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## TACKLING THE ESCALATING BACKLOG IN FAMILY COURTS: ROOT CAUSES AND STRATEGIC SOLUTIONS

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### **Abstract**

The escalating backlog in family courts has become a pressing concern, undermining the timely delivery of justice and exacerbating the emotional and psychological strain on families involved in disputes. This article delves into the root causes contributing to the backlog, including high caseloads, inadequate infrastructure, procedural inefficiencies, and systemic challenges. It also examines the complexity of family disputes, which often require extended mediation and conciliation efforts. To address these issues, the article proposes strategic solutions such as increasing the number of family courts, leveraging technology for efficient case management, simplifying procedures, and fostering alternative dispute resolution mechanisms like mediation and arbitration. By implementing these reforms, the family justice system can enhance efficiency, ensure faster resolution of cases, and uphold the principle of justice for all.

### **Keywords:**

Family courts, backlog, justice delay, case management, mediation, conciliation, procedural efficiency, infrastructure, systemic challenges, family disputes, judicial reforms, Kerala, legal infrastructure, caseload management, court delays

### **Introduction**

Family courts play a pivotal role in resolving sensitive and emotionally charged disputes, ranging from divorce and child custody to maintenance and restitution of conjugal rights etc. However, the efficiency of these courts is increasingly compromised by an alarming backlog of cases, a situation that undermines the timely delivery of justice and deepens the emotional and financial strain on families. In India, particularly in states like Kerala, this issue has reached critical proportions, with thousands of cases pending for years. The growing backlog not only violates the principle of justice delayed being justice denied but also erodes public trust in the judicial system.

The causes of these delays are multifaceted, stemming from both systemic inefficiencies and the inherent complexity of family disputes. While limited judicial infrastructure and resource constraints exacerbate the problem, procedural inefficiencies and the overburdening of courts with high caseloads further delay resolutions. Additionally, the emotional and interpersonal dynamics of family disputes often necessitate extended mediation and conciliation efforts, contributing to prolonged case durations.

Addressing this crisis requires a comprehensive understanding of its root causes and the formulation of strategic solutions tailored to the unique challenges of family courts. This paper aims to examine the underlying factors contributing to the backlog and propose actionable reforms to streamline processes, enhance resource allocation, and ensure the



timely resolution of disputes. By focusing on both structural and procedural improvements, this study seeks to contribute to the broader discourse on judicial efficiency and the delivery of justice in family courts.

### **OBJECTIVE OF THE STUDY**

The primary objective of this article is to study the key objectives of the family courts act 1984, and to analyse the root causes behind the escalating backlog in family courts, with a specific focus on systemic, procedural, and resource-related challenges. It aims to explore how delays in family court proceedings affect the timely delivery of justice and the well-being of families. Additionally, the article seeks to propose strategic, evidence-based solutions to mitigate these delays by enhancing court infrastructure, streamlining procedures, improving mediation and conciliation mechanisms, and adopting technology-driven case management systems. Ultimately, the goal is to provide actionable recommendations to policymakers, judicial administrators, and stakeholders to ensure an efficient and effective family justice system.

### **Research Methodology**

This study adopts a doctrinal research methodology, which involves a critical and analytical examination of legal principles, statutes, case laws, and secondary sources relevant to the functioning of family courts. The research is primarily based on qualitative analysis, relying on the following sources:

#### **Primary Sources**

Statutory provisions such as the Family Courts Act, 1984, and related rules and amendments. Judicial precedents from Indian courts, including the Supreme Court and High Courts, addressing issues related to delays and backlogs in family courts. Reports and guidelines issued by judicial commissions, government bodies, and the Law Commission of India concerning family court reforms.

#### **Secondary Sources**

Books, journal articles, and commentaries discussing the functioning of family courts, the causes of delays, and potential solutions. Research papers, reports, and publications from academic institutions and legal think tanks. Media reports and news articles providing insights into contemporary challenges faced by family courts.

### **FAMILY COURTS ACT 1984**

The Family Courts Act, 1984 was enacted in India to establish family courts with the primary objective of promoting a more efficient, accessible, and less adversarial system for resolving family disputes. The key objectives of the Act include:<sup>1</sup>

1. **Expeditious Resolution of Family Disputes:** To ensure that matters related to family issues, such as divorce, child custody, maintenance, and domestic violence, are resolved quickly and effectively.
2. **Reduction in Court Burden:** By creating specialized courts, the Act aims to reduce the burden on regular courts and address family-related matters with more focus and expertise.
3. **Simplification of Legal Procedures:** To make the legal process more accessible to common people by simplifying procedures and reducing formalities. This includes providing opportunities for counselling and mediation.

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<sup>1</sup> FAMILY COURTS ACT, 1984



4. Protection of Children and Women: The Act places a strong emphasis on the protection of children, women, and vulnerable individuals, ensuring that their interests are safeguarded during family-related legal proceedings.

#### 5. Access to Justice

The Act aims to make family law accessible, especially for those who may not have the resources or legal knowledge to navigate the general court system.

The Family Courts Act was instrumental in creating a more responsive and supportive judicial system for families in India, focusing on the emotional and social dimensions of family conflicts. The family courts act 1984 was enacted with a view to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs and for matters connected therewith. Though this was aimed at removing the gender bias in statutory legislation, the goal is yet to be achieved. Mechanism of the family courts develop systems and process, perhaps with the help of civil society organisations to ensure that atrocities against women are minimized in the first place.<sup>2</sup>

Jurisdiction of Family Courts is clearly states in section 7 of the Act<sup>3</sup>. This section defines the jurisdiction of family courts over disputes.

- Marriage and divorce: Issues arising under any law related to marriage, divorce, nullity, or restitution of conjugal rights.
- Maintenance and alimony: Claims for maintenance, whether under personal laws or statutory provisions such as Section 125 of the Criminal Procedure Code.
- Custody and guardianship: Matters related to custody of children or appointment of guardians.
- Property disputes: Disputes between parties to a marriage concerning property.
- Other family-related issues: Matters prescribed under personal laws, such as succession and inheritance.
- The Unique feature of the family courts is the court operate with both civil and criminal jurisdiction when dealing with family-related matters.

Family courts is a mixture of inquisitorial system, adversarial system and participatory form of grievance redressal.<sup>4</sup> According to the Section 9 of the Act<sup>5</sup> states that duty of Family Court to make efforts for Settlement that is to promote conciliation and reduce adversarial litigation. Before proceeding with a trial, the court must attempt to bring about reconciliation between the parties. If reconciliation fails, only then can the court proceed to resolve the dispute. The court may take the assistance of counsellors, psychologists, or other experts to facilitate amicable settlements. This section emphasizes the family court's role in fostering harmony and preserving relationships wherever possible. The Act of 1984, represents a procedural statute designed to introduce a distinct and innovative framework for adjudicating family disputes.

In the case of **KA Abdul Jaleel V.TA shahada**<sup>6</sup> VN kharae CJ SB SINHA J and Dr AR Lakshmanan J highlighted the rationale behind the enactment stating that the primary

<sup>2</sup> Department of justice ,family court ,MINISTRY OF LAW AND JUSTICE , <https://doj.gov.in/family-court> (JANUARY 1,2025.3.00 PM)

<sup>3</sup> Supra n 2

<sup>4</sup> Romilla Jaidev Shroff v Jaidev Rajnikant Shroff, AIR 2000 BOM 356

<sup>5</sup> Supra n 2

<sup>6</sup> AIR 2003 SC 455



objective was to establish a specialised court system uniquely equipped to handle family disputes with an approach markedly different from that of ordinary civil proceedings.

The objective of family courts is to ensure the speedy settlement of disputes related to marriage, divorce, child custody, maintenance, and other family matters. However, despite this aim, the reality often falls short, with a significant backlog of cases pending before family courts. The reasons for this inefficiency can be linked to systemic and procedural challenges:

The landmark cases which have significantly influenced family law in India, setting important precedents and guiding principles for family-related disputes are as mentioned below: In **Mohd. Ahmed Khan v. Shah Bano Begum**<sup>7</sup> case, which precipitated the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986, the principle of providing maintenance for divorced Muslim women beyond the iddat period was established. **The S.R. Batra v. Taruna Batra**<sup>8</sup> case affirmed the wife's equal share in her husband's property, regardless of when the property was acquired, strengthening women's property rights in marriage.

In **Githa Hari Haran v. Reserve Bank of India**<sup>9</sup> case established the equal right of a mother to guardianship of her child, challenging traditional gender roles and recognising the importance of maternal care in child custody matters.

In **Indra Sarma v. V.K.V. Sarma**<sup>10</sup>, the concept of irretrievable breakdown of marriage was recognised, this case allowed divorce on the grounds of unconcilable differences, providing relief to couples in dysfunctional marriages.

These cases have not only shaped family law jurisprudence but have also advanced societal progress by promoting gender equality, safeguarding women's rights, and fostering a more inclusive and equitable legal framework for family matters in India. The primary objective of family courts is to ensure the prompt adjudication and resolution of family disputes, addressing the needs of the parties involved in a timely and efficient manner. Furthermore, family courts aim to encourage conciliation and mediation in matters related to marriage and family, fostering peaceful settlements and supporting the preservation of familial bonds. A key goal is to protect and strengthen family connections by resolving disputes in a manner that maintains the unity and integrity of the family structure. Additionally, they strive to expedite the resolution of family matters, minimizing delays and facilitating the swift conclusion of disputes.<sup>11</sup>

## Reasons for Backlog in Family Courts

### 1. High Volume of Cases

The number of family disputes, including divorce, maintenance, and custody cases, has increased over time due to societal changes, urbanization, and growing awareness of legal rights. Family courts are often overwhelmed by the sheer volume of cases. The high volume of

<sup>7</sup> AIR 1985 SC 945

<sup>8</sup> AIR 2007 SC 1118

<sup>9</sup> AIR 1999 SC 1149

<sup>10</sup> AIR N2014 SC 309

<sup>11</sup> RC Agarwal Advocate, Supreme Court of India, Justice delayed is justice denied, constitution of India, and pendency of court cases. Delay in disposal of cases by courts by PP RAO, Senior advocate, supreme court of India pg. no 69



family cases being filed in family courts today can be attributed to a combination of social, cultural, legal, and economic factors.<sup>12</sup>

## 2. Insufficient Infrastructure

Many family courts lack adequate physical infrastructure, technology, and support staff to handle cases efficiently. Limited courtrooms and resources lead to delays in hearings and judgments. Family courts in India face a significant lack of infrastructure due to various systemic, administrative, and financial challenges.

## 3. Shortage of Judges

A shortage of family court judges delays case processing. Judges in family courts often deal with emotionally charged cases, which require more time and attention, further slowing proceedings. Family courts are often not prioritized in judicial planning and reforms, leading to delays in appointments and lack of resources.

## 4. Procedural Delays

Frequent adjournments are a significant reason for delays. Inadequate case management practices and lack of fixed timelines for proceedings also contribute to inefficiency. Procedural delays in family cases are a significant issue in India, undermining the objective of family courts to provide speedy justice. These delays occur at various stages of the legal process due to systemic inefficiencies, procedural complexities, and behavioural factors.<sup>13</sup>

## 5. Lack of Alternative Dispute Resolution (ADR)

Although family courts are meant to encourage reconciliation and mediation, ADR methods are often underutilized. Without effective mediation, even simple disputes can drag on in court. The lack of effective use of Alternative Dispute Resolution (ADR) mechanisms in family cases occurs due to several systemic, social, and procedural challenges.

## 6. Limited use of Technology

Most family courts rely on manual processes for filing, case tracking, and document management, leading to inefficiencies. Insufficient use of video conferencing or online dispute resolution mechanisms adds to delays. The limited use of technology in family courts stems from a range of systemic, infrastructural, and cultural challenges.

## 7. Socio-cultural Dynamics

India's diverse socio-cultural landscape poses unique challenges to the functioning of family courts. Deeply entrenched social norms, patriarchal attitudes, and traditional family structures can influence judicial decision-making, exacerbate gender bias, and impede access to justice, particularly for marginalised communities and vulnerable groups.

**8. Lack of Legal Awareness:** Many litigants, especially from disadvantaged backgrounds, lack awareness of their legal rights and the procedural intricacies of the judicial system. This results in inadequate representation, uninformed decision-making, and unequal access to justice, perpetuating a cycle of legal vulnerability and disenfranchisement.

## 9. Enforcement of Orders:

<sup>12</sup> <https://timesofindia.indiatimes.com/city/delhi/delhi-high-court-pending-cases-in-family-courts-details/articleshow/105917236.cms>

<https://www.hindustantimes.com/india-news/over-11-4l-cases-pending-in-family-courts-must-be-settled-expeditiously-ls-mps-101658857384872.html>

(JANUARY 3, 2025. 4.00 PM)

<sup>13</sup> <https://dashboard.doj.gov.in/family-court-cases/>

Even after obtaining favourable judgments, litigants often encounter difficulties in enforcing court orders, particularly regarding maintenance, child custody, and property division. Inadequate mechanisms for monitoring compliance and enforcing judgments undermine the efficacy of family court decisions and erode public trust in the judicial system.

### **10. Insufficient Budget Allocation and Staffs**

Resource constraints in family courts occur due to a combination of systemic inefficiencies, financial limitations, and institutional neglect. These challenges result in insufficient physical, human, and technological resources, hampering the courts ability to function effectively. Family courts often receive lower priority in budgetary allocations compared to higher courts or criminal justice systems. The funds provided are insufficient to meet the growing demand for infrastructure, staffing, and technological upgrades

**To address these challenges and achieve the objective of speedy resolution, several measures can be taken**

#### **1. Increase Judicial Strength.**

Appoint more judges and create additional family courts to handle the rising number of cases. Increase Sanctioned Posts create more positions for family court judges based on the growing caseload. Streamline Recruitment, Simplify and expedite the judicial appointment process to fill vacancies promptly. Introduce Specialized Training Establish training programs for aspiring judges in family law to build a pool of qualified candidates. Incentivize Family Court Positions.

#### **2. Promote ADR Mechanisms**

Encourage mediation, conciliation, and counselling to resolve disputes outside the courtroom. Mandate pre-litigation counselling for family disputes<sup>14</sup>. Consequences of Limited ADR in Family Cases without ADR, family courts face a higher burden of cases, leading to delays. Litigants endure longer litigation periods, resulting in emotional and financial stress. Formal litigation often deepens conflicts rather than fostering reconciliation, which ADR aims to achieve. Provide specialized training for mediators in family law and dispute resolution. Develop a certification process to ensure the quality of mediation services. Encourage lawyers to support ADR by offering financial incentives or recognition for successful mediation cases. Create clear guidelines to ensure ADR outcomes are enforceable and respected in family disputes.

#### **3. Modernize Court Infrastructure through digitalization**

Upgrade court infrastructure with digital case management systems, e-filing, and video conferencing to expedite proceedings. Increased Budget allocation. Allocate more funds specifically for family court infrastructure and operations. Expansion of Court Facilities that build more family courts with dedicated spaces for counselling, mediation, and child-friendly interactions. Digital Transformation that Introduce e-filing systems, case management software, and online dispute resolution. Expansion of Court Facilities. Build more family courts with dedicated spaces for counselling, mediation, and child-friendly interactions.

#### **5. Enhance Legal Aid and Awareness**

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<sup>14</sup> <https://pib.gov.in/PressReleasePage.aspx?PRID=2040661>

Use of Alternate Dispute Resolution mechanisms to reduce the burden on the judiciary and thereby enable timely justice dispensation to citizens of the country Alternate Dispute Resolution Posted On: 02 AUG 2024 2:41PM by PIB Delhi, Ministry of Law and Justice (JANUARY 3,2025.5.00 PM)



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Provide free legal aid to economically weaker litigants and organize awareness campaigns about alternative dispute resolution mechanisms. Enhancing legal aid and awareness is critical to reducing the pendency of cases in family courts, as it empowers litigants to make informed decisions, promotes early resolution of disputes, and minimizes unnecessary litigation. Expand Legal Aid Clinics: Establish more family court-focused legal aid clinics in urban and rural areas, staffed with trained lawyers and counsellors.

#### **6. Train Family Court Judges and Staff**

Conduct specialized training for judges and court staff to deal with family disputes more sensitively and efficiently. Appoint counsellors who can help individuals navigate the emotional and legal complexities of family disputes, reducing unnecessary litigation and providing psychological support to families. Promote post-Judgment Counselling: Offer post-judgment counselling services for families, especially in cases of divorce or child custody, to help them adapt to new situations and avoid further disputes.

#### **7. Reduce Procedural Formalities**

Strict Adjournment Policies. Limit the number and duration of adjournments to discourage misuse. Use of Technology Implement e-filing, video conferencing, and digital case management systems to streamline procedures. Promote mandatory and timely mediation for cases where reconciliation is possible. Specialized Training of judges, lawyers, and court staff to handle family cases more efficiently. Establish fast-track family courts to handle time-sensitive issues like custody and maintenance. Impose strict timelines for completing different stages of cases to avoid unnecessary delays.

#### **8. Monitor and Review Performance**

Establish regular performance reviews of family courts to identify bottlenecks and implement corrective measures to Strengthen Monitoring and Evaluation. By implementing these measures, family courts can move closer to fulfilling their primary objective of delivering timely and effective justice in family matters..

#### **9. Increased Budget Allocation and establish additional family courts in underserved areas to improve access to justice**

Prioritize family courts in judicial budget planning at both central and state levels. Provide dedicated funds for infrastructure, staffing, and technology. Appoint adequate judges, counsellors, and mediators to meet the caseload demands.

#### **10. Establish Clear Timelines for Disposing of Cases**

Fixed Time Limits for Certain Cases: Implement fixed timelines for certain family disputes (e.g., divorce, child custody), ensuring that these cases do not drag on for years without resolution. Regularly assess the performance of family courts to track the number of pending cases and ensure that timelines are being adhered to.

#### **Conclusion**

Delays in family courts undermine the very purpose of their establishment ensuring swift, sensitive, and effective resolution of familial disputes. Prolonged litigation not only burdens the judiciary but also intensifies the emotional, financial, and psychological strain on litigants, particularly children and vulnerable individuals. Addressing these delays requires a comprehensive and collaborative approach involving judicial reforms, infrastructural upgrades, and the integration of modern technology. Key measures such as appointing sufficient judges, streamlining court procedures, promoting Alternative Dispute Resolution (ADR) mechanisms, and leveraging digital tools can significantly improve the efficiency of family courts. Additionally, fostering better coordination between stakeholders, ensuring



adequate funding, and prioritizing family justice in policy-making are essential steps to combat delays. Restoring timeliness in family justice is not merely about reducing case backlogs but about upholding the principles of fairness, compassion, and accessibility. By implementing systemic changes and embracing innovation, family courts can fulfil their mandate, providing families with the resolution and closure they seek in a timely and just manner.

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