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MARITAL MEDIATION – TO RESTORE A CONJUGAL LIFE.

AUTHORED BY - URBEE GHOSH

Abstract

In Indian culture, marriage is a common practice. No longer is it assumed that marriage is an inevitable commitment. Any family conflict could be settled via mediation, which not only releases time for the judiciary but also can settle disputes expeditiously. When effectively utilized and widely publicized, mediation offers advantageous outcomes. For instance, between 2015 and 2021, the Family Court, Tis Hazari Courts, in Delhi, assigned a total of 109,869 cases to mediation; 95,102 of those cases were ultimately handled satisfactorily, giving the court an overall success percentage of 86.56 percent. Disputes between families can bring significant barriers in the future, so it is inevitable to address the concerns to settle meticulously. Children born out of such wedlock face major challenges as a result of their parents' pointless conflicts, which often end in a legal battle. To resolve matrimonial challenges, a unique approach is needed. Relationship issues primarily cause due to high expectations, insecurity, etc. Family or personal issues are deemed to be sensitive and subjected to volatility. This article aims to advocate mediation as an evolving replacement for litigation in resolving marital and family disputes.

Keywords: Disputes, Mediator, Mediation, Marriage, Relationship.

INTRODUCTION

“A happy family is but an earlier heaven.” –George Bernard Shaw¹

A third person who intervenes in a conflict between two parties is the mediator. Marriage is a ritual where both parties share an adorable relationship. In comparison to, a statutory requirement, marriage is a social event. Marriage, especially (Hindu Marriage), has a vital aspect of patience, adaptation, and mutual connection, which enhances a happy marital life. Humans think in a bit complicated manner. Conflicts are caused by this negligible deviation. Problems arise from

¹Quotes Investigator, <https://quoteinvestigator.com/2021/09/19/family-heaven/#:>. (05.09.22)

controversy. Disputes construct when disagreements remain unresolved. A family is a tiny entity that is frequently the hub for conflict to arise, mostly resulting in separation and breakup. According to Herbert Jacob, *In the early nineteenth century, the status of women was inferior in comparison to their spouses. A woman had to give up her maiden name after marriage instead adopt her husband's name. Her new title served as a symbol of overall subordination to her spouse. Law and custom both were supposed to maintain her equilibrium with her husband. In exchange, wives were supposed to take care of the home and gratify their husbands' sexual desires. Last but not least, even if they brought the property into the marriage, women back then had no authority over it.*² Hinduism portrays marriage as a holy union and a divine covenant for procreation and the maintenance of the family line. Marriage is required because single men are unable to participate in some significant religious ceremonies. Divorce was unheard of in Hindu shastras, where marriage was a lifelong commitment, and the wife regarded her husband as a supreme being. While there are related human relationships involved, marriage problems are distinct from other forms of discord.³ These factors include feelings, societal obligations, motivation, individual liabilities and duties of the parties, etc. However, the security for a future life as well as the points of view of both the spouse in general and the institution of marriage in particular are of the utmost importance. Mediation is currently a generally accepted method of resolving problems with marital issues. Subsequently, the mediator maintains a free flow of communication between the parties while mediating an interpersonal dispute so that they may both could discuss their misunderstandings and reach a solution with a mediator's guidance. Therefore, putting everything else aside, a mediator needs to be a good listener with patience. In a situation when both parties lose their temper, the mediator should keep patience throughout.⁴ A mediator must have particular expertise and training in matrimonial laws, He needs to be competent at managing the compromise idea to head the mediation session more successfully.

HISTORICAL BACKGROUND

The ancient world is where mediation first emerged. At least three thousand years ago, mediation has been followed by various cultures as an avenue for resolving conflicts.⁵ It takes a trip through

² Int. Conf. SOCIETY. HEALTH. WELFARE, SHS Web of Conferences 30, DOI: 00018: 10.1051/ shs conf /20163000018, 2014.

³ Indira Sharma, Balram Pandit, et al. *Hinduism, marriage, and mental illness*, 55(Suppl 2), National Library of Medicine (NLM); S243–S249 January, (2013).

⁴ James A. Wall, Jr., and Ann Lynn, *Mediation: A Current Review*, Vol. 37, No. 1, The Journal of Conflict Resolution (JCR), pp. 160-194, (1993).

⁵ Surbhi Soni and Ruchika Sharma, “*Mediation in Matrimonial Dispute – Indian Perspective*” IJLMH | Volume 1, Issue 5 | ISSN: 2581-5369, (2018).

culture, comprehension, translation, battle, and peace to comprehend their native history. It is important to note that mediation is a rapidly developing process, which makes it ready to be institutionalized and legitimized as a regular part of the legal framework. Mediation in the context of divorce started developing in the middle of the 1970s with more people seeking the dissolution of marriage and finding the legal process particularly inconvenient.⁶ California invented divorce mediation in the United States of America. Following this, marriage conciliation and mediation constitute judicial services in the world. Based on the work of O.J. Coogler, an Atlanta attorney who designed the mediation process so that it could be repeated and taught, a private market for divorce mediation developed across the USA. As a result, by the end of the 1980s, marriage-related mediation and conciliation had become widespread throughout the United States. The method can also be used in many other contexts for resolving disputes besides divorce and familial issues, and the fundamental aspects of it persist.⁷

As a result, in California mediation is applied in common parlance. Following that, courts around the world played a crucial role by requiring mediation, especially for child custody because it has a significant impact on the psychology of children. As a result, mediation was initially utilized to settle family disagreements because it was appropriate for the circumstances at the time. However, in today's world, the author, that only needs to be escalated, and California's practice supports the premise that family disagreements can be settled through mediation. Family and divorce mediation began from a broad spectrum of areas, including labour mediation, counseling, negotiation, law, anthropology, social psychology, and education. To support the development of this fledgling profession, the Family Mediator Academy was established in 1981 by a diverse group of Mediators, including mental health professionals, attorneys, academics, and business people.⁸

E.g., During the 1940s in India, family or matrimonial disputes were brought by the villages to the panchayet head or Sarpanch who then become the mediator and try to settle down the conflicts. But in due course, it is found that mediation is cheaper and expeditious.

⁶ Trina Grillo, "The Mediation Alternative: Process Dangers for Women", Vol. 100, No. 6, The Yale Law Journal (YLJ), pp. 1545-1610, (1991).

⁷ Int. Conf. SOCIETY. HEALTH. WELFARE, SHS Web of Conferences 30, DOI: 00018: 10.1051/shs conf /20163000018, 2014.

FAMILY AND MATRIMONIAL DISPUTES IN INDIA

Marriage is one of the fundamental aspects to create a divine and civilized society. The idea of marriage was first introduced as a sacrament in prehistoric times. As a sacrament, marriage is inevitably suggested as a sacred, eternal, and inseparable relationship. Every Hindu is required to marry, making it a mandatory samskara. It was viewed as being especially important for having children.⁹ Therefore, a marriage dissolution has serious effects on a family and necessitates more modification of relationships, fundamentally breaking the peace and harmony of the family. Today, instead of engaging in a prolonged legal struggle, our laws and the courts encourage spouses involved in marriage issues to try to fathom amicably. Furthermore, mediation is a method of dispute resolution in which a neutral unbiased third party, nominated by the parties or by the court, assists in reaching a mutually agreeable and harmonious arrangement. By Section 16 of the Civil Procedure Alternative Dispute Resolution and Mediation Rules, 2006, a mediator's job is to facilitate parties' voluntary dispute resolution, convey one party's viewpoint to the other, play a role in identifying issues, minimize misunderstandings, establish priorities, and look for areas of compromise.¹⁰

Different steps to achieve mediation on marital or family disputes are:

Preparatory measures: The mediator meets the party first and informs them about the pros and cons of the mediation. In addition, the mediator will explain any doubt arising out of it. This step can be taken over the phone; it is not necessary to speak to each other in person.

Background: The mediator in the above instance should present the opening statements and explain his objectives being a mediator. The mediator will then look into whether or not both parties are in a state to mediate or settle among themselves.¹¹ If both parties agree, the mediator goes for mediation. If the parties choose not to submit the matter for mediation, the Court will impose some number of penalties on them.

Facts and issues: Both parties will be allowed by the mediator to discuss their problems in their initial opening remarks. The purpose of doing this is to have a better knowledge of the scenario at hand.¹²

⁹ Harsimran Kaur Bedi, “*The Concept of Marriage Under Hindu Law and Its Changing Dimensions*”, *ILI Law Review*, Winter Issue, pp. 103-132, (2022).

¹⁰ Mediation Rules, 2021, Bill No. XLIII of 2021.

¹¹ Steven Morrison, *How to Meditate: A Step-by-Step Guide?* Ideal Life Institute, (2023).

¹² Steven Morrison, *How to Meditate: A Step-by-Step Guide?* Ideal Life Institute, (2023).

Exchange of views: Now, the mediator will inquire the parties for more specific details that are relatable to this dispute. The mediator will also choose which should be the exact point of the issue.

Mutual discussion: Anyone involved gets a chance to discuss their concerns in private with the mediator after the combined formal hearing of the issues thereafter, with their legal representatives, if they wish to. It is a crucial stage that serves to get the parties ready for negotiation.

Negotiation: The problem will be cleared by the mediator, and the parties continue to negotiate until they settle. The situation will be brought before the court if negotiations are futile.

Award: When the agreement's terms are set, both sides will meet again. The parties would get verbal affirmation from the mediator about the settlement, which they can record and sign. The agreement is legally binding in a court of law. The mediator concludes by praising the parties for their involvement and cooperation during the course of the mediation.¹³

WOMAN COURTS – A PLATFORM FOR MARITAL DISPUTE

The literature on "legal pluralism" or "alternative dispute resolution (ADR)" in India devotes barely any emphasis to the recent growth of what is a "women's court" across the country. The objective is to prevent matrimonial litigation and work toward the reconciliation of the couple who is the party to the suit and the preservation of their family.¹⁴ This can be achieved by persuading the parties to accept an amicable resolution to their disputes, which typically includes pledges from both sides to stop acting in ways that have previously led to conflict. Many different titles, like Mahila (or nari) Adalat (women's court), mahila mandal (women's circle), Mahila panchayat (women's council), Mahila Manch (women's platform), Nari Nyaya Samiti (women's justice committee), and others., are given to these organizations in local languages.

¹³ Steven Morrison, *How to Meditate: A Step-by-Step Guide?* Ideal Life Institute, (2023).

¹⁴ Sreeparna Chakrabarty, " *Coming, women-only courts for alternative dispute resolution* ", Updated July 09, 2023, 11:04 am IST, 2023, available at: <https://www.thehindu.com/news/national/coming-women-only-courts-for-alternative-dispute-resolution/article67053956.ece>, (last visited on 10th August 2023).

The Government of India started establishing specialized courts to hear specific types of cases and encouraged the resolution of conflicts through the use of procedures outlined in the Arbitration Act, 1940 a product of the colonial era. Additionally, it made an effort to refashion or resuscitate traditional methods of conflict settlement. As a result, a system of judicial councils, also known as Nyaya panchayats, was implemented in the late 1950s.¹⁵ Although it was stated that these councils were based on existing rural communities or caste panchayats, they were quite different from the latter.

The said court is discovered specifically for women. But, the majority of women who experience domestic violence and other types of marital conflict still do not seek help from the government and never even consider doing so. Under legal diversity or informal law, it is commonly explored how the traditional dispute resolution mechanism or the state-sponsored Alternative Dispute Resolution (ADR) system operates to address the marital and associated family issues that women face. This is correctly referred to as "unofficial law" because these alternative mechanisms do not try to enforce the laws prohibiting domestic abuse, among other things, but instead use persuasion to reconcile estranged husband and wife and encourage them to adhere to patriarchy-inspired social norms that dictate men should play the instrumental role and women should play the expressive role.¹⁶

The establishment of a women-centric court categorically was first proposed in the year 1997. The Family Courts Act of 1984 (Chapter IV9(1)) specifically directs these courts to assist parties in settling to avoid having to bring their case to a judge. Almost two decades are over, but changes are indolent. Mainly because courts are overburdened with cases. Subsequently, women, these days are more tilted towards mutually ending up a relationship rather than instituting a suit, until the situation is worst.¹⁷ Thus, the foundation of women's courts that are certified/ assigned to deal with matrimonial disputes and act as an alternative dispute resolution will allow speedy disposal of marital conflicts.

¹⁵ Anshul Parashar, "Development Of Alternate Dispute Resolution", Legal Vidhya, available at: <https://legalvidhiya.com/development-of-alternate-dispute-resolutiondevelopment-of-alternate-dispute-resolutiondevelopment-of-alternate-dispute-resolution/>, (last visited on: 08th August 2023).

¹⁶ Sylvia Vatuk, "The "women's court" in India: an alternative dispute resolution body for women in distress", Taylor & Francis Online, Volume 45, 2013 - Issue 1, pp. 76-103, (2013).

¹⁷ Navya Mallela, "Alternative Dispute Resolution In Family Disputes", available at: <https://www.thelawgurukul.com/post/alternative-dispute-resolution-in-family-disputes>, (last visited on 05th August.

LEGAL FRAMEWORK

According to the NCRB report, cruelty by spouses or their relatives (Section 498A IPC), which is the core of matrimonial disputes, will account for 1,11,549 new cases reported and 1,12,292 victims by 2020, representing a 17% crime rate per lakh population in India.¹⁸ Section 89 (CPC) of the Code of Civil Procedure was added in 2002 to include mediation. When issues occurred between the couple after the birth of a girl child. In *Mushtaq Ahmad v. State* filed a case of divorce against the husband along with an FIR under Section 498-A of the IPC. Everything was settled amicably after the Karnataka High Court requested mediation. The wife decided to revoke the FIR she had filed, and the court granted it in the course of exercising its inherent authority to uphold the interests of justice.¹⁹ Family law is a highly distinct area of law, on its own. Family law disputes must be handled cautiously. In several family disputes, including child custody, marital discord, and money difficulties, mediation is beneficial. Due to a shortage of conciliators or mediators who may focus on the fundamental issue, minor issues become so insignificant. Large-scale marital issues arise as a result of their lives. Simple family law knowledge is insufficient to resolve a family conflict. Such matrimonial issues should be resolved using the law, sociology, and psychology. The goal of the legislation ought to be to promote marriage and marital relationships rather than to undermine them. The institution of marriage promotes society adequately. Without the institution of marriage, society would cease to exist. The institution of marriage reproduces over generations. In India, there exist laws governing the mediation or restoration of marital ties.

Section 23 (2) [Hindu Marriage Act, 1955]²⁰

The parties must be sent to the mediator whenever there is still a possibility for reconciliation in case the marriage survives. They should be allowed to communicate with another while a mediator is present. It is challenging to keep the peace during a mediation session. When there is a significant separation in a relationship, people lose emotional control, which causes their buried feelings to come to the surface.

¹⁸ Crime Against Women 2020- National Crime Records Bureau (NCRB) available at: <https://ncrb.gov.in/>. last visited on (10.09.2022)

¹⁹ Aviva Jogani, *Mediation of matrimonial disputes in India* (2018).

²⁰ Section 23 (2) Hindu Marriage Act 1955, ACT NO. 25 OF 1955.

Section 498A²¹

Every exhausting sorrow in married life has a dark side. India is a predominantly masculine nation. Women throughout the nation always conceal their torture to erase criticism from society. No matter what, women are blamed for any problems involving marriage issues. Women naturally resent speaking up in public. The offspring of such unions suffer from mental exhaustion. When a situation arises, an objective observer standing outside a closed door is crucial for reading the victims' minds. To talk from the heart, one must be aware of their emotional stability and comfort their spirit. Therefore, it might not affect the marriage but might tone down the severity. It might essentially be a mutual split where both parties commit to caring for their dependents and ending their marriage amicably. In a case called **Aviral Bhatla vs. Bhavana Bhatla** that just happened.²² The Delhi High Court's mediation center effectively assisted the parties in settling, and the Supreme Court affirmed the decision to settle the issue through mediation.²³

However, there is still a clause that states that family and matrimonial problems must be settled through mediation. It is not sufficiently regulated. Instead of assisting them in reconciling if there is a chance, they consult an advocate who typically demands a large fee in return. As a result, mediation needs to be implemented fully right away. This will lessen the weight of court lawsuits in terms of time and money savings as well as the emotional state of any parties involved in such disputes.

For example: In a recent judgment by Supreme Court, **K. Srinivas Rao vs D.A. Deepa**²⁴ Many families may be spared misery if all mediation centers establish pre-litigation desks/clinics and marriage issues are taken up for pre-litigation settlement, even if only part of them are. The court also ruled that disputes must be submitted to mediation centers at the earliest opportunity, or when they are heard by the Family Court or the court of first instance. The majority of matrimonial problems, particularly those involving child custody, support, etc., are well suited for mediation.

ROLE OF JUDICIARY

"Mediation" is an adequate replacement method for resolving matrimonial issues, that is how they encourage the parties to consider mediation as a possible way of resolving the differences.

²¹ Section 498A IPC, 1860 ACT NO. 45 OF 1860.

²² ALL SC 2009 February.

²³ Advocatanmoy Law Library.

Unresolved Marriage disputes sometimes stem from an insignificant issue that can be solved quickly. Thus, some concerned landmark judgments to be summarized as:

In, *K. Srinivas Rao vs D.A. Deepa*²⁵, The Apex Court acknowledged "mediation" as an effective tool for resolving disagreements in marriage cases through alternative conflict resolution, and it ordered all mediation facilities to set up pre-litigation desks or clinics and try to resolve matrimonial problems before they go to court. Furthermore, the Court directed all mediation centers to establish pre-litigation desks or clinics and work to resolve marriage problems before going to trial. In marital skepticism, the misunderstanding is the basic reason that is frequently insignificant and accessible to resolution. The practice of mediation as an alternative dispute resolution approach is now recognized by the law. Numerous matrimonial problems have been sent to mediation institutes by us. According to our experience, the Court resolves 10% to 15% of matrimonial problems through various mediation programs. It is believed that the dispute should be sent to mediation centers at the earliest opportunity, or when it is heard by the Family Court or the court of first instance. Matrimonial problems, especially those involving child custody, support, etc., are ideally suited for mediation. The Family Courts should refer the parties to mediation institutes where trained mediators are appointed to arbitrate between the parties even if the counselors' efforts are futile. They have achieved good results since they have mediation expertise. Pre-litigation mediation is also acquiring the throne. To conduct pre-litigation mediation, several mediation institutions have established "Help Desks" at popular spots such as facilitation centers at court complexes. A lot of marriage-related disputes are reportedly resolved at Delhi Government Mediation and Conciliation Centres and Delhi High Court Mediation Centre. Pre-litigation mediation is successful in these centres regularly. Many families will be spared misery if all mediation facilities establish pre-litigation desks/clinics with adequate publicity and take on marriage issues for prelitigation settlement, even if only some of them are. Even though a violation of Section 498-A of the IPC is not compoundable, the criminal court should instruct the parties to consider mediation if they are prepared to do so and if it appears to the court that there are components of a settlement. This is not done to weaken the strictness, effectiveness, or intent of Section 498-A IPC, but rather to identify situations in which a marriage dispute can be resolved lawfully. The Judges must make sure that this exercise does not result in the erring spouse adopting mediation as a means of evading the reach of the law. The parties have the option of ending their relationship on mutually acceptable terms via mediation or making up and staying together. the parties could consider the possibility of resolving their differences through mediation in

²⁵ 2013 SCC CIV 2 775.

matrimonial disputes since mediation "is an effective method of alternative dispute resolution in matrimonial matters." All mediation centres must establish pre-litigation desks or clinics, promote them widely, and work to resolve marriage problems before going to court.

In, *Kishan Kumar Batra & Ors. v. State Of Nct Of Delhi & Ors*²⁶, As has already been noted, the complainant in this case admitted before the court that she is no longer interested in prosecuting the petitioners as a result of the FIR she filed because the disputes were amicably resolved under the settlement agreement reached between the parties on 30.5.2007. Thus, the FIR filed against the petitioners at the request of respondent no. 2 complainant as well as the criminal trial that resulted from the said FIR deserves to be quashed in light of the aforementioned opinions of the Hon. Supreme Court in B.S. Joshi's case (supra) and to uphold the ends of justice. The instant case was dealt with by Delhi Mediation and Conciliation Center.

In, *Pushpa v. The State Of Madhya Pradesh*²⁷, Smt. Poonam, the complainant, stated that she is settled back into her marital house and has no further complaints to make against the applicants. Additionally, she mentioned that the father-in-law recently passed away. The Apex Court determined that Section 320 of the Cr.P.C. does not restrict or affect the inherent powers of the High Court granted under Section 482 of the Cr.P.C. in cases of matrimonial disputes if the application was filed under Section 482 of the Cr.P.C. for quashing criminal proceedings, FIR, or complaint, the parties have testified in front of me that the disagreement has been amicably resolved by the documented compromise, and the complaining wife has been interrogated. Their daughter is four years old.

In, *Gaurav Nagpal vs Sumedha Nagpal*²⁸ The fact that so many divorce and judicial separation cases are being filed in the courts is a very unsettling trend. The HMA's divorce regulations classify the circumstances in which a divorce decision may be requested. The mere fact that such a path may be taken shouldn't often encourage people to file for divorce unless their marriage has irreparably broken down. Conciliation efforts should be made to close the communication gap that resulted in such unfavourable procedures. People who rush to the courts to dissolve marriages should do so as a last resort, and courts should attempt to mediate conciliation until it is unavoidable. The goal should be to preserve marriage rather than to end it. As previously said, it

²⁶ 2008 JCC 1 171.

²⁷MCRC-2252- 2015.

²⁸ AIR 2009 SC 557.

is particularly crucial when children suffer the most from a marriage's divorce.

In, *S.K. Virmani v. Delhi Police*²⁹, The appellant submitted his RTI request to the SPIO of the Delhi State Legal Services Authority on September 30, 2012, asking for specific information regarding mediation in matrimonial cases for the DSLSA, DHCLSC, Dist. Legal Service Authority, Tis Hazari, and District Legal Services Committees at Tis Hazari, Patiala House Courts, Karkardooma and Rohini Courts, CAW Cells, and Police Stations in Delhi. the Appellant wanted to know how many instances (mediator-by-mediator) had FIRs recommended for filing. He was informed by the CPIO that mediators lack the power to suggest the filing of an FIR. The Respondents reaffirmed their position throughout the session, claiming that the Mediators lack the power to propose the filing of an FIR. They simply record if the exercise to settle disputes between the parties was successful or not. The Appellant, however, refuted this claim made by the Respondents and claimed that in certain instances the Mediators had overstepped their bounds and suggested the filing of a FIR. Then, for them to respond appropriately, the Respondents requested that the Appellant specify the particular instance. Then, for them to respond appropriately, the Respondents requested that the Appellant specify the particular instance. However, the Appellant asked that the Respondents look through all of their files and documents about mediation matters to see if there were any examples where the Mediator had recommended filing an FIR. The Respondents stated that they were unable to do so because it would be impractical for them to do so and would also unfairly drain public authority resources.

CONCLUSION

Around the world, alternative dispute resolution is gradually replacing traditional litigation as the preferred and required method for resolving issues. Even in many international difficulties, mediation proved to be the best approach for resolving business discord. The various layers of appeal also frequently wear out the persons involved and overwhelm the legal system. The Indian Legislature has been working to connect the bridges to align with the developing international jurisprudence while simultaneously advocating the mediation method.”³⁰

In particular, in marriage and family law, the Law Commission of India strives to heal the gap between personal law and those of other religions in India. Alternative dispute resolution

²⁹ 2013 SCC ONLINE CIC 16768.

³⁰ Yash Dhawan, “*Mediation in Family and Matrimonial Disputes*”, (2020).

processes should be made mandatory in the courts once the problems have been articulated, according to the 129th Law Commission Report.³¹

Given that mediation is a confidential procedure, marital disagreements ought to be given consideration. The spouse or a relative of the husband of a woman subjecting her to cruelty, according to the provisional interpretations of Section 498A (IPC) of the Indian Penal Code, which deals with marital and family legislation. Additionally, the Apex Court decriminalized adultery under Section 497 of the IPC due to gender prejudice. Currently, cruelty is being planned across a broad region where mediation is essential for resolving conflicts outside of court. This kind of dispute settlement not only saves time but also lessens resentments and awkward relationships that could develop during litigation. The marriage process is postponed if the circumstance is like such. Almost no chance of remarriage remains when the partners experience a physical and mental wreck. A tolerant relationship may be maintained through mediation, and it also provides a way out if one wants to. A glimmer of hope is offered through mediation for couples who may be able to mend fences. The system of conciliation or mediation is required by society to support a marriage connection. To become actively involved in the disagreement and hasten its resolution, mediation in a family dispute is used. Mediation has two functions: it may be used to start a relationship from scratch or to leave the "relationship" platform altogether. In other words, mediation either strengthens a bond between parties or disintegrates. Family conflicts can happen in any family, which is the foundation of any society. As a result, it is advisable to resolve the relevant conflict in a timely and economical manner, as this will further promote personal development, societal development, and national development as a whole.³²

Way Forward:

Families suggest that parents make significant contributions to their kids' development. Most families are presently dissolving as a result of a lack of a flexible attitude. Most importantly, the progeny is the main victim throughout. They could struggle to decide on who they wish to live with. Children who are too young to understand the harsh truths of life shouldn't be brought into court. His mental health could be impacted by it. As a result, mediation is crucial in preventing a family from drowning.

³¹ Yash Dhawan, "*Mediation in Family and Matrimonial Disputes*", (2020).

³² M. Kamenecka, "*Mediation for resolving family disputes*", Vol.30 (2016).

The following recommendations may greatly assist readers in traversing arbitration and avoiding conflicts. Although the process might not ensure success, it undoubtedly will be improved.

- 1) Mediators should hold regular training sessions so they can determine the objectives of the training.
- 2) The past should be taken into consideration. The past has the power to shape the present and the future.
- 3) If mediation is well executed and extensively publicized, it can be applied efficiently.
- 4) To educate the public on the advantages of such peaceful conflict settlements, awareness initiatives such as conferences and seminars should be undertaken.
- 5) Law students must get legal instruction on alternative dispute resolution.
- 6) Advocates, judges, law students, and other legal volunteers must actively participate to promote Mediation.
- 7) Non-profit organizations (NGOs) should support the marginalized sections the society to trust mediation as a procedure to resolve marital disputes.
- 8) All relevant parties must be present throughout the mediation process; if any party is not present, they will be given a notice to appear within three days. During mediation, everyone is entitled to express their views.
- 9) 9) It is up to you whether or not you provide the mediator access to all relevant papers during the mediation process. If someone wants to reveal such records, they must give the mediator notice before a week has passed. On the other hand, one must carry the documents (more than one copy) with them if they do not wish to divulge yet have the required paperwork on hand.
- 10) Families and marriages should only be resolved via mediation. Family problems are private. People are reluctant to discuss their private cases in a public setting. Therefore, the best method for resolving disputes involving these sensitive laws is mediation.³³

³³ Kartik Arora, “*Mediation in Family and Matrimonial Disputes: A Critical Study*” (2016).