

FROM CONFLICT TO CONSENSUS: MEDIATION PRACTICES IN JHARKHAND'S FAMILY DISPUTES

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Abstract

Familial conflicts, a widespread societal issue, can grow into extended court fights that strain relationships and destroy social cohesion. Mediation offers a feasible option by prioritising communication, comprehension, and harmonious settlement. This research examines the developing mediation practices in Jharkhand's family conflict context, emphasising their efficacy, cultural significance, and transformational capacity. Jharkhand, characterised by its distinctive socio-cultural composition, offers specific problems and chances for mediation. Conventional conflict settlement methods, firmly rooted in local traditions, exist alongside formal legal systems. This interaction has resulted in hybrid mediation models designed for the state's varied population, including indigenous and rural areas. The study investigates the function of mediators, focussing on their training, impartiality, and cultural awareness in promoting trust between conflicting parties. The research utilises a socio-legal technique, examining case studies and mediation results to evaluate success rates, cost-efficiency, and long-term effects of mediated agreements. Special emphasis is placed on situations of marital strife, child custody, and property disputes, where mediation has shown efficacy in reducing contentious litigation. The study examines the legislative and judicial endorsement of mediation within Indian law, highlighting the functions of Lok Adalats and court-annexed mediation centres in Jharkhand. This study promotes the wider use of mediation by emphasising its advantages, including the preservation of family relationships, the reduction of litigation expenses, and the acceleration of justice. It also tackles difficulties like opposition to mediation, gender biases, and the need for systematic mediator training. The results seek to educate policymakers, legal professionals, and community leaders on improving mediation procedures to facilitate conflict

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resolution, bolster social cohesion, and maintain justice in family conflicts in Jharkhand.

Keywords: Mediation, Family, Jharkhand, Dispute, ADR.

INTRODUCTION

Family disputes includes a wide variety of conflicts arising from marriage, succession, Child custody and domestic violence, pose significant challenges to the social fabric and legal systems in India.¹ The traditional legal process has some limitation in managing these disputes, mediation has emerged as an effective alternative dispute resolution mechanism, offering a more amicable and tranquil approach to resolving conflicts.² Mediation, differentiate by its intentional, private, and non-binding nature, facilitates honest dialogue among disputing parties, explores mutually acceptable alternatives, and preserves familial relationships, so fostering enduring peace and well-being.³ Mediation provides a meaningful way to settle family conflicts that fits well with India's emphasis on reconciliation and compromise, where family values and social ties are quite significant. With establishment for mediation centres connected to courts and new legislation supporting its use for various types of conflicts, more people are discovering how helpful mediation can be and therefore it is included in the official legal system.⁴ The lingering nature and adversarial nature of litigation, coupled with the rising volume of cases in Indian courts, underline the necessity for alternative dispute resolution methods, such as mediation, to ease the burden on the judicial system and offer individuals a more convenient and forthright means of resolving their conflicts.⁵ Mediation is appealing to families facing problems since it offers quick and cost-effective solutions while protecting the emotive and psychological welfare of those involved.⁶ This paper explores the role of mediation in resolving family disputes in India,

¹ Hon'ble Mr. Justice Pradip Kumar Mohanty *et al.*, *Success Story of Jharkhand in Settling Family Matters through Expert Counsellors and Mediators*, (2016), available at: https://jhalsa.org/pdfs/other_publications/2016/family_matters_success_story_allahabad.pdf (last visited on: 19.06.2025).

² Haeratun Haeratun & Fatahullah Fatahullah, "Efektivitas Mediasi Sebagai Alternatif Penyelesaian Perkara Perceraian Di Pengadilan Agama", 3 *Batulis Civil Law Review* 29 (2022) available at: <https://doi.org/10.47268/ballrev.v3i1.930> (last visited on: 19.06.2025)

³ Prof. K. D. Raju, "Alternate Dispute Resolution System: A Prudent Mechanism of Speedy Redress in India", *SSRN Electronic Journal* (2007), available at: <https://doi.org/10.2139/ssrn.1080602> (last visited on: 19.06.2025).

⁴ G. R. Arun Prakash & Shruthy Kesavan, *Mediation in Family and Matrimonial Disputes*, (2022).

⁵ Aayushi Arora, *Family Mediation in India: Existing Regulatory Framework*, (2022).

⁶ Rufus Chrisen Prabakar & Kripa Somi John, *Mediation in Family Dispute*, (2022).

with a specific focus on the state of Jharkhand, examining its legal framework, practical application, challenges, and potential for future development.

BACKGROUND OF FAMILY DISPUTES IN INDIA

Several elements may help to explain the rise in family conflicts in India: fast urbanization, changing socioeconomic dynamics, growing knowledge of legal rights, and changing gender roles. Indian families' conventional patriarchal system is changing as women express their rights and want more autonomy, therefore creating possible family disputes.⁷ The increasing prevalence of nuclear families, coupled with the disintegration of traditional support systems, exacerbates the challenges families have in resolving issues amicably.⁸ Despite being a robust and unified unit, the Indian family is susceptible to internal discord and disputes that may have significant repercussions for individuals and society as a whole.⁹ These disputes often include intricate issues of law, religion, and gender equality, requiring a nuanced understanding of many perspectives and cultural sensitivity.¹⁰ A growing backlog of cases burdens the court, which often finds it difficult to provide quick and efficient resolution to family conflicts, therefore stressing the need of alternative dispute resolution methods like mediation.¹¹ Mediation is a method of alternative dispute resolution aimed at resolving disputes and disagreements, widely used in several domains including family, marriage, finance, property, neighbourhood, and medical issues.¹² Motivated by the awareness that the formal legal system was unable to handle the growing caseload and the need for more efficient and accessible justice, the concept of alternative dispute resolution gained prominence after independence.¹³ Since 2002, several courts around the country have instituted mediation cells to assist parties, accelerate case resolution, and alleviate the burden on the Indian judicial system via Alternative Dispute Resolution.

⁷ R. Sooryamoorthy, "The Indian Family: Needs for a Revisit", 43 *Journal of Comparative Family Studies* 1 (2012), available at: <https://doi.org/10.3138/jcfs.43.1.1> (last visited on: 19.06.2025).

⁸ Sterk, *10 Common Causes of Family Conflict and How to Prevent Them*, (2024), available at: <https://www.sterkfamilylaw.com/10-common-causes-of-family-conflict-and-how-to-prevent-them/> (last visited on: 10.06.2025). See also, Animesh Kumar & Mukul Sharma (eds.), *ADR: Bridging Divides, Building Solutions* 39 (Anagh, 2024).

⁹ *Supra* note 5.

¹⁰ Tanja Herklotz, Law, "Religion and Gender Equality: Literature on the Indian Personal Law System from a Women's Rights Perspective", 1 *Indian Law Review* 250 (2017), available at: <https://doi.org/10.1080/24730580.2018.1453750> (last visited Feb 2025).

¹¹ *Supra* note 3.

¹² Fung Kei Cheng, Mediation Skills for Conflict Resolution in Nursing Education, 15 *Nurse Education in Practice* 310 (2015), available at: <https://doi.org/10.1016/j.nepr.2015.02.005> (last visited on: 19.06.2025).

¹³ Kiran Dhaiya & Seema Yadav, *Mediation: A Comparative Study Among India, USA and UK*, (2022).

OVERVIEW OF MEDIATION IN INDIA

Mediation in India has evolved significantly over the past few decades, transitioning from a relatively unknown concept to a widely recognized and utilized dispute resolution mechanism. Mediation initially occurred mostly via unofficial channels, such as village elders and religious leaders, who played a crucial role in grassroots dispute settlement. The formalization of mediation began with the creation of court-annexed mediation facilities, whereby certified mediators assisted disputing parties in negotiating to achieve mutually accepted outcomes.¹⁴ Revised in 2002, Section 89 of the Code of Civil Procedure gave a legislative foundation for sending conflicts to alternative dispute resolution systems including mediation, conciliation, arbitration, and Lok Adalat.¹⁵ Acknowledging its capacity to alleviate court caseloads and provide more effective resolutions to disputes, the court vigorously promoted the use of mediation.¹⁶ Promoting mediation, the Supreme Court of India has also been instrumental in providing direction and rules to support its use in many kinds of proceedings. Recognizing both court-referred mediation and private mediation, the Indian legal system offers a structure for individuals to participate in mediation either via independent means or via the courts.¹⁷ While private mediation includes parties using a private mediator to help the negotiating process, court-referred mediation usually takes place within court-annexed mediation centres.

The Supreme Court's creation of the Mediation and Conciliation Project Committee helped to further promote mediation in India, thereby standardizing mediation training courses and establishing mediation centres all throughout the nation.¹⁸ Despite these advancements, obstacles persist in enhancing public awareness, teaching competent mediators, and establishing robust standards to facilitate the widespread and effective use of mediation in India. The Indian legal system recognizes both court-referred mediation and private mediation via the appointment of a neutral facilitator to help the parties reach a mutually acceptable resolution.¹⁹

¹⁴ Supra note 2.

¹⁵ Arsh Mishra, *Importance and Practicality of Court Referred Mediation*, (2022)

¹⁶ Ayushi Pandya, *Grassroot Governance and its Role in Mediation: The Role and Contribution of Panchayat Raj in Amplification of Alternative Dispute Resolution in India*, (2022).

¹⁷ Mumal Kunwar Bhati & Nikunj Pandey, *Mediation: An Indian Perspective*, (2022).

¹⁸ Supra note 14.

¹⁹ Supra note 15.

Mediation has gained significant popularity in India as an alternate dispute resolution method for addressing familial issues outside the conventional legal system. Mediation is a systematic process in which an impartial third party-the mediator-assists disputing parties in reaching a mutually agreeable resolution by promoting dialogue and discussion. Mediation has its roots in ancient conflict-resolution methods; hence it is not entirely new to India.²⁰ The mediator assists the parties in identifying their fundamental interests, exploring alternatives, and reaching a mutual agreement instead of issuing a verdict. Mediating familial issues is particularly suitable for Indian culture, as its emphasis on empowerment and collaboration aligns with the traditional collectivist and harmonious ideals prevalent in that context. Mediation focused on collaboration and empowerment highlights the collectivist and harmonious cultural norms that characterize Indian civilization, particularly suitable for resolving familial disputes. The mediation of familial disputes is increasingly favoured as individuals see its potential to reduce court-related stress, minimize legal expenses, and promote amicable resolutions. Mediation interventions and alternative dispute resolution methodologies assist the Indian judiciary in alleviating its substantial case backlog.²¹

Developed nations have progressively adopted alternative dispute resolution procedures pertinent to many conflicts, including mediation, negotiation, arbitration, and reconciliation, which aid in resolving familial issues.²² When parties cannot engage in discussions to reach an agreement, Alternative Dispute Resolution (ADR) may assist in resolving civil, commercial, industrial, and familial disputes. Mediation has emerged as an effective tool for resolving familial disputes in a more harmonious and efficient manner, given the increasing burden on Indian courts and the recognized limitations of traditional litigation. Pharmaceutical interventions and alternative dispute resolution strategies assist in resolving issues without resorting to the court system.²³

SCOPE AND OBJECTIVES OF MEDIATION IN FAMILY DISPUTES

Mediation in familial conflicts in India addresses several matters, including divorce, child custody, asset distribution, alimony, and succession. The primary aim of mediation is to

²⁰ *Supra* note 13.

²¹ *Supra* note 15.

²² Zeeshan Ashraf Qureshi, Hafiz Muhammad Usman Nawaz & Mirza Shahid Rizwan Baig, Towards the Establishment of Family Dispute Resolution Center in Pakistan, 6 (1) *Global Legal Studies Review* 1 (2021), available at: [https://doi.org/10.31703/glsr.2021\(vi-i\).01](https://doi.org/10.31703/glsr.2021(vi-i).01) (last visited on:21.07.2025).

²³ *Ibid.*

enable a mutually satisfactory conclusion that meets the needs and interests of all parties, including children. Mediation is to enable families to independently make choices and devise solutions that are customized to their unique situations, rather than having a court force a decision upon them. Mediation fosters transparent communication and comprehension, therefore safeguarding relationships, alleviating emotional distress for the involved parties, and offering closure to those who have been wronged.²⁴ Mediation assists parents in prioritizing their children's needs and developing parenting strategies that serve their best interests, so significantly enhancing the welfare of children in familial disputes.²⁵ Mediation equips families with the necessary skills to navigate difficult discussions and make informed future decisions within a safe and confidential communication space. The increasing popularity of conflict mediation suggests that concerns about the resistance from traditionally educated lawyers may be diminishing in significance.²⁶ The goal of mediation is not only to resolve the immediate dispute but also to equip families with the skills and tools necessary to manage conflicts constructively in the future.

This study focuses on Jharkhand and tries to provide a comprehensive examination of mediation in the context of family conflicts in India. This article examines the legal framework governing mediation, the many types of family conflicts suitable for mediation, the function of mediators, and the possibilities and challenges associated with their practice. With consideration for the socio-cultural surroundings and the unique needs of the local population, the study seeks to assess the effectiveness of mediation in resolving family disputes in Jharkhand. Specifically in the state of Jharkhand, the study aims to expose ideal practices and provide recommendations for strengthening the mediation process to increase its accessibility, efficiency, and general efficacy in family dispute resolution in India.²⁷

LEGAL FRAMEWORK OF MEDIATION IN INDIA

India's legal system controlling mediation is complex, including court rulings, legislative

²⁴ *Supra* note 3.

²⁵ Carolina Riveros Ferrada & Dagmar Coester-Waltjen, "Alternative Dispute Resolution in Family Disputes in Europe and Chile: Mediation", 15 (2) *Revista Direito GV* 1 (2019), available at: <https://doi.org/10.1590/2317-6172201914> (last visited on: 19.06.2025).

²⁶ Donna McKenzie, "The Role of Mediation in Resolving Workplace Relationship Conflict", 39 *International Journal of Law and Psychiatry* 52 (2015), available at: <https://doi.org/10.1016/j.ijlp.2015.01.021> (last visited on: 21.07.2025).

²⁷ Siti Zaharah Jamaluddin, *et. al.*, Application of Mediation in Resolving Elderly Family Issues in Malaysia: Lessons from Canada and Australia, 41 *Kajian Malaysia* 62 (2023), available at: <https://doi.org/10.21315/km2023.41.1.4> (last visited Jun 2025); See, *supra* note 13.

enactments, and constitutional clauses. Although there is no one all-encompassing piece of legislation specifically for mediation, many statutes and court decisions acknowledge and support it as a workable means of conflict resolution. Section 89 of the Code of Civil Procedure gives courts authority to recommend matters for alternative dispute resolution-including mediation-where a settlement seems likely. Particularly with relation to international economic conflicts, the Arbitration and Conciliation Act, 1996 offers a framework for conciliation-a process with comparable ideas to mediation. Emphasizing the need of peaceful solutions, the Family Courts Act, 1984 orders family courts to give conciliation and mediation priority in settling family conflicts. Consistent in favor of mediation's usage is the Indian Supreme Court, which understands its ability to lower litigation and advance peaceful solutions.

Constitutional Provisions

While not explicitly addressing mediation, the Indian Constitution has principles of justice, equality, and social harmony that may serve as an inspiration for mediation. Article 14 ensures that every person has equal access to justice, therefore guaranteeing equality before the law. This includes equitable opportunities to participate in alternative conflict-resolution procedures such as mediation. Article 21 protects the right to life and personal liberty, including the right to a fair and expedient trial, whereas mediation alleviates the strain on the judicial system and expedites dispute settlement.

Relevant Statutes

India has several laws including provisions that explicitly or tacitly advocates for mediation as a method of conflict resolution. Section 89 of the Code of Civil Procedure empowers courts to direct proceedings towards alternative dispute resolution techniques such as mediation. This enables the attainment of a settlement. The parties are encouraged to consider mediation as a method for peacefully settling their disputes. Lok Adalats were established under the Legal Services Authorities Act of 1987. These Lok Adalats are especially beneficial for financially disadvantaged groups and individuals with restricted access to the legal system, offering venues for mediation and dispute resolution. The Act guarantees that justice is available to all individuals via grassroots mediation as a means of conflict settlement.

The Micro, Small, and Medium Enterprises Development Act of 2006 advocates two strategies—conciliation and mediation—for resolving disputes among micro, small, and medium-sized enterprises. This law fosters a conducive climate for business. The Act acknowledges the need of swiftly and effectively resolving issues to provide conducive conditions for the growth of such enterprises. Mediation has been included into many legislative frameworks for conflict resolution, including the Companies Act of 2013 and the Consumer Protection Act of 2019.²⁸

Role of Judiciary

Numerous court opinions have repeatedly emphasized the need of mediation in dispute resolution, particularly with familial matters. The Supreme Court, a staunch proponent of alternative dispute resolution, has recommended its implementation as a mission to transform the landscape of civil litigation in India.²⁹ Judicial authorities have established regulations and guidelines designed to promote mediation. These standards and regulations prioritize the training and certification of mediators to ensure the mediation process is efficient and effective. The cultivation of an environment conducive to the proliferation of mediation and its acknowledgment as an effective dispute resolution tool is fundamentally reliant on the proactive engagement of the legal system in promoting mediation. The court's recognition of the need for mediation has resulted in the creation of mediation centres inside court facilities, therefore enhancing accessibility for litigants.

TYPES OF FAMILY DISPUTES AMENABLE TO MEDIATION

Mediation is a creative alternative to traditional litigation, demonstrating flexibility and efficacy in resolving various familial issues. Family conflicts include a wide range of issues arising within familial relationships, including marital discord, child custody and visitation disputes, property division, and inheritance matters. Mediation offers a confidential and impartial forum for parties to articulate their desires and interests, so facilitating the collaborative formulation of mutually agreeable solutions.³⁰

²⁸ Sonali Negi & Arpita Chauhan, *Need for Mediation Laws in India*, (2022).

²⁹ *Supra* note 13.

³⁰ Boria Sax, *Alternative Dispute Resolution (ADR)* (1996), <https://doi.org/10.21236/ada311045> (last visited Jan 2025).

Divorce and Separation

Mediation is especially advantageous in divorce and separation proceedings, when emotions often escalate and communication may be difficult. Mediation offers a systematic and conducive setting for couples to examine the intricate matters associated with marital dissolution, including asset division, spousal support determination, and parenting arrangement establishment. Mediators assist couples in prioritizing their children's best interests and formulating parenting plans that enhance their well-being, notwithstanding the parents' separation.³¹

Mediation is especially effective for settling problems about divorce and separation, since it enables couples to tackle sensitive matters such as spousal maintenance, property distribution, and child custody in a non-confrontational environment.

Child Custody and Visitation

Child custody and visitation disputes can need protracted legal battles and are often fraught with emotional intensity and hostility. Mediation is a child-focused approach to dispute resolution in which parents collaborate to formulate parenting practices that address their children's needs and promote their healthy development. Mediators may facilitate effective communication, comprehension of perspectives, and cooperative decision-making on child-rearing between parents. Mediation may facilitate the preservation and maintenance of relationships between grandparents and other relatives in Jharkhand, where cultural norms often prioritize the involvement of the extended family in child-rearing.

Property Division and Financial Matters

The resolution of financial problems and property division arising from divorce or separation is significantly influenced by mediation. These issues may be complex and contentious concerning the evaluation and allocation of assets, including real estate, equities, and retirement funds. Mediation provides a platform for parties to candidly and honestly address their financial circumstances, identify their specific interests and needs, and collaboratively develop just and equitable solutions. Mediators may help parties understand the financial and legal consequences of their decisions and explore innovative options for asset distribution that meet their individual and collective goals. This method is particularly effective in

³¹ *Supra* note 2.

ensuring financial stability for both parties' post-separation, so promoting long-term stability and reducing the likelihood of future disputes.

Inheritance Disputes

Inheritance disputes within families may be very disruptive, often resulting in strained relationships and extended legal conflicts. Mediation offers family members a constructive alternative to litigation, facilitating candid dialogue, mutual understanding of perspectives, and collaborative development of solutions that honour the deceased's intentions while addressing the needs of all involved parties.³² Mediators may help family members manage the challenging legal and emotional issues brought up in inheritance disputes including issues of will interpretation, asset valuation, and property distribution. Mediation may also help families to preserve their ties and stop the long-term damage contentious litigation can inflict.³³ It enables novel concepts like as agreements that provide the long-term care of a family member or the preservation of family enterprises that would be unattainable in a judicial setting.³⁴ Mediation may effectively address post-divorce issues, custody disputes, inheritance matters, and other challenges via open dialogue and the promotion of mutually agreeable resolutions.³⁵

MEDIATION IN FAMILY DISPUTES: PROCESS AND PROCEDURE

Mediation in familial conflicts often entails a systematic procedure with certain phases, commencing with the referral of the issue to mediation, either by judicial mandate or at the discretion of the parties involved. The procedure often starts with an introduction session in which the mediator elucidates the concepts of mediation, delineates their position as a neutral facilitator, and defines the ground rules for the process. The mediator encourages conversation between the parties, assisting them in identifying the disputed issues, exploring their underlying interests, and generating settlement solutions. The mediator may use many strategies, including active listening, reality checking, and brainstorming, to assist the parties in achieving a mutually acceptable agreement.

³² *Ibid.*

³³ Muhammad Rizqi Fadhlillah *et. al.*, *Proceedings of the Arbitration and Alternative Dispute Resolution International Conference (ADRIC 2019): The Effectiveness of Mediation in Distribution of Inheritance Association Based on The Supreme Court Report 2016 to 2018* (2020), available at: <https://www.atlantispress.com/proceedings/adric-19/125944642> (last visited on: 19.06.2025).

³⁴ Paul L. Warren, "A Systems Approach to Mediation: How to Diagram Family and Commercial Disputes", *SSRN Electronic Journal* (2002), <https://doi.org/10.2139/ssrn.305150> (last visited May 2025).

³⁵ *Supra* note 2.

Stages of Mediation

- Selection of Mediators

The choice of a qualified and experienced mediator greatly determines how successful the mediation process is. The court or a private mediation firm could choose mediators from a roster of empanelled mediators.

- Initiation of Mediation

The mediation process starts when the family dispute is submitted to mediation, which may occur via court orders, self-referral by the parties involved, or counsel from lawyers. The mediator meets with each side individually to explain the process, address inquiries, and gather relevant information; hence, preparation is essential. The mediator establishes their neutral stance, formulates ground rules, and devises the agenda for the mediation sessions during the first phase.

- Joint Sessions

Joint sessions bring all the participants together so they may exchange knowledge, convey their points of view, and direct contact is possible. The mediator directs the conversation so that every participant has time to speak and be heard. To promote understanding and trust, we support polite conversation, empathy, and active listening. Laying the foundation for cooperative problem-solving, the mediator helps parties recognize shared objectives and areas of agreement.³⁶

Conduct of Mediation Sessions

Joint sessions bring all the participants together so they may exchange knowledge, convey their points of view, and direct contact is possible. The mediator facilitates the dialogue, ensuring that each person can speak and be acknowledged. To promote understanding and trust, we support polite conversation, empathy, and active listening. Laying the foundation for cooperative problem-solving, the mediator helps parties recognize shared objectives and areas of agreement.

³⁶ Harry Kaminsky & Rhoda Cosmano, *Mediating Child Welfare Disputes: How to Focus on the Best Interest of the Child*, 7 *Mediation Quarterly* 229 (1990), <https://doi.org/10.1002/crq.3900070305> (last visited Apr 2025).

Confidentiality and Ethics in Mediation

Confidentiality is a cornerstone of the mediation process; it ensures that information disclosed during mediation sessions remains private and protected from disclosure in legal proceedings.

Settlement Agreement and Enforcement

If the parties reach an agreement during mediation, the terms of the agreement are typically recorded in writing and signed by the parties. The settlement agreement becomes a legally binding contract that is enforceable in court.

MEDIATION IN JHARKHAND: A CASE STUDY

Jharkhand, like to other Indian states, has shown a growing acknowledgment of mediation's significance in settling familial conflicts.³⁷ The state has instituted many programs to encourage mediation, including the creation of mediation centres and the training of mediators. Effective mediations have resulted in the reconciliation of spouses.³⁸ The Jharkhand State Legal Services Authority is instrumental in advancing mediation within the state, conducting awareness campaigns, and offering training to mediators.³⁹ The state's experience with mediation in familial conflicts offers critical insights into the problems and potential of its implementation, imparting lessons for other governments aiming to advance alternative dispute resolution methods.

Socio-economic Context

Eastern Indian state Jharkhand has a varied socioeconomic scene with a sizable tribal population mixed with urban and rural regions. Understanding the dynamics of family conflicts and the efficiency of mediation in settling them depends on knowing the socioeconomic setting of Jharkhand.

Implementation of Mediation Programs

³⁷ *Supra* note 1.

³⁸ *Ibid.*

³⁹ *Supra* note 3.

The family courts of Jharkhand have initiated many efforts to promote mediation programs designed to facilitate peaceful dispute resolution. These efforts aim to reduce court congestion via a more accessible and cost-effective method of addressing familial issues.

Prevalence of Family Disputes

Family disputes in Jharkhand, as in other parts of India, often arise from a various factor, including marital discord, property disputes, and child custody issues.

Mediation Centres in Jharkhand

Mediation centres have been established in various districts of Jharkhand to provide a forum for resolving disputes through mediation.

Success Stories and Challenges

Jharkhand's court-referred mediation system handled 9,386 cases from January to September 2019. Category

Details/Statistics Case Outcomes⁴⁰

Total Cases Received	9,386
Mediated Cases	6,847 (72.9%)
Non-Starters	2,539 (27.1%)
Successfully Settled	4,387 (46.7% of total received cases)
Failed to Resolve	2,460 (26.2%)
Cases Reverted to Courts	4,999 (53.3% of total cases)
Stakeholder Engagement	
Mediators	57 mediators across 10 districts
Average Cases Handled/Mediator	120 cases
Successful Settlements/Mediator	77 settlements
Lawyers	216 surveyed

⁴⁰ Uday Shandar *et. al.* Court Referred Mediation in the States of West Bengal and Jharkhand, available at:

<https://cdnbbsr.s3waas.gov.in/s35d6646aad9bcc0be55b2c82f69750387/uploads/2022/05/2022051745.pdf> (last visited on: 21.07.2025)

Cases Referred/Lawyer/Year	8 cases (average)
Lawyer Success Rate	57.2%
Senior Lawyer Referrals	14–26 cases/year
Senior Lawyer Success Rate	73.6%
Litigants Surveyed	205 litigants (103 successful, 102 unsuccessful)
Older Litigant Success (51–65 years)	52/92 resolved
BPL Litigant Success	77/152 resolved
Case-Type Analysis	
Matrimonial Disputes	47% of caseload (52% success rate)
Civil Cases	28% of caseload (49.7% failure rate)
Criminal Cases	25% of caseload (29.9% success rate)
Key Challenges	
Inadequate Staffing	Reported by 59.9% of mediators
Infrastructure Ratings	47.4% rated as “average” or “poor”
Training Needs	
Demand for Annual Training (Lawyers)	89.5%
Demand for Annual Training (Mediators)	92.6%
Awareness Deficits	
Need for Public Awareness	Highlighted by 98.8% of mediators
Litigant Engagement	Only 59.2% “highly engaged” during mediation
Comparative Insights	
Success Rate (Jharkhand vs. West Bengal)	46.7% vs. 36.6%
Cases Mediated	72.9% vs. 89.8%

(Jharkhand vs. West Bengal)	
Mediator Productivity (Jharkhand vs. West Bengal)	77 vs. 40 settlements/mediator

Table 1:

While mediation has shown promise in Jharkhand for resolving familial disputes, several challenges must be addressed to ensure its effective implementation. Ensuring that marginalized groups and individuals residing in remote areas have access to mediation services is a significant challenge.

IMPACT OF MEDIATION ON FAMILY DISPUTE RESOLUTION

Mediating familial disputes has several benefits and serves as a more amicable and cost-effective alternative to traditional litigation. Mediation empowers participants with ownership and accountability for the outcome, therefore facilitating their active involvement in resolving their issues. This may provide more innovative and customized solutions that meet the specific needs and preferences of the parties involved.⁴¹ The mediation solution is once again shown to be advantageous for all parties, given time constraints and distressing disputes are integral to the Indian litigation landscape.⁴² Mediation saves time, energy, and money, relieving the agony of the parties.⁴³ Mediation is a process which is very flexible and adaptable to the needs of the parties . It helps parties to come to a common ground and dissolve their differences.

The voluntary nature of mediation, involvement of a neutral third party, and its non-binding nature all contribute to its effectiveness in resolving disputes.

Numerous individuals are uninformed about mediation; the majority prefer traditional litigation. Mediation is a neutral third party facilitating a suitable resolution to ongoing problems between the parties involved.⁴⁴ Mediation may help preserve family structure, since the family makeup aids in negotiation and enables dispute resolution via mutual agreement.

⁴¹ *Supra* note 13.

⁴² Lovely Singh & Anku Anand, *Mediation: In Divorce & Other Family Matters*, (2018).

⁴³ Abhishek Kumar, *Execution of Mediation in Matrimonial Disputes*, (2017).

⁴⁴ *Supra* note 3.

Mediation of familial issues has shown to be quite successful.⁴⁵ Emphasizing that pre-litigation mediation may help to avoid little conflicts from becoming into long legal battles, the Supreme Court has acknowledged the value of it in family conflicts.⁴⁶

In India, mediation is a well-known alternative dispute resolution method with legislative support.⁴⁷ The courts recognize mediation as an efficient tool for amicable dispute settlement and to lessen their burden.⁴⁸

The mediation process can be used to settle various types of disputes, such as family disputes, property disputes, commercial disputes, and labour disputes.

Reduced Litigation

By guiding family conflicts away from the official litigation process, mediation has the potential to greatly lighten the workload for the courts.

Empowerment of Parties

Mediating helps people to actively engage in the resolution of their problems, therefore encouraging responsibility and control over the result.⁴⁹

Preservation of Relationships

By encouraging discussion and understanding, mediation may assist family members- especially in instances involving children- preserve their connections.⁵⁰

Cost-effectiveness

Mediation is often a more cost-effective option than litigation, as it can reduce legal fees and court costs.⁵¹ It is time saving and the parties are involved and have control over the outcome.

⁴⁵ Rayani Saragih & Maria Ferba Editya Simanjuntak, “Efektivitas Mediasi Sebagai Alternative Dispute Resolution Terhadap Perkara Perceraian Di Pengadilan Agama Pematangsiantar”, 3 *Journal of Education Humaniora and Social Sciences* 734 (2020), available at: <https://doi.org/10.34007/jehss.v3i2.405> (last visited on. 19.06.2025).

⁴⁶ *Supra* note 3.

⁴⁷ Sakchie Saluja, *Role of Mediation in Family and Matrimonial, Labour and Industrial Disputes*, (2022).

⁴⁸ Manzoor Laskar, “Lok Adalat System in India”, *SSRN Electronic Journal* (2012), available at: <https://doi.org/10.2139/ssrn.2420454> (last visited on: 19.06.2025).

⁴⁹ *Supra* note 13.

⁵⁰ *Ibid.*

⁵¹ *Supra* note 13.

CHALLENGES AND OPPORTUNITIES

Even although mediation in family conflict resolution is becoming more and more appreciated, some issues must be resolved to guarantee its efficient use.

Lack of Awareness

A major issue is the public's ignorance of mediation's benefits and availability.

Need for Trained Mediators

Effective mediation depends on the presence of skilled and qualified mediators capable of appropriately directing the process.

Online mediation is in its nascent stages and faces several hurdles. The use of technology in mediation introduces more challenges than it enhances the process, resulting in legal uncertainty and security problems.⁵²

Enforcement of Agreements

The effective implementation of mediated settlement agreements establishes the credibility and integrity of the mediation process. Robust enforcement mechanisms deter people from mediating, so undermining the viability of this acceptable alternative to litigation. Furthermore, clearly articulated enforcement regulations enhance adherence to contractual obligations and foster a culture of compliance, so augmenting confidence in processes.

Prospects

By means of constant efforts to raise awareness, educate mediators, and develop the legal environment, mediation has the potential to become more and more important in resolving family conflicts throughout India, particularly areas like Jharkhand. By depending mostly on mediation as the means of dispute settlement, the Indian legal system may encourage more fair, quick, and harmonic results for families in conflict.

CONCLUSION

⁵² Dewi Sulistianingsih *et. al.*, *Online Dispute Resolution: Does the System Actually Enhance the Mediation Framework*, 9 *Cogent Social Sciences* (2023), available at: <https://doi.org/10.1080/23311886.2023.2206348> (last visited on: 19.06.2025).

Mediation's importance in resolving family conflicts in India, particularly in Jharkhand, has been highlighted. Mediation provides a flexible and collaborative platform for conflict resolution, allowing parties to communicate openly and find mutually acceptable solutions.⁵³ Mediation effectively addresses familial issues by empowering participants, alleviating judicial burdens, and preserving connections. Surmounting challenges such as insufficient information, the need for skilled mediators, and the implementation of agreements will enable one to fully appreciate the benefits of mediation.⁵⁴

Summary of Findings

Mediation has surfaced as a feasible alternative to conventional litigation in India for the resolution of familial issues, especially within the context of Jharkhand. We must concentrate on three domains to guarantee the efficacy of mediation programs: amending legislation, increasing awareness, and equipping mediators with comprehensive training, all of which will provide a favorable environment for amicably settling familial conflicts. Attorneys and other practitioners aspiring to engage in mediation must participate in frequent skill development courses.⁵⁵

- Strategic Imperatives for Enhancing Mediation Efficacy in Jharkhand

Policy Recommendations

Various policy recommendations may be considered to enhance the use of mediation in familial disputes. The current legislative framework needs reevaluation to address the increasing disregard for mediation. Emerging lawyers seeking to significantly contribute to the promotion of mediation and enhance its acceptance among warring parties may influence future job opportunities.⁵⁶

Areas for Further Research

Further research is required to examine the enduring effects of mediation on familial relationships and the effectiveness of various mediation methods. To identify and eliminate

⁵³ Nur Ezan Rahmat et al., Certification and Mediation Training for the Mediators in Malaysia, 7 Malaysian Journal of Social Sciences and Humanities (MJSSH) (2022), <https://doi.org/10.47405/mjssh.v7i11.1945> (last visited Mar 2025).

⁵⁴ *Supra* 13

⁵⁵ Akashdeep Sengupta, PRE-INSTITUTION MEDIATION: A RULE OR A LAW?, (2023).

⁵⁶ *Supra* note 13.

the specific challenges encountered by these disadvantaged groups, it is essential to examine their experiences with mediation services. We must examine how mediation results are influenced by culture, gender, and socioeconomic status to facilitate mediation procedures that are attuned to many cultures and genders, thereby ensuring fair access to justice. The government and the judiciary should promote mediation as a viable dispute resolution method, emphasising its benefits in terms of cost, time, and relationship preservation.⁵⁷

⁵⁷ *Supra* note 2.