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TOPIC: Matrimonial Dispute Resolution through Counselling, Mediation & Reconciliation-A Study of Practices in Delhi, With Special Emphasis on the Socio-Legal Aspects

ABSTRACT

This is the first study that aimed to explore the scope, legal and social framework and success rate of various Alternative Dispute Resolution mechanisms like Mediation, Counselling and Reconciliation within the legal framework and their effectiveness in assisting parties to resolve their matrimonial disputes. It also focuses on the effect of the unconscious attitudes, prejudices and the judicial perceptions regarding the importance of preserving the family unit, even to the jeopardy of an aggrieved woman, and their effect on the final outcome of the Mediation, Counselling and Reconciliation process. Thorough empirical research it analyses the experience and perception of women undergoing Mediation, Counselling and Reconciliation and their level of satisfaction with the way Mediation, Counselling and Reconciliation process are conducted especially in Delhi. Consideration was given to the fact as to how well heard and understood she felt and if or not equal opportunity is provided to women at each stage of these process by the Mediator, Counsellor, Judge, lawyer, police and others involved.

The present study encompasses the following findings:

- The success rate of the process of Counselling, Mediation and Reconciliation are satisfactory, however a great deal of improvement is possible to for achieving a much higher rate of success (like other countries).
- Alternative Dispute Resolution proceedings lacks in terms of infrastructural facilities, adequate space, manpower, professionally trained cadre of persons for effectively conducting these procedures.
- The institutional framework and attitude for Alternative Dispute Resolution services is not yet fully developed.
- Counselling, Mediation and Reconciliation are much better modes of resolving matrimonial disputes in terms of amount of time and money spent, procedural informality, confidentiality and privacy and with least acrimony.

- The potential of Alternative Dispute Resolution mechanism is not yet fully tapped due to the interference by key players and presence of serious ethical, psychological, infrastructural impediments.
- However, unconscious attitudes, bias underplay when matrimonial disputes are referred to Mediation, Counselling and Reconciliation.
- Poverty, illiteracy, ignorance, procedural formalities and delays, social attitudes and bias, women's own socialisation, traditional and patriarchal outlook, act as barriers in women's access to justice.
- Women face difficulties while accessing courts and Alternative Dispute Resolution mechanism due to lack of awareness about procedural technicalities. Many of them were not satisfied with the way Mediation, Counselling and Reconciliation process are conducted.
- Lack of education and economic empowerment forces a woman to negotiate with her perpetrator and accepts unjust terms and settlements. Pressure is exerted by Mediator, Counsellor, Judges, Police and family.
- Presence of societal prejudices and notions against women in Counselling, Mediation and Reconciliation processes for resolving matrimonial disputes are hampering in realising the full worth of these mechanisms.
- Most of the state responses seek to mediate solutions to matrimonial disputes, despite domestic violence, in a manner that does not lead to the breakdown of marital relations and even though it might be detrimental to the larger interests of the aggrieved women.
- Onus of settlement or keeping the family together is majorly imposed on women thus defeating the very purpose of these Alternative Dispute Resolution procedures.
- Mediation, Counselling and Reconciliation are inappropriate in case there is past repeat history of domestic violence, alcohol or drug abuse.

It is clear from the findings of research that Mediation, Counselling and Reconciliation are promising modes of resolving matrimonial disputes but have still to go a long way to accomplish the desired objectives and high rate of success. The current study has succulently covered all the major aspects of Mediation, Counselling and Reconciliation and has the potential of serving as an important guide or training manual for capacity building among the people and the authorities involved in execution of these processes. The results could guide ethical decision making by bringing forth and legitimizing the battered women's voice in the debate about the efficacy of Mediation, Counselling and Reconciliation for resolving matrimonial disputes.
