters.

This historical trajectory highlights a gradual acknowledgment of the distinct nature of family disputes and the imperative for specialised judicial institutions to address them effectively. Family courts serve a critical role in providing timely and sensitive resolution of familial conflicts, thereby contributing to the well-

⁸ Amruta Patil, *Family Courts*, PREPP (May 11, 2024, 12:30 PM) <https://prepp.in/news/e-492-family-courts-indian-polity-notes>.

being and stability of families within the Indian legal framework. During the 1980s, a notable surge in women's movements in India catalysed significant legislative reforms aimed at addressing gender injustices. This period saw a series of enactments and amendments to existing statutes by the Parliament, including amendments to rape laws (Sec. 375 & 376 IPC), Sec 498–A, and 304–B. The enactment of the Act of 1984 was emblematic of this wave of legislative changes, which were prompted by mounting pressure from women's organisations on the government to promote gender justice.

The Act of 1984, represents a procedural statute designed to introduce a distinct and innovative framework for adjudicating family disputes. In the case of *K.A. Abdul Jaleel v. T.A. Shahida*,⁹ V.N. Khare CJ, S.B. Sinha J., and Dr. A.R. Lakshmanan J. highlighted the rationale behind the enactment, stating that the primary objective was to establish a specialised court system uniquely equipped to handle family disputes with an approach markedly different from that of ordinary civil proceedings.

The underlying ideology behind the Act was to establish adjudication spaces that are conducive to women's interests, ensuring that fundamental rights, especially those crucial for women's survival, are not overshadowed by legal technicalities and complexities. These courts were envisioned to operate distinctively from traditional civil and criminal courts, with an emphasis on creating a less daunting and more accessible environment, particularly for women from marginalised backgrounds. To achieve these objectives, there was a recognised need for a deliberate departure from conventional legal practices, including a reduced reliance on mainstream lawyers, and a greater emphasis on the involvement of counselors to facilitate parties in arriving at mutually agreeable solutions. This transition sought to cultivate a more nurturing and inclusive method of resolving disputes within the family court system, aligning with broader initiatives to advance gender equity in India's legal framework. Family courts were envisioned to alleviate tension and discord among family members, offering a conducive atmosphere where parties are not pitted against each other as adversaries.¹⁰

5. CONSTITUTIONAL AND LEGISLATIVE MANDATE

In India, the operational framework of family courts is principally derived from the Constitution of India, which delineates principles and directives pertinent to the administration of justice within the family courts as under:

- **Right to Equality (Article 14):** The Constitution of India assures equality before the law and equal protection of the laws to all individuals.¹¹ This mandates that family courts must treat all parties before them fairly and

⁹ *K.A. Abdul Jaleel v T.A. Shahida*, AIR 2003 SC 455 (India).

¹⁰ P.K. BANDHOPADHYAY, *FUNCTIONING OF FAMILY COURT IN RAJASTHAN* 5 (1992).

¹¹ INDIA CONST. art. 14.

without discrimination based on factors such as gender, religion, caste, or socioeconomic status.

- **Right to Life and Personal Liberty (Article 21):** Article 21 ensures the right to life and personal liberty, a provision that Indian courts have interpreted expansively to encompass the right to live with dignity. This mandates that family courts must consider the best interests of the individuals involved, particularly children, in matters such as custody and guardianship.¹²
- **Directive Principles of State Policy (Part IV):** While not enforceable by courts, the Directive Principles of State Policy provide guidelines for state action, including in matters related to family welfare, protection of children, and social justice. Family courts may take these principles into consideration while adjudicating disputes and making decisions.
- **Protection of Women and Children (Article 15(3) and Article 39(f)):** The Constitution contains provisions aimed at protecting the rights of women and children, including affirmative action measures to promote their welfare. Family courts are tasked with upholding these protections, particularly in cases involving domestic violence, dowry harassment, etc.¹³
- **Freedom of Religion (Articles 25-28):** The Constitution assures the freedom of religion to all individuals, which may be relevant in cases involving inter-faith marriages, conversion, or issues related to personal laws governed by religious customs.¹⁴
- **Separation of Powers (Article 50):** The Constitution mandates the separation of powers between the judiciary, executive, and legislature. Family courts operate within this framework, exercising judicial authority independently of other branches of government.¹⁵

The legal framework for family courts in India primarily originates from the Family Courts Act, 1984. Enacted by the Parliament of India, this Act aims to facilitate the establishment of family courts with the goal of encouraging conciliation and ensuring prompt resolution of disputes concerning marriage and family matters. Key provisions of the Family Courts Act, 1984, include:

- **Establishment of Family Courts:** The Act grants state governments the authority to establish family courts in collaboration with the High Court within their respective jurisdictions. These courts are specifically designated to handle disputes related to marriage, divorce, custody of children, maintenance, etc.
- **Scope of Jurisdiction:** Family courts possess authority over a diverse array of family-related issues, including matrimonial disputes, domestic violence

¹² *Id.* at 21.

¹³ *Id.* at 15, cl. 3 & 39, cl. f.

¹⁴ *Id.* at 25-28.

¹⁵ *Id.* at 50.

cases, adoption, and matters relating to maintenance and guardianship of children.

- **Conciliation Proceedings:** The Act endeavours to promote reconciliation and amicable settlement of disputes. It mandates that family courts make efforts to promote reconciliation and settle disputes through conciliation proceedings before adjudicating on contentious issues.
- **Appointment of Judges:** The Act specifies the qualifications and eligibility criteria for judges presiding over family courts. It also allows for the appointment of auxiliary personnel, such as counsellors and experts, to assist the court in its functions.
- **Procedure and Powers:** The Act outlines the procedure to be followed by family courts, including rules related to pleadings, evidence, and interim orders. Family courts are endowed with equivalent powers as those vested in a civil court under the Code of Civil Procedure, 1908, for the purpose of summoning witnesses, examining evidence, and enforcing orders.
- **Confidentiality:** The Act ensures the confidentiality of proceedings conducted before family courts to ensure the confidentiality and dignity of the parties involved.¹⁶
- **Appeals:** The Act grants the right to appeal against the decisions of family courts to the respective High Court within whose jurisdiction the family court is located. The statutory mandate of family courts in India, as outlined by the Act of 1984, is to provide a specialised forum for the resolution of family disputes in a manner that is sensitive, expeditious, and conducive to the preservation of family harmony.

The landmark cases which have significantly influenced family law in India, setting important precedents and guiding principles for family-related disputes are as mentioned below:

In *Mohd. Ahmed Khan v. Shah Bano Begum*¹⁷ case, which precipitated the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986, the principle of providing maintenance for divorced Muslim women beyond the iddat period was established.

The *S.R. Batra v. Taruna Batra*¹⁸ case affirmed the wife's equal share in her husband's property, regardless of when the property was acquired, strengthening women's property rights in marriage.

¹⁶ Abhitennis, *The Family Court*, LEGAL SERVICE INDIA (May 26, 2024, 11:20 AM), <https://legalserviceindia.com/legal/article-8231-the-family-court.html>.

¹⁷ *Mohd. Ahmed Khan v Shah Bano Begum*, AIR 1985 SC 945 (India).

¹⁸ *S.R. Batra v Taruna Batra*, AIR 2007 SC 1118 (India).

In *Githa Hariharan v. Reserve Bank of India*¹⁹ case established the equal right of a mother to guardianship of her child, challenging traditional gender roles and recognising the importance of maternal care in child custody matters.

In *Indra Sarma v. V.K.V. Sarma*²⁰, the concept of irretrievable breakdown of marriage was recognised, this case allowed divorce on the grounds of unconciliable differences, providing relief to couples in dysfunctional marriages.

These cases have not only shaped family law jurisprudence but also contributed to societal progress by promoting gender equality, safeguarding women's rights, and fostering a more inclusive and just legal framework for family matters in India. The central aim of the Family Court is to facilitate the prompt adjudication and resolution of family cases, catering to the requirements of the involved parties in a timely fashion. Additionally, it strives to promote conciliation and mediation in disputes concerning marriage and family affairs, advocating for peaceful settlements and the preservation of familial bonds. Another pivotal goal is to protect and uphold family connections by addressing disputes in a manner that preserves the cohesion and unity of the family structure. Moreover, it endeavors to resolve family issues expeditiously, minimising prolonged legal conflicts and facilitating the swift conclusion of disputes.

6. ESTABLISHMENT OF THE FAMILY COURTS

As per Section 3 of the Act of 1984, the establishment of family courts is mandated by the state government in regions with a population exceeding one million or as deemed essential by the state government in collaboration with the High Court to facilitate the resolution of disputes concerning marriage and family matters.²¹ In regions with smaller populations, the establishment of Family Courts is at the discretion of the State Government, depending on their evaluation of necessity. These courts are designed to encourage reconciliation and ensure prompt settlement of such disputes.

The 14th Finance Commission recommended the establishment of 235 Family Courts between 2015 and 2020 in districts lacking such facilities. Additionally, it encouraged State Governments to utilise increased fiscal resources resulting from tax devolution (from 32% to 42%) for this purpose. As of February 2024, there are 819 operational Family Courts nationwide, aiding in the resolution of familial and matrimonial disputes.²²

¹⁹ *Githa Hariharan v Reserve Bank of India*, AIR 1999 SC 1149 (India).

²⁰ *Indra Sarma v V.K.V. Sarma*, AIR 2014 SC 309 (India).

²¹ Department of Justice, *family court*, MINISTRY OF LAW AND JUSTICE (May 26, 2024, 10:55 AM), <https://doj.gov.in/family-court/>.

²² Shalini Kumari, *The Role of Family Courts in India*, AISHWARYA SANDEEP (May 27, 2024, 3:02 PM), <https://aishwaryasandeep.in/the-role-of-family-courts-in-india/>.

7. APPOINTMENT OF JUDGES

Section 4 of the Act, 1984 grants authority to the state government to appoint one or more individuals as judges of the family court, with the requirement of consultation with the High Court.

Judges of the Family Court must meet the following qualifications:

- Minimum seven years of experience in a judicial office, tribunal, or specialised legal position.
- Seven years of practice as an advocate in High Courts or multiple courts of succession.
- Qualifications are set by the Central government after consultation with the CJI.
- Age limit of not exceeding sixty-two years.

8. FUNCTIONING OF FAMILY COURTS IN INDIA

- **Judicial Powers:** these courts are considered to be civil courts and are vested with the authority of such courts.
- According to Section 7 of the Act, family courts are endowed with equivalent powers and jurisdiction as District Courts or Subordinate Civil Courts in their suits and proceedings. Moreover, Section 7(2) empowers family courts to exercise jurisdiction similar to that of a Magistrate of the First Class under Chapter IX of the Code of Criminal Procedure, 1973, and any other jurisdiction conferred by law.
- **Application of CPC:** Section 10(1) of the Act of 1984 mandates the application of the provisions of the Code of Civil Procedure, 1908, in suits or proceedings before it.
- **Special Provision under Chapter 9 of CPC:** Section 10(2) specifies the application of CPC provisions, particularly those under Chapter 9, to proceedings of the family court.
- **Flexible Procedure:** Section 10(3) grants it the authority to establish its own procedure, tailored to the suit or proceeding, with the aim of facilitating settlement between parties.
- **In Camera Proceedings:** Section 11 allows the proceedings to be held in camera, either at the court's discretion or upon the request of the parties. This ensures privacy and confidentiality, especially in sensitive family matters.
- **Simplified Evidence Recording:** Family courts operate with less formality, recording only relevant evidence. Lengthy witness testimonies are avoided unless directly pertinent to the case.
- **Admissibility of Reports and Documents:** Section 14 permits the admission of reports, statements, or documents of the case under the Indian Evidence Act, 1872.

- Summary of Evidence: Section 15 stipulates that it isn't mandatory to record the entirety of a witness's evidence; only relevant portions pertaining to the suit need be recorded and signed by both the judge and the witness.
- The judgment must include a concise statement of the case, the issues for determination, the decision reached, and the reasons behind the decision.
- An appeal against a judgment can be filed in the High Court within 30 days from the date of the judgment. These procedural aspects ensure the active functioning and facilitate the resolution of family disputes in a fair, efficient, and expedient manner.

9. DUTY OF FAMILY COURT

- Reconciliation Efforts: Section 9 outlines duty of the court to make efforts to promote resolution of differences between the parties. This includes encouraging settlement agreements and adjourning proceedings if there exists a likelihood of settlement.
- Personal Appearance: Parties are required to appear in person before the court and are not entitled to be represented by legal practitioners.
- Recording of Evidence: The court records witness depositions, which are signed and form part of the official record. The court may also summon and examine persons regarding the facts contained in affidavits.

10. CHALLENGES

The labyrinthine nature of family disputes presents unique challenges to the efficacious functioning of these courts. From navigating complex legal statutes to addressing deeply entrenched societal norms and prejudices, family court judges are tasked with delicately balancing legal principles with the intricacies of human relationships. Moreover, the backlog of cases, procedural delays, and the financial burden of litigation further exacerbate the challenges faced by litigants, particularly those from marginalised socio-economic backgrounds.

The functioning of these courts presents various challenges and complexities that impact access to justice, fairness, and efficiency within the legal system. Procedural delays, case backlog, and systemic barriers hinder equitable access to family court services, particularly for marginalised individuals such as women, children, and socio-economically disadvantaged groups. Gender bias and discrimination persist within the court proceedings, affecting decision-making and exacerbating disparities in outcomes. Moreover, the effectiveness of ADR mechanisms, such as conciliation or mediation in resolving family disputes remains subject to scrutiny. Additionally, the implications of recent legal reforms and policy initiatives on family court operations and outcomes warrant thorough examination to identify the existing gaps. Therefore, the overarching research problem revolves around understanding and addressing these challenges to boost

the functioning of family courts in India and promote fairness for all individuals within the domestic sphere.

The functioning of family courts in India faces a multitude of challenges, stemming from various systemic, procedural, and societal factors. Here are some of the challenges:

- **Backlog of Cases:** The most significant challenges plaguing family courts in India is the staggering backlog of cases. Due to factors such as procedural delays, understaffing, and resource constraints, cases often remain pending for years, causing undue hardship to litigants and undermining the efficacy of the judicial system.
- **Procedural Delays:** Lengthy and cumbersome legal procedures contribute to delays in the resolution of family disputes. Complex legal formalities, repeated adjournments, and the time-consuming nature of evidence gathering and witness testimonies further prolong the litigation process, impeding timely justice delivery.
- **Resource Constraints:** Family courts often grapple with inadequate infrastructure, insufficient staffing, and limited financial resources, hindering their capacity to efficiently handle the volume of cases. This leads to overcrowded court dockets, overburdened judicial officers, and inadequate support services, exacerbating delays and impairing the quality of adjudication.
- **Socio-cultural Dynamics:** India's diverse socio-cultural landscape poses unique challenges to the functioning of family courts. Deeply entrenched social norms, patriarchal attitudes, and traditional family structures can influence judicial decision-making, exacerbate gender bias, and impede access to justice, particularly for marginalised communities and vulnerable groups.
- **Lack of Legal Awareness:** Many litigants, especially from disadvantaged backgrounds, lack awareness of their legal rights and the procedural intricacies of the judicial system. This results in inadequate representation, uninformed decision-making, and unequal access to justice, perpetuating a cycle of legal vulnerability and disenfranchisement.
- **Mediation and ADR Challenges:** While mediation and ADR mechanisms are promoted as means to alleviate court congestion and foster amicable resolution of disputes, their effective implementation faces challenges. These include a lack of trained mediators, cultural resistance to out-of-court settlements, and unequal bargaining power between parties.
- **Enforcement of Orders:** Even after obtaining favorable judgments, litigants often encounter difficulties in enforcing court orders, particularly regarding maintenance, child custody, and property division. Inadequate mechanisms for monitoring compliance and enforcing judgments undermine the efficacy of family court decisions and erode public trust in the judicial system.

Addressing these challenges requires concerted efforts by policymakers, legal practitioners, civil society organisations, and other stakeholders. Comprehensive reforms aimed at enhancing judicial infrastructure, streamlining procedures, promoting legal literacy, strengthening ADR mechanisms, and addressing socio-cultural biases are imperative to improve the functioning of family courts and ensure equitable justice for all segments of society.

11. CONCLUSION AND SUGGESTIONS

Family court is a mixture of inquisitorial system, adversarial system and participatory form of grievance redressal.²³ The main purpose behind the establishment of family court is to assist the smooth and effective functioning of the court and speedy disposal of the cases relating to family matters. This research proposal delves into the functioning of family courts in India, scrutinising their adherence to both constitutional principles and legislative mandates. Through a inclusive analysis of the constitutional framework and pertinent legislation, the study aims to shed light on the efficacy and challenges faced by these courts in dispensing justice within the realm of family law. Examining the relevant statutes such as the Family Courts Act, 1984, and subsequent amendments, this research seeks to ascertain the extent to which legislative provisions align with constitutional principles and whether they effectively address the evolving needs of families in contemporary Indian society. By identifying lacunae in the existing framework and proposing potential reforms, this research endeavors to contribute to the enhancement of family court functioning and the realisation of constitutional ideals pertaining to justice and equality.

Boosting the legal aid services will bridge the gap in access to justice, particularly for marginalised individuals such as women and children, by providing essential legal support and representation. Additionally, the widespread integration of technology within court proceedings is anticipated to streamline processes, enhance transparency, and ultimately alleviate procedural delays. Moreover, prioritising child-centric approaches in custody and guardianship matters is expected to yield positive outcomes for children, ensuring their emotional well-being and stable living arrangements. Gender-responsive justice practices hold promise in mitigating gender bias and discrimination, thereby advancing gender equality within familial disputes. Strengthening alternative dispute resolution mechanisms is hypothesised to foster amicable settlements, reducing litigation burdens and promoting family harmony. Lastly, legal reforms aimed at safeguarding vulnerable populations are anticipated to yield improved outcomes, providing marginalised litigants with enhanced safety, security, and access to vital support services. Through these hypotheses, the study seeks to shed light on avenues for enhancing the effectiveness, fairness, and inclusivity of family court proceedings in India. The functioning of family courts

²³ Romilla Jaidev Shroff v Jaidev Rajnikant Shroff, AIR 2000 BOM 356 (India).

in India is marked by a complex interplay of systemic challenges, societal dynamics, and procedural complexities. While these courts serve as crucial institutions for resolving familial disputes and upholding the rights of individuals within family structures, they are beset by a myriad of obstacles that impede their effectiveness and hinder access to justice.

The persistent backlog of cases, procedural delays, resource constraints, and socio-cultural biases present formidable hurdles to the expeditious and equitable resolution of family disputes. These challenges not only undermine the confidence of litigants in the judicial system but also perpetuate injustices, particularly for marginalised communities and vulnerable groups. However, amidst these challenges lie opportunities for reform and innovation. Efforts to enhance judicial infrastructure, streamline procedures, promote legal awareness, and strengthen alternative dispute resolution mechanisms hold the promise of transforming the landscape of family court administration in India. By embracing a holistic approach that addresses both systemic deficiencies and socio-cultural barriers, stakeholders can strive towards a more accessible, efficient, and responsive family court system that upholds the principles of justice, equality, and familial harmony. In the pursuit of this vision, collaboration and dialogue among policymakers, legal professionals, civil society organisations, and the broader community are indispensable. By harnessing collective expertise, resources, and commitment, it is possible to chart a path towards a future where family courts in India serve as beacons of justice, compassion, and empowerment for all individuals navigating the complexities of familial relationships.

REFERENCES:

Statutes

- The Family Courts Act, 1984, No. 66, Acts of Parliament, 1984 (India).
- The Hindu Marriage Act, 1955, No. 25, Acts of Parliament, 1955 (India).
- The Constitution of India, 1950.

Books

- PARAS DIWAN, MODERN HINDU LAW (23rd ed., 2016).
- NILIMA DUTTA, FAMILY COURTS 7 (1992).
- P.K. BANDHOPADHYAY, FUNCTIONING OF FAMILY COURT IN RAJASTHAN 5 (1992).

Case laws

- K.A. Abdul Jaleel v T.A. Shahida, AIR 2003 SC 455 (India).
- Mohd. Ahmed Khan v Shah Bano Begum, AIR 1985 SC 945 (India).
- S.R. Batra v Taruna Batra, AIR 2007 SC 1118 (India).
- Githa Hariharan v Reserve Bank of India, AIR 1999 SC 1149 (India).
- Indra Sarma v V.K.V. Sarma, AIR 2014 SC 309 (India).

- Romilla Jaidev Shroff v Jaidev Rajnikant Shroff, AIR 2000 BOM 356 (India).

Websites

- Mritunjai Rai, *The Family courts Act, 1984*, LAW CORNER (May 6, 2024, 10:18 AM), <https://lawcorner.in/family-court-act-1984-an-overview/>.
- Harshita Varshney, *Types of cases addressed in Family Courts*, IPLEADERS (May 11, 2024, 11:01 AM) <https://blog.ipleaders.in/types-cases-addressed-family-courts/>.
- Amruta Patil, *Family Courts*, PREPP (May 11, 2024, 12:30 PM) <https://prepp.in/news/e-492-family-courts-indian-polity-notes>.
- Abhitennis, *The Family Court*, LEGAL SERVICE INDIA (May 26, 2024, 11:20 AM), <https://legalserviceindia.com/legal/article-8231-the-family-court.html>.
- Department of Justice, *Family Court*, MINISTRY OF LAW AND JUSTICE (May 26, 2024, 10:55 AM), <https://doj.gov.in/family-court/>.
- Shalini Kumari, *The Role of Family Courts in India*, AISHWARYA SANDEEP (May 27, 2024, 3:02 PM), <https://aishwaryasandeep.in/the-role-of-family-courts-in-india/>.