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A Comparative Analysis of Women's Rights in Matrimonial Disputes: A Study of Personal Laws in India, the Middle East, and Western Jurisdictions

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ABSTRACT

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This paper presents a comparative analysis of women's rights in matrimonial disputes by examining the personal laws governing marriage, divorce, and related rights in India, the Middle East, and Western jurisdictions. The study explores the intricate relationship between cultural, religious, and legal frameworks in shaping women's rights in these regions, highlighting the contrasts and commonalities across different legal systems. In India, personal laws based on religion (Hindu, Muslim, Christian, and others) dictate the treatment of women in matrimonial disputes, with significant disparities in the rights granted to women across different communities. The legal complexity is amplified by constitutional guarantees of equality and individual rights, which often conflict with personal laws rooted in religious traditions. In the Middle East, the legal systems in many countries are influenced by Islamic law, which shapes the rights of women in marriage and divorce. The study analyzes the impact of Sharia law and how its interpretation across various countries such as Saudi Arabia, Egypt, and Iran affects women's autonomy in matrimonial disputes. Although there are variations, a common theme is the patriarchal nature of family laws, which often restrict women's rights and autonomy. In contrast, Western jurisdictions, particularly in Europe and North America, largely adhere to secular legal frameworks that emphasize gender equality and individual rights. Matrimonial laws in these regions focus on equitable distribution of assets, child custody, and spousal support, offering a more progressive approach towards women's rights. However, challenges such as the impact of traditional gender roles and cultural norms continue to affect women's experiences in matrimonial disputes. This paper highlights how different legal systems address the intersection of personal beliefs, gender equality, and the rights of women in marital disputes. It also emphasizes the evolving nature of women's rights across these jurisdictions, noting how legal reforms and global human rights movements are gradually altering traditional legal norms. The analysis aims to provide a comprehensive understanding of the diverse approaches to women's rights in matrimonial disputes and the ongoing challenges in achieving gender equality in legal systems worldwide.

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Introduction

The institution of marriage is as old as the human civilization is. Marriage is a sacred

institution; it is the very foundation of a stable family and civilized society. Marriage means the state of being united to a person of the opposite sex as husband or wife in a

consensual and contractual relationship recognized by law. The institution of marriage occupies an important place and role to play in the society, in general. Marriage is a ceremony by which two persons are made husband and wife. It is a matrimonial union. It is a socially permitted voluntary, stable and exclusive union between a male and a female. It is a civil and religious contract, whereby a man is

joined and united to a woman, for the purposes of civilized society. Being a holy tie, it is believed that one cannot get out of it according to his own free will [1].

In English law, a marriage though a contract, is a contract sui generis. Each legal system determines the attributes of a marriage; at common law in England, it is in essence consensual union of a man and woman.

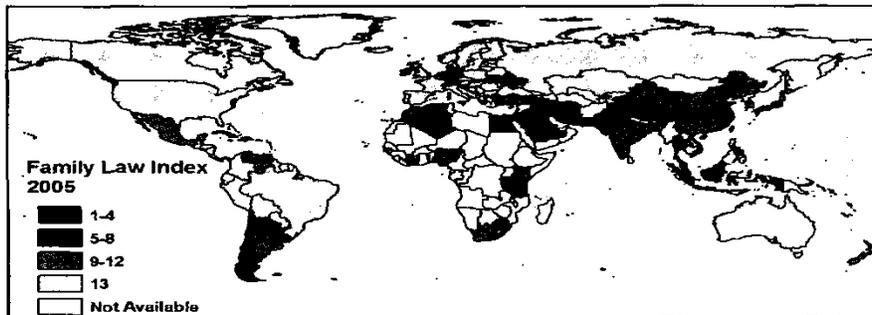


Figure 1: 2005 family law index

Hyde it was held that a marriage was a voluntary union for life of one man with one woman to the exclusion of others. In English law, marriage is a contract by which a man and a woman express their consent to create the relationship of husband and wife [2]. A marriage as understood in Christen dom, may be defined as the voluntary union for life of one man and one woman, to the exclusion of all others'. Christians generally

regard marriage as instituted and ordained by god for the life long relationship between one man as husband and one woman as wife, and is to be held in honour among all. Christian Marriage Act, 1872 follows from the traditional Christians understanding of marriage, as a voluntary union of a man and a woman. Christian theology views marriage from a moral and religious perspective that transcends all social interests.

Among Muslims, marriage is referred to as **nikah**, a term that means *to join* or *to unite*. Literally translated as “to tie together,” *nikah* signifies the Islamic form of marriage. It functions both as a matrimonial contract and as a social institution that accords women a distinct and respected status in society [3]. The purpose of *nikah* is to ensure stability in marital life by binding both partners together for an indefinite period, with the wife being honored through the provision of **mahr**.

In **Abdul Kadir v. Salima**, Mahmood J. observed that marriage among Muslims is not a sacrament but a **purely civil contract**. He explained that although it is usually solemnized with the recitation of verses from the Qur’an, Islamic law does not mandate any specific religious ritual for its validity. The essence of *nikah* lies in the **mutual consent** of the parties involved. However, there is also a contrasting view. In **Anis Begam v. Mohd. Istafa Wali Khan**, Sir Shah Mohammed Sulaiman C.J. stated that Muslim marriages are not merely civil contracts but also possess the character of a **religious sacrament**. Thus, while *nikah* is fundamentally contractual, it simultaneously carries religious and ethical significance within the Muslim community.

Hindu Marriage is said to be a sacrament. Marriage as a sacrament necessarily implies a permanent and indissoluble union. Marriage has always been the foundation of peace and well established institution from the Rig Vedic period and the Aryan ideal of marriage was very high. The aims of Hindu marriage are said to be *dharma*, *praja* (progeny) and *rati* (pleasure) [4].

Though sex is one of the functions of marriage, it is given third place, indicating there by that it is the least desirable aim of marriage. The place of the male child in the family was so elevated that procreation was a duty in the interests of both the family and the community, although it was not said to be the highest aim of marriage and marriage being thus primarily for the fulfillment of duties, the basic aim of the marriage was *dharma*. As marriage is said to be sacred it is irrevocable. The parties to the marriage cannot dissolve it at will. They are bound to each other until the death of either of them, and the wife is supposed to be bound to her husband even after his death. The concept of marriage, that it is indissoluble, is a lofty one because it means that the husband and wife after marriage have to adjust their taste and temper, their ideals and interests, instead of breaking with each other when they find

that these differ. It thus involves sacrifices on the part of both husband and wife as each is called upon to overcome the incompatibility of the other. Hindu marriage thus viewed is not an ordinary affair where in the weakness of flesh plays a dominant part. On the contrary, demands of personal gratification and pleasures are subordinated and the individual is called upon to make marriage a success by means of compromise and adjustment. The question of conflict, to which the society now accustomed to attach so much significance, did not perhaps arise in the olden days [5].

Under Hindu law, the purpose of marriage has traditionally been viewed as highly sacred and profound. As Apasthamba explained, marriage was intended for the performance of virtuous deeds and the attainment of **moksha** (spiritual liberation). A defining feature of Hindu marriage is its strong association with religious duties, including the begetting of a son who would enable the father to attain deliverance from suffering in the afterlife. Marriage, therefore, was not regarded as a contract but as an **indissoluble spiritual bond**, as emphasized by Medhatithi. It was solemnized as a final and binding union.

In **Gopal Kishan v. Mithilesh Kumari**, the Allahabad High Court reaffirmed this traditional understanding, observing that the institution of marriage under Hindu law is a sacrament, not a mere socio-legal contract. It is not performed for emotional gratification nor is it equivalent to a simple engagement. Rather, its foundations are religious and spiritual considered a significant part of one's soul's journey. The court described Hindu marriage as a holy and spiritual union, akin to the *consortium omnis vitae* of Roman law, through which husband and wife become one in all aspects of life.

Marriage is a socially supported union between individuals in what is intended to be a stable, enduring relationship. It is the basis for the family and the institution, defined by six social functions: regulation of sexual behavior, reproduction, nurturance and protection of children, socialization, production, consumption, and the passing on of scribed statuses such as race. Marriage and the family rest on many beliefs, the most important of which is kinship. Marriage is not only a social event but also legal commitment [6].

Under traditional Hindu law, marriage is viewed more as a **religious sacrament** than a secular institution. In the Shastric texts, it is regarded as

one of the essential sacraments for men of the twice-born classes. However, scholars have noted that under the **Hindu Marriage Act, 1955**, marriage no longer fully retains its sacramental character as an eternal spiritual union. At the same time, Hindu marriage has not been transformed into a **mere civil contract**, as it still lacks several essential elements that typically define contractual relationships. Thus, while the statutory framework has modified certain aspects of its religious character, Hindu marriage continues to occupy a unique position—neither purely sacramental nor wholly contractual.

Marriage is an institution of profound social significance, and like society itself, it has evolved with changing social norms and values. Yet, this institution remains inherently susceptible to human limitations and error. Marriage cannot be reduced to a mere “reciprocal possession” of one another’s bodies, nor can it always be idealized as a heavenly union of the kind imagined by Tennyson

At its core, a stable marriage rests on **tolerance, mutual adjustment, and respect**. A willingness to accept each other's imperfections within reasonable limits is essential for sustaining a healthy marital relationship. As a social institution, marriage represents an affirmation of the civilized

social order, wherein two individuals, legally capable of entering into wedlock, commit themselves to shared norms and values. Through this union, they pledge to uphold a durable bond that sustains and fulfills their marital obligations.

It stands as an embodiment for continuance of the human race [7]. Marriage constitutes the fundamental building block of the society, the Government does not create marriage, and marriage is a natural institution that predates Government, society as a whole is benefitted out of the institution.

Literature review

Ahmed, L. (2011) Ahmed’s work focuses on women’s rights in the Middle East, particularly within Islamic legal frameworks. In her analysis of matrimonial disputes under Sharia law, she examines how women's autonomy is constrained in marriage, divorce, and custody cases. She also explores the variances in the application of Sharia across different Middle Eastern countries and the ongoing debates about reforming these laws to promote gender equality.

Ramaswamy, S. (2014) In her comparative analysis of personal laws in India, Ramaswamy critically examines the treatment of women under Hindu, Muslim, and Christian laws, noting the inequities inherent in these religious-based systems [8]. She explores the contradictions between constitutional guarantees of gender equality and the application of personal laws, focusing on how these laws shape the rights of women in matrimonial disputes, particularly in divorce and inheritance cases.

Bajaj, A. (2007) In her study on gender and legal reforms in India, Bajaj discusses how personal laws in India often reflect patriarchal societal norms. She critically evaluates the Hindu Marriage Act, Muslim personal law, and the Christian Marriage Act, highlighting the disparities in women's rights in matrimonial disputes across these religious communities. Bajaj argues that legal reform in India should focus on harmonizing personal laws with constitutional principles of equality.

Hassan, M. (2015) Hassan's research provides an in-depth examination of the role of Sharia law in matrimonial disputes in countries like Saudi Arabia, Egypt, and Iran [9]. She argues that while Islamic family law

gives women some rights, such as the ability to initiate divorce through khula, women's legal positions remain subordinate in matters of custody, inheritance, and divorce. Hassan also discusses the pressure for reform within the region to ensure that women have equal legal standing in marital matters.

Nanda, N. (2022) Nanda's research explores the legal intersection of religion and women's rights in matrimonial disputes, comparing the secular and religious personal laws in India, the Middle East, and Western jurisdictions. She highlights the ongoing challenges women face due to religiously grounded personal laws, especially in divorce, custody, and inheritance matters, and calls for an overhaul of personal law systems to address gender discrimination and uphold international human rights standards.

Fatima, S. (2017) Fatima's work examines the intersection of personal law and gender in the Middle East, with a focus on divorce and custody laws in countries such as Jordan and Lebanon. Her study sheds light on the variation in women's rights across different Islamic countries, emphasizing how reform efforts, though slow, are gaining traction in

some regions, and the role of civil society in advocating for these changes.

Sullivan, A. (2013) Sullivan compares the treatment of women in matrimonial disputes in both Western secular legal systems and religious legal frameworks in her study. She focuses on Western jurisdictions, including the U.S. and Europe, highlighting the gender-neutral nature of their family laws. Sullivan explores the balance between secular legal systems and cultural norms, noting how Western countries' laws still face challenges regarding gender stereotypes in divorce and custody decisions [10].

Kumar, R. (2018) Kumar provides a detailed comparison of matrimonial dispute laws in India and Western jurisdictions, focusing on the contrasting approaches to property division, child custody, and alimony. He discusses how Western legal frameworks tend to favor gender equality, while Indian personal laws still reflect gendered inequalities. Kumar emphasizes the need for comprehensive reform in India's personal laws to ensure women have equal access to legal protection in matrimonial disputes.

Eisenberg, T. (2020) Eisenberg's comparative study on matrimonial laws in the Middle East, India, and Western countries focuses on women's access to justice in divorce and custody cases. He argues that while Western jurisdictions have moved towards gender-neutral family law, personal laws in the Middle East and India often restrict women's autonomy. Eisenberg advocates for the integration of international human rights standards into personal laws to promote women's equality in marital disputes globally.

Berg, H. (2016) Berg's study on personal laws in Western countries emphasizes the role of secular frameworks in achieving gender equality in matrimonial disputes. He explores the evolution of divorce and property distribution laws in the U.S. and Europe, showing how feminist legal theory has influenced the development of family law. Berg also considers how modern reforms, including no-fault divorce, have been instrumental in advancing women's rights in matrimonial disputes.

G.V. Rao v. LHV Prasad, the Apex Court stated that there has been an outburst of matrimonial disputes in recent times. The marriage is a sacred ceremony, the main

purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counseled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different Courts.

The fast changing social and family environment has thrown up new challenges, particularly young generation like growing instability, changing roles of husband and wife and tensions of fast life. All these have resulted in the lack of harmony among married couples. The rate of divorce in the world is becoming alarming and geometrical in calculation. It is of a fact that most young marriages end up in divorce between one to

six months of celebration. A dispute is raised because of ignorance on the part of the disputant. There lation ship between the litigants becomes bitter when his ignorance about his right is fueled by his ego.

Education may change the women position in society but destroys the relationship between the couple because everyone wants individuality [11]. Marriages on crutches need aid and attention. They limp and need intensive care treatment. Family or matrimonial matters have long been regarded as too sensitive to be subjected to the adversarial processes of the conventional legal system, which by its very nature often results in mutual accusations and bitterness. Disputes arising within the family realm therefore require a **distinct and compassionate legal approach**, one that minimizes conflict and prioritizes reconciliation and harmony.

A very recent report points out that of the 1.3 lakh marriages registered every year in Delhi, about 10,000 do not live happily ever after. Alarmed by this, the Delhi Commission for Women (DCW) has set up a pre-marital counselling cell where young men and women and their parents can call for help and guidance. Because of increasing number of young couples resorting to divorce, six more family courts have come

up in Delhi since the late nineties to deal with over 9000 cases of matrimonial disputes.

A marriage may be said to have broken down when the purpose of the marriage tie is defeated or when the objects of the matrimony cannot be fulfilled. Broadly speaking, the main objects of the marriage are twofold, viz., the maintenance of stable sexual relationship and the protection and care of the children of the marriage. When the lives of the spouses reach such a stage that each has his or her own way, when there is constant bickering and nagging, when there is no mutual affection and trust, it may be presumed that the marriage has failed.

The problem with dowry is that giving dowry is a social custom and it is very difficult to change customs all of a sudden. Despite legal restraints, dowry continues to be a basic component of marriage system although its form, magnitude and the associated atrocities on the women vary according to the customary norms of the different communities. The menace of dowry is essentially an outcome of the rapid industrialization and commercialization, which have changed the standard of living of the people and resulted into disintegration

of the family system. With the growth of the human society and emergence of urban and industrial social structure, the concept of marriage suffered so many invasions of thoughts of utilitarianism and industrial rationality based on development of physical sciences and change of values in the society with the development and progress of it [12]. It is not uncommon to see that at the time of negotiation of marriage, the boy's parents shy away because the girl is from a broken family and/ or the parents are divorced. Although a child plays no direct role in the breakdown of a marriage, he or she often bears the emotional consequences of that dissolution. A marital union may become futile for one spouse even when the other has committed no matrimonial offence. Situations such as mental unsoundness, conversion to another religion, renunciation of the world, or prolonged disappearance can render the continuation of the marriage impractical or meaningless. According to this perspective, if a spouse seeks release from such an unproductive marital relationship, the law should provide relief.

The **Hindu Marriage Act, 1955** acknowledges these circumstances as valid grounds for divorce. Traditionally, the majority of divorce cases were based on cruelty, desertion, and adultery. However, in

recent years, **incompatibility** has emerged as a predominant reason for marital dissolution, particularly among younger couples. Many such petitions cite **attitudinal differences** as the primary obstacle to sustaining the marital bond.

Research methodology

The term “ADR” stands for “alternative dispute resolution.” The term ADR, when used in reference to a pending civil lawsuit, refers to the resolution of the law suit by means other than having a judge or jury decide the ultimate issues. ADR can be as informal as negotiations between the parties or their attorneys, or it can be as formal as binding arbitration. One of the many advantages of ADR is that it can be tailored to suit the needs of the parties. Alternative dispute resolution refers to a multiplicity of methods that help or assist the parties in ADR originated in the USA in a drive to find alternatives to the traditional legal system, felt to be adversarial, costly, unpredictable, rigid, over-professionalized,

resolving their disputes without going to trial. Dispute resolution is one of the main functions of the stable society [12].

In a rapidly developing society, expanding human needs and aspirations inevitably lead to conflicts of interest. As individuals become increasingly aware of their rights, litigation often becomes an unavoidable aspect of life, with disputes rising in both number and complexity. This challenge is exacerbated when the litigation process lacks efficiency and discipline, making it difficult for the judicial system to manage an overwhelming caseload. In technologically and economically advanced societies, litigation has traditionally served as the primary method of resolving disputes. However, when the formal court system fails to adequately meet public needs, it becomes necessary to explore alternative mechanisms. It is in this context that **alternative modes of dispute resolution** have gained significant prominence in the present millennium.

damaging to relationships, and limited to narrow rights-based remedies as opposed to creative problem solving.

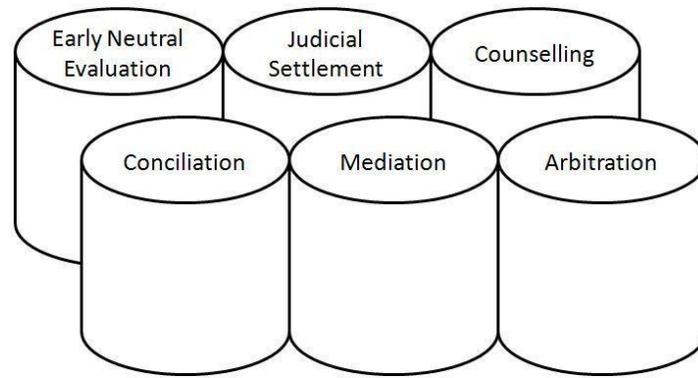


Figure 2: Classification of ADR Process

Indian civilization expressly encouraged the settlement of differences by Tribunals chosen by the parties themselves. An equivalent of it in the old Indian system is the Peoples Court known as the Panchayat. The position outside India was akin in the sense; submission of disputes to the decision of private persons was recognized under the Roman law known by the name of Compromise , arbitration was a mode of settling controversies much favored in the civil law of the continent. The Greeks

The Indian judicial system is currently clutched with many pitfalls e.g. increasing pendency, lack of sufficient resource, minuscule multiplication of number of courts and large vacancies in these institutions. Increasing multiplication of Laws and creation of new rights has led to rising number of new cases escalating the burden of the existing courts rapidly. ADR Mechanisms are now globally accepted solution that can actually reduce the burden

attached particular importance to arbitration. The attitude of English law towards arbitration has been fluctuating from stiff opposition to moderate welcome. In India the Regulation of 1787 empowered the courts to refer certain suits to arbitration. The Bengal Regulation of 1793empowered courts to refer matters to arbitration with the consent of the parties where the value of the suit did not exceed Rs. 200/- and the suits were for accounts, partnership, debts, non-performance of contracts, etc, [13].

of courts and ensuring speedy delivery of justice to the parties.

Investigating the prospect of developing a conflict resolution mechanism outside of the legal system is vital. The number of divorce cases has alarmingly increased in recent years, but mediation gives many couples a chance to settle their differences through separation or marriage. Supporters of mediation assert that it is especially effective in settling conflicts between family

members. Family connections, especially those between parents and children, are seen to be less damaged by mutually negotiated solutions than by the public hostility of an adversarial judicial case. In the past, disagreements in India were resolved by a council of local elders called a Panchayat. The concept of "Cooperative problem solving" is one of the driving forces behind alternative dispute resolution (ADR), which incorporates negotiation theories and tactics, particularly problem-solving theories of negotiation. In addition to preventing litigation delays, alternative dispute resolution (ADR) also reduces expenses [14]. To put it briefly, it gives the parties more power over addressing the difficulties between them, promotes problem-solving techniques, and offers more effective settlements that encompass content and subtlety. Additionally, it tends to improve collaboration and relationship maintenance. The term "alternative dispute resolution," or "ADR," refers to a variety of conflict resolution techniques that are often carried out with the help of an impartial and independent third party and primarily function as alternatives to litigation. A variety of techniques for resolving disputes outside of formal litigation are

included in alternative dispute resolution. In the 1970s, the United States saw the beginning of the current Alternative Dispute Resolution movement, which was motivated by a desire to avoid the expense, time, and adversarial character of litigation. Court reformers are working to promote its usage in underdeveloped countries for these and other reasons. Some nations' interest in alternative dispute resolution (ADR) also derives from a desire to resuscitate and modernize established mediation procedures.

ADR procedures would undoubtedly enhance the current adjudicatory apparatus to boost the general public's trust in the legal system. The Supreme Court noted in *Food Corporation of India v. Joginderpal Mohinderpal* that "we should make the law of arbitration simple, less technical, and more responsible to the actual realities of the situations, but must be responsive to the canons of justice and fair play and make the arbitrator adhere to such process and norms which will create confidence, not only by doing justice between the parties, but by creating a sense that justice appears to have been done."

Human demands will inevitably grow in a society that is evolving quickly, leading to

conflicts of interest. Due to the increasing frequency of disagreements among them, people become increasingly aware of their individual rights and litigation becomes an inescapable aspect of their lives. A judicial system struggles to handle the massive caseload when there is a lack of discipline in the litigation process. Litigation is the main method of settling conflicts, especially in today's technologically and economically evolved world. When it doesn't work out, many individuals are unaware of the necessity to look for fresh, different approaches to resolving conflicts. This is the reason why alternative conflict resolution methods have become more popular in the current era.

A legal dispute in a court of law is known as litigation, and it is a legal action taken to uphold a right. It was decided in *Vide Mury Exportation v. Khaitan and Sons* that arbitration and litigation are two ways to settle conflicts, one in a private tribunal and the other in a court of law. A public process is litigation. The courts are respected, have power, and inspire public trust. Because it adheres to adversarial procedure, rigid, formal rules and procedures are adhered to. Parties to a lawsuit have no say in whom judges, juries, or adjudicators are

chosen. The laws are applied by adjudicators, and the Supreme Court's and High Court's rulings serve as precedents for lower courts. The disputing parties have the option to appeal the court's rulings as a remedy. Punitive and compensatory damages as well as injunctive relief are examples of remedies [15]. The entire legal procedure is often costly. Differences between the disputing parties are frequently so prominent that they occasionally adopt extreme stances in the hostile environment. Concern, anxiety, and tension are caused by the fact that litigation typically results in victory; losing situations and compromise are uncommon. Due to the numerous auxiliary variables on the part of litigants, attorneys, and judges as well as the procedural difficulties involved in the litigation process, justice is delayed during the litigation process.

Compared to a lawsuit, alternative conflict resolution has a number of benefits. In some situations, it can be quicker and less costly, and it is less confrontational. Additionally, it can lessen court burdens. Court reformers in many emerging and transitioning countries are pushing for its adoption because of these factors. An extension of the bargaining process is mediation. The main purpose is to enable self-determination

and cooperative decision making, even if a mediator may push the parties to change how they see each other and their disagreement in order to establish areas of agreement through the identification of shared interests and goals. When mediation is successful, the parties often learn from the experience and are able to resolve future differences without the intervention of a mediator or a court.

Result analysis

In 1987, the nation's first family court was established in Jaipur, Rajasthan. The second family court in the nation was established in Bangalore in 1988, and Karnataka came next. K.G. Bala krishnan CJ recently opened Delhi's first family court on May 15, 2009, and it began operations in July of that same year. The establishment of a family court in the capital is an important advance and a required step, even if such courts have been established and are operating in other states. The main purpose behind setting up these courts was to take the cases dealing with family matters away from the intimidating atmosphere of regular courts and ensure that a congenial environment is set up to deal with matters such as marriage, divorce, alimony, child custody etc.

In order to transfer marriage litigation from regular civil and criminal courts to courts with specialized knowledge in matrimonial law and dispute resolution, Family Courts were established in the majority of India's major cities in the late 1980s and early 1990s. These courts were designed to enable mediation and settlement, bring in waves of swift justice and prompt restitution, and make the litigation process less formal and frightening. A Mediation and Conciliation Project Committee was established by Hon. Mr. Justice R.C. Lahoti, the Chief Justice of the Supreme Court of India at the time. In August 2005, a pilot project on mediation was started in Delhi. The first batch of Senior Additional District Judges were imparted Mediation Training of 40 hours" duration. The trained mediators started judicial mediation from their chambers in the end of August, 2005. Thereafter, 24 more Additional District Judges have been trained as mediators during the month of September and November, 2005.

On October 24, 2005, Hon. Mr. Justice Y.K. Sabharwal, Judge, Supreme Court of India/Chairman, and NALSA inaugurated the permanent Mediation Center in Tis Hazari, which has all the amenities of a contemporary court complex.

Table 1: Year 2003 Total number of cases Filed: 939

Sl. No	Nature of the Case	No. Of Cases
01	Restitution	125
02	Maintenance	283
03	Divorce	270
04	Mutual Divorce	122
05	Other Cases	139
05	Total	939

In June 2006, eleven additional district judges received mediation training. On May 5, 2006, Hon. Mr. Justice S.B. Sinha, Judge of the Supreme Court of India, opened a mediation center at Karkardooma Court. Hon. Mr. Justice Madan B. Lokur, a member of the Mediation & Conciliation Project Committee and a judge of the Supreme Court of India, also officially opened the new Delhi Mediation Center complex at Karkar dooma.

Four other mediation centers were then set up in the Patiala House Courts Complex, Dwarka, Saket, and Rohini. On October 12, 2009, Hon. Mr. Justice R.V. Raveendran, Judge of the Supreme Court of India, officially opened the A Mediation Center at Rohini Court. On February 9, 2010, Hon. Mr. Justice A.P. Shah, Chief Justice of the Delhi High Court, opened a mediation center in Dwarka Court. Hon. Mr. Justice D.

Murgesen, the Chief Justice and High Court of Delhi, opened a mediation center at Saket Court to inform the public and disputants that they are under the court's jurisdiction. Since these centers were established, the mediation movement in these states has significantly increased. Delhi District Courts have demonstrated remarkable outcomes in such a short period of time and are furnished with court-annexed mediation facilities.

The common law court's adversarial process differs slightly from the Family Court's when it comes to family affairs and the representation of attorneys. Section 9 requires the Family Court to make an effort to help and convince the parties to reach a settlement regarding the subject matter of the suit or proceedings. If the Family Court determines that there is a reasonable chance of a settlement between the parties, the proceedings must be postponed for a

reasonable amount of time to allow the parties to reach a settlement. The AP High Court made it clear that the Family Court would not skip this crucial step and that, upon the respondents' initial appearance, the Family Court would make the aforementioned efforts. The case should only be posted for further proceedings, such as a written statement or counter, issues, trial, and so forth, if it is determined after the aforementioned exercise that the settlement is not feasible. Family courts do not merely rule on matters pertaining to marriage, such as the execution of rituals or even aspects of cruelty that are known to the parties and can be disclosed by them, but which typically do not spread to other members of the community or even neighbors. A lawyer's help might not be required in the aforementioned areas. The conciliatory process is necessary to reach a settlement between the husband and wife since marital disagreements are mostly between them and involve personal issues. These days, mediation has been crucial in resolving conflicts, particularly those involving marriage, and has produced positive outcomes.

Additionally, the Family Courts Act of 1984 unified criminal and civil jurisdiction.

Orders issued by Family Courts under civil procedure must be carried out in the same way as specified by the Code of Civil Procedure. If the Family Court issued orders under Chapter IX of the Code of Criminal Procedure, they must be carried out in the way specified by that Code. A decree or order may be executed either by the family court, which passed it, or by the other family court or ordinary civil court to which it is sent for execution.

Efforts of High Courts and the Supreme Court: The ADR revolution has gained tremendous momentum in India in recent years, not only because it is a useful tool for clearing the court dockets but also because it avoids rigidity and complexity and provides an additional affordable and quick remedy for resolving disputes—a remedy that is fairly appropriate in the current state of affairs. The Supreme Court and the High Courts have also strongly supported the widespread application of alternative dispute resolution (ADR) and have made several steps to popularize and advance ADR in India. Since then, the idea has expanded significantly thanks to the Supreme Court's and the High Courts' backing for the establishment of fully operational in-house mediation facilities.

Table 2: Total no of Disposed Cases -662

Sl. No	Nature of the Disposal	No. Of Cases
01	Contested	98
02	Mutual Consent	68
03	Expart	215
04	Reconciliation and Counselling	30
05	Dismissed for Default	251

In *Bowman v. Bowman* the Court adopted the dictum of Denning L.J namely that the really important consideration in matrimonial dispute cases is to see whether there is any chance of reconciliation. On this point, it is most material to enquire what the applicant has already done to try to make the marriage a success or to become reconciled.

There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of

conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences? Answer clearly has to be in 'negative'. It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides. The scope and ambit of power under Section 482 has been examined by this Court in catena of earlier decisions but in the present case that is required to be considered in relation to matrimonial disputes.

The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes. The matrimonial disputes of the kind in the present case have been on considerable increase in recent times resulting in filing of complaints by the wife under Sections 498A and 406, Indian

Penal Code, 1860 not only against the husband but his other family members also. When such matters are resolved either by wife agreeing to rejoin the matrimonial home or mutual separation of husband and wife and also mutual settlement of other pending disputes as a result whereof both sides approach the High Court and jointly pray for quashing of the criminal proceedings or the First Information Report or complaint filed by the wife under Sections 498 A and 406, Indian Penal Code, 1860, Can the motion be dismissed on the

grounds that the court cannot cancel the criminal proceedings, FIR, or complaint because the offenses are not compoundable under Section 320 of the Code? The Court also stated that the Court may use its inherent powers to endorse the outcome of mediation as a solution to the issue, even in the existence of a case under Section 498-A of the IPC. There is no need in bringing up the matter in court if a disagreement can be resolved amicably and the marriage may be preserved.

Table 3: Year 2004 Total number of cases filed: 1058

Sl. No	Nature of the Case	No. Of Cases
01	Restitution	138
02	Maintenance	269
03	Divorce	271
04	Mutual Divorce	183
05	Other Cases	197

The court also explained that it is undeniable that the purpose of the Indian Penal Code's Chapter XX-A, which contains Section 498A, was to stop a woman from being tortured by her husband or his family. In order to penalize a husband and his family members who intimidate or harass a wife in order to force her or her relatives to comply with illegal requests for dowry, Section 498A was inserted.

Conclusion

In conclusion, a comparative analysis of women's rights in matrimonial disputes across India, the Middle East, and Western jurisdictions underscores the diverse legal landscapes shaped by religious, cultural, and historical contexts. In India, personal laws governing marriage and divorce are deeply

influenced by religion, leading to significant variations in the protection of women's rights depending on whether one follows Hindu, Muslim, Christian, or other religious laws. While there have been reforms aimed at safeguarding women's rights, the persistence of traditional practices often limits their full realization. In the Middle East, interpretations of Islamic law often place women at a disadvantage in matters of divorce, inheritance, and custody, although there are ongoing efforts in some countries to reform these laws and provide greater protections for women. In Western jurisdictions, secular legal systems have generally advanced women's rights in matrimonial disputes, with comprehensive frameworks for divorce, property distribution, and child custody that are based on gender equality. However, even in the West, challenges such as social stigma, economic disparities, and the persistence of patriarchal attitudes continue to affect the equitable application of these laws. Overall, while legal reforms across these regions have contributed to advancing women's rights, deeply ingrained cultural and societal norms remain significant barriers to achieving true gender equality in matrimonial disputes. A holistic approach,

combining legal reform with cultural shifts, is essential to ensuring that women can fully exercise their rights in all matrimonial contexts.

Reference

1. Dr. Paras Diwan - Muslim Law In Modern India allahabad Law Agency- Law Publishers Faridahabad (Haryana)- Tenth Edition 2011.
2. Dr. Paras Diwan - Family Law- Allahabad Law Agency- Faridahabad (Haryana)- 2009.
3. R.K Agarwala - Hindu Law- Central Law Agencyallahabad- 23rd Edition.
4. Gour's- Empowerment Of Women And Gender Justice In India- Law Publishers (India) Pvt. Ltd.- Allahabad.
5. Lalita Dhar Parihar- Women And Law- Eastern Book Company- Lucknow.
6. Dr. (Mufti) M. Mukarram Ahmed- Law Of Shariatanmol Publications Pvt. Ltd.- New Delhiwomen.
7. D.K. Singh - Gender Equality And The State- Sumit Enterprises- New Delhi.

8. Ashwini Rao- Status Of Human Rights In India- Pacific Publications- Delhi.
9. P.K. Meena- Human Rights: Theory And Practicemurari Lal And Sons- New Delhi.
10. Dr. Anjani Kant- Women And The Law- A.P.H Publishing Corporation- New Delhi.
11. Arehana Chaturvedi- Encyclopedia Of Muslim Women: Muslim Women From Tradition To Modernityvolume 4
12. P.K. Das- Universal's Handbook On Hindu Succession- Universal Law Publishing Companynew Delhi.
13. Dr. S.C. Tripathi And Vibha Arora- Law Relating To Women And Children- Central Law Publication sallahabad.
14. Hamid Khan- The Islamic Law Of Inheritance- Oxford Pakistan Paperbacks- Mehran Printers- Karachi, Pakistan.
15. Fatima E. Siddiqui- Sarala Ranganathan Handbook On Women And Human Rights- Kanishka Publishers, Distributors- New Delhi.