

# **MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM IN INDIA: AN ANALYTICAL STUDY**

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## DECLARATION

I, here by declare that the dissertation entitled “**Mediation As A Matrimonial Dispute Resolution Mechanism In India: An Analytical Study**” is based on original research undertaken by me and it has not been submitted in any university for any degree or diploma.

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## **CERTIFICATE**

This is to certify that the dissertation entitled-“**MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM IN INDIA:AN ANALYTICAL STUDY**” has been prepared by ANKIT BHARTI, pursuing LL.M From School of Law, Galgotias University, under my supervision and guidance. I recommend it for evaluation.

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## **TABLE OF CONTENTS-**

<b>COVER PAGE.....</b>	<b>pg no-1</b>
<b>DECLARATION.....</b>	<b>pg no-2</b>
<b>CERTIFICATE.....</b>	<b>pg no-3</b>
<b>ACKNOWLEDGMENTS.....</b>	<b>pg no-4</b>
<b>TABLE OF CONTENTS.....</b>	<b>pg no-5</b>
<b>TABLE OF CASES.....</b>	<b>pg no-8</b>
<b>LIST OF ABBREVIATIONS.....</b>	<b>pg no-9</b>
<b>CHAPTER 1-INTRODUCTION.....</b>	<b>pg no-10</b>
1.1-INTRODUCTORY PARAGRAPH	
1.2-STATEMENT OF PROBLEM	
1.3-HYPOTHESIS	
1.4-LITERATURE REVIEW	
1.5-SCOPE AND LIMITATIONS	
1.6-RESEARCH GAP	
1.7-RESEARCH OBJECTIVES	
1.8-RESEARCH QUESTIONS	
1.9-RESEARCH METHODOLOGY	
1.10-CHAPTERISATION	
<b>CHAPTER 2-MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM - GENERAL OVERVIEW .....</b>	<b>pg no-24</b>
2.1- MATRIMONIAL DISPUTES	
2.2-CHALLENGES TO THE PARTIES HAVING MATRIMONIAL DISPUTES RESOLUTION THROUGH COURTS-	
2.2.1-ECONOMICAL CHALLANGES	

2.2.2 MENTAL HARRASSMENT CHALLANGES

2.2.2.1 PRIVACY RELATED CHALLANGES

2.2.2.2 IMAGE BUILDING CHALLANGES

2.2.3 -CHALLENGES RELATED TO GROWTH OF THE CHILDREN  
CHILDREN

2.2.4-MISCELLANEOUS CHALLANGES

2.3- MATRIMONIAL DISPUTE RESOLUTION: A NEED OF MEDIATION AS A MECHANISM

2.3.1-PREMARITAL AGGREMENT

2.3.2- MATRIMONIAL DISPUTES RESOLUTIONS MECHANISMS

2.4- MEDIATION AS AN AMICABLE PROCESS IN MATRIMONIAL DISPUTE RESOLUTION

2.4.1- CONFIDENTIALITY CLAUSE IN THE ARENA OF MEDIATION

2.4.2- AWARENESS OF RIGHTS OF PARTIES REFLECTING IN THE MARRIAGE DISPUTES

**3- MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM :  
INTERNATIONAL LAW.....pg no-63**

3.1-INTERNATIONAL CONVENTIONS

3.1.1-UNITED NATIONS CONVENTION ON INTERNATIONAL SETTLEMENT  
AGREEMENTS RESULTING FROM MEDIATION (ALSO KNOWN AS SINGAPORE  
CONVENTION)

3.1.2-UNIVERSAL DECLARATION OF HUMAN RIGHTS IMPACT ONFAMILYDISPUTE  
RESOLUTION

3.1.3-UNDP RECOGNITION IN FAMILY DISPUTES RESOLUTION

3.2-INTERNATIONAL LAWS GUIDANCE TO INDIAN MEDIATION STRUCTURE

3.2.1THE LONDON COURT OF INTERNATIONAL ARBITRATION

3.2.2-THE AMERICAN ARBITRATION ASSOCIATION

3.3- COMPARING SITUATION BETWEEN INTERNATIONAL AND INDIAN FRAMEWORK

**4- MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM  
:INDIAN LAWS.....pg no-91**

4.1- GENERAL LAWS GOVERNING MATRIMONIAL DISPUTES IN INDIA-

4.2- INDIAN LAWS

4.2.1-MAHOMMEDAN LAW

4.2.2-HINDU LAW

4.2.3-CHRISTIAN LAW

4.2.4-PARSI LAW

4.2.5- OTHER CIVIL LAWS

4.3- LEGAL JURISTIC IMPACT ON ALTERNATIVE DISPUTE RESOLUTION MECHANISM

4.4- TYPES OF SETTLEMENTS IN MATRIMONIAL DISPUTES-

4.4.1-DIVORCE

4.4.2-RESTITUTION OF CONJUGAL RIGHTS

4.4.3- JUDICIAL SEPARATION

4.5-MEDIATION AS AN EFFECTIVE TOOL IN MATRIMONIAL DISPUTES

**5-SUGGESTIONS AND CONCLUSION.....pg no-113**

5.1 STATEMENT OF PROBLEM ADDRESSED

5.2 SUMMARY OF CHAPTERS

5.3 RESEARCH OBJECTIVE ADDRESSED

5.4- RESEARCH GAP ADDRESSED

5.5RESULT OF RESEARCH HYPOTHESIS

5.6 RESEARCH QUESTION ADDRESSED

5.7 SUGGESTIONS

**BIBLOIGRAPHY.....pg no-127**

**TABLE OF CASES-**

- 1- CAPT MRS KRISHNA V UOI, W.P (C) NO. 166/2010, DECIDED on 8 october 2010[high court of delhi]*
- 2- BS KRISHNAMURTHY V BS NAGARAJ, AIR 2011 SC 794.*
- 3- ANU BHANDARI V PRADEEP BHANDARI [2018] 6 SCC 389*
- 4- KAUSHALIYA V JODHA RAM, AIR 2019 SC 927*
- 5- JITENDRA RAGHUVANSHI V BABITA RAGHUVANSHI ,2013 4 SCC 58*
- 6- In RE E (A CHILD)(MEDIATION PRIVILEGE*
- 7- ROJAS V SUPERIOR COURT LOS ANGELES COUNTY ET AL*
- 8- SANTHANY V VIJAY VENKETESH*
- 9- PERRY KANSAGRA V SMRITI MADAN KANSAGRA*
- 10- Vinita Saxena v. Pankaj Pandit, (2006) 3 SCC 78*



## **LIST OF ABBREVIATIONS**

UDHR- Universal Declaration of human rights

UNDP- United Nations Development Programme

ADR- Alternative dispute resolution

UNCITRAL- United Nations Commission on international trade law

COVID-19- Coronavirus Disease 2019

ARB.- Arbitration

NEG.- Negotiation

SC- Supreme Court

ADMIN- ADMINISTRATION

GOVT- GOVERNMENT

A.A.A- American arbitration association

HMA-hindu marriage act

# CHAPTER-1 INTRODUCTION

## 1.1-INTRODUCTORY PARAGRAPH

In the field of justice, research on the legislation and mediation procedures pertaining to marital dispute resolution is productive. The theories being evaluated in the field of marriage dispute resolution are based on a methodical cultural approach and are crucial to the intended resolutions of the conflicts. There are consistently methodical methods of identifying fresh modes of resolution for marriage conflicts in the activities that have been appraised thus far regarding the mediation approach's difficulty. Legally speaking, mediation has been viewed as a dispute resolution procedure<sup>1</sup> within the framework of an alternative conflicts mechanism.

Regarding the relevant study, the function of mediation in matrimonial disputes is examined here as a central viewpoint to the investigation, tracing historical trends to the current circumstances that have emerged, requesting that the parties mediate between them while taking into account the matrimonial dispute and the flow of mediation statutes from Indian statutes. This study also discusses the viewpoint of the global level for the mediation frameworks' direction. This study highlights the many frameworks that create a picture of the effectiveness of mediation from all legitimate frameworks and general points of view to the knowledge of the average man.

This study aims to assist the parties involved in matrimonial disputes by analyzing the numerous elements that determine the existence of mediation in matrimonial disputes<sup>2</sup>. This study conceptualizes the conundrum of social pressure and social structures for settling conflicts through various means globally, including mediation. The basic idea of this work is to present the convincing evidence that mediation is beneficial and has a deliberate influence on society.

In a philosophical analogy, the subjected truth between the parties always rests on the more favorable interpretation in the multiplicity of evidence, and this justification happens under the nature of significance. The evaluation pattern of the parties' facts that are susceptible to the evaluation schemes within the dispute-arising legacy of the pattern is the remote channelization of the notion.

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<sup>1</sup>Delhi High Court Issues Guidelines for Drafting Settlement Agreements in Matrimonial Disputes: Legal Updates, SCC Online Blog (May 22, 2023), <https://www.sconline.com/blog/post/2023/05/22/delhi-high-court-issues-guidelines-for-drafting-settlement-agreements-in-matrimonial-disputes-legal-updates/>

<sup>2</sup> Mediation in Matrimonial Cases, BareLaw (accessed on[28/05/2024]), <https://www.barelaw.in/mediation-in-matrimonial-cases/#:~:text=Mediation%20is%20a%20highly%20private%20and%20inclusive%20method,perfect%20fit%20to%20be%20undertaken%20during%20matrimonial%20proceedings.>

## **1.2 - STATEMENT OF PROBLEM**

Globally established mediation frameworks consistently need improved techniques for resolution approaches. The growing need for mediation-based approaches to dispute resolution has given rise to a recognizable categorization of how mediation has developed globally in a variety of contexts and how the idea of mediation has spread globally by effectively resolving disputes to a significant degree. When discussed in layman's terms, mediation is not a novel concept in the twenty-first century.

- In the Indian frameworks related to mediation, the concept of mediation has not been channelised to grassroot level to resolve the matrimonial disputes , due to lack of education, and other related concepts that are related to lack of awareness among the people.
- The need of implementing the learning procedure of alternative dispute resolution in the structural studies other than the field of law, so that more awareness of the alternative methods to be learned by the people.
- If the need is felt for resolve the dispute through a mediator, than why local mediators in legal sense are not available without the involvement of judicial legacy at the grassroot level inside india.
- The need for including legal officer as mediators inside the administrative agencies to resolve the disputes inside different administrative agencies.

### **1.3- HYPOTHESIS**

“ The process of mediation in resolving the matrimonial disputes is not yielding the desired result of reducing tendency and delay in matrimonial dispute resolution.”

## 1.4 -LITERATURE REVIEW

In the name of development, the alternative dispute resolution mechanism has been justified in a conceptualised data format, that can be studied through various acts that are established around the world.

It is no longer possible to regard marriage to be a holy relationship between a husband and a wife<sup>3</sup>, this is a conclusive evidence of thoughtful impact over researchers considering a marriage as unholy. And to the greater extent, it is rightly conceptualised to various cases that are related to cruelty towards woman, and other domestic violence situations that results to divorce. And that's why the need of alternative dispute resolution is needed in present cases of matrimonial disputes.

Mediation is not a completely new concept for india as it has been practiced since the vedic period<sup>4</sup>. From the time immemorial, the legacy of the society , to make a compromising situation for any arising need. The conceptualised philosophy about the older times have enabled to think in the present pattern to arise at a outcome outside the court proceedings. this is the new channelised scope in Indian circumstances that had enabled to think for various other measures other than the legal typical proceedings.in the Indian context, the marriage bond has been always taken into account of compromising position, and only the last verge is divorce as considered in Indian philosophy.

Matrimonial breakdown is loaded with deep trauma for every child who, already torn between the parents, witnesses verbal and physical abuse and suffers prolonged insecurity<sup>5</sup>. The children suffers the most , in a situation of marriage breakdown, and it confiscates the basic terminology about the marriage, that if divorce happens, the perspective of guardianship, custody of the children are the keen structures that are needed to be maintained.when a divorce happens, the childhood of the childrens get devastated and a failure of societal arrangement is seen in sparkling mode.

Under the statutory frameworks that are followed, for resolving disputes, even in legal proceedings , the question about the welfare of the children is always the needed task , which is needed to be addressed in the perspective of dispute resolution.

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<sup>3</sup> Mahantesh G S , Mamatha R , Sunil Kumar L. (2022). Mediation In Matrimonial Disputes: A Judicial Perspective. Webology (ISSN: 1735-188X) Volume 19, Number 2, 2022, AVAILABLE AT [20220502113953amwebology\\_19\\_\(2\) - 648 pdf.pdf](https://www.webology.com/20220502113953amwebology_19_(2)_648.pdf) (last modified on 20/05/2024)

<sup>4</sup> Majid Iram (2022). MEDIATION Theory to Practice, CHAPTER 1-ANCIENT ROOTS OF ADR(PP 15- 17). THOMSON REUTERS.

<sup>5</sup> PANCHU SRIRAM(2011). MEDIATION Practise and Law The Path to Successful Dispute Resolution, CHAPTER15- Mediation In Matrimonial Disputes (PP 234-236). LEXISNEXIS.

Under various statutory frameworks around the world, the need for improvement is always needed for the development of mediation under the arena of matrimonial dispute resolution mechanism.

Abraham Lincoln has also supported mediation by stating that Discourage proceedings and Persuade your neighbours to compromise whenever you can and illustrate to them however the nominal winner is usually very a loser – in fees, expenses and waste of your time<sup>6</sup>.

Justice is, if provided late, than the persons who are asking justice, will term this as injustice. The reason is simple- the cost of time. If justice is not provided in a legal framework in a definite time period, and the people also dies till the date of judgement. Then there is no conceptualised use of legal justification. That's why, the alternative means of saving the time, and speedy trial framework is justified for the cause.

In the arena of the framework, the stipulated demand for the justification of time is needed with a resolution, that's why mediation is so much important, in today's generation to resolve the disputes.

Under the concept of mediation, the matrimonial bondage has been in a signified condition related to the fast track resolution of the dispute with the justification made by the context of mediation policies that is different from typical legal proceedings.

In the Indian context, the systematic arrangements of the acts and the support from Indian constitution, for the protection of fundamental rights has given the help to the present scenarios related to mediation policies.

Under the frameworks of Indian statutes, the findings suggest that the mediation is a resourceful channelisation of the dispute resolution in matrimonial dispute resolution.

The significance of the mechanism can be understood from the level of cases that are resolved year to year through mediation. It is a judgemental truth of the resolving dispute mechanism, that mediation is flourishing inside India with a greater pace.

In Indian context, the 59<sup>th</sup> law commission report (1974), had suggested the adoption of a radically different way of dealing with disputes concerning the family<sup>7</sup>. That attempted settlement of these disputes before trial.

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<sup>6</sup> Shukla Vaishnavi, Botadra jash. (2019) Principles of International Law in an International Investment Dispute. IJLSI | Volume 1, Issue 2 | ISSN: 2581-9453, AVAILABLE AT [Mediation in Matrimonial Disputes – Indian Perspective - IJLSI](#) (LAST MODIFIED ON 21/05/2024)

<sup>7</sup> NARAYAN CHITRA (2021). MEDIATION Policy & Practice. OAK BRIDGE.

In the perspectives of different fields , there are needs to be implemented, and the growth is cultured from the frameworks that are beneficial for the resolution of matrimonial disputes.

The awareness is the reason in the history, that has kept the goal of achieving success as channelised. with the cause of awareness, the true belief is stipulated from the developed phases that are the sole needed for the upbringing of the matrimonial dispute resolution.

This is not the successful performance of the practical regime of mediation frameworks from the judicial approach but the established success of the mediation that has been in the frame of human justification.

Indian laws of religious characters like Mohammed, Hindu, Christian, are termed in the capacity of family laws that are analysing the Indian structure over the last century and a half for giving the aspect of relationship in the family and setting the rules for the rights and entitlements of individuals like maintenance ,custody, and guardianship.

Because of the involvement of the disputes that are impacting the life of individuals like womens and childrens, Has demanded for the claim of relief for that specific purpose for the institutional remark or through a non institutional framework.

The conditions in every law have suggested that the persons involved in the family dispute should not be put in the condition to be compromised with their lives.

This aspect has lightened up the demand for the involvement of non institutional framework also to be attainable to negotiate or to make available choices available to the persons whose life is getting affected due to the cases.

Consciousness, From the terms of lawyers or the persons appointed as mediators for the matrimonial dispute resolution are heavily recognised in the frame of mediating between the asked dispute. Due to the concept of remaining silent for saving the matrimonial bond, The The compromises Is heavily done by the childrens and womens as compared to men in Indian culture and this is the most considerable aspect that has to be resolved from the societal point of view and the method of compromise for the men also. It is not necessary that every time women have to compromise with their lives as everybody has the right to live meaning there to live happily because of creation of children many times women neglect their light and remain silent in saving the life of childhood of their children and compromise with the situation. This is the harsh of Indian perspective that how women and childrens life are impacted due To the societal framework of Indian traditions.

Everybody wants that in negotiable and a compromising situation should be made between the parties where the matrimonial dispute has arise But everybody in this context means that they want that this happened to their neighbours, not to them.

By Judging the various philosophies and the relative traditions from the earlier practise of Sati in India and child marriage are the systematic arrangements in the Indian customs that have supported the imbalance between men and women because of the changes that are made by the amendment to stop this. this has been stopped but In totality it cant be said that womens rights are not violated.

The possibility of framing charges under the strategy of Dowry and also dowry deaths<sup>8</sup> remarks the situation that India in the 21<sup>st</sup> century is also not fully developed from the perspective on saving the Balance creation between men and women.

Being Remarking the Indian Customs at International level doesn't mean that the whole story of the customs has been told to the International Jury of recognition of customs around the world because half truth cannot be said As a full truth. Being silent on the cause of the welfare of the womans and the childrens Suggests that in spite of the Being educated then also doing certain types of crimes against women and children suggests unfair truth of Indian culture.

The historical patterns suggest that the laws in india, are not fully guiding the resourceful structure, That has to suggest the balance between individuals rights.

The laws which are governing the marriage or divorce concept does not recognise the concept of matrimonial property or the joint interest of the partners and property acquired in the marriage. It only suggests that the properties that are acquired in joint names.

There is a remarkable question about distribution of wealth, or the property, that are linked for the welfare of individuals who are linked by the concept of family. The grounds for maintenance, custody and guardianship<sup>9</sup>, Are the foremost rights that are needed to be recognised, then comes the rights of property

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<sup>8</sup> *India's Dowry Deaths Are a Symptom of Its Deeply Ingrained Gender Inequality*, Global Citizen (last updated May 28, 2024), <https://www.globalcitizen.org/en/content/india-dowry-death-gender-inequality/>.

<sup>9</sup> *Understanding the Hindu Adoption and Maintenance Act: A Comprehensive Guide*, Trident Legal Blog (last updated May 28, 2024), <https://tridentlegal.in/blog/understanding-the-hindu-adoption-and-maintenance-act-a-comprehensive-guide/>.



that has to be given to whom after the dissolution of marriage. This problems should be addressed through a common statute governing discrepancies in the marriage.

The thesis are made in the good faith for the recognition of mediation Through a sense of resolution of disputes by compromising the situations in that manner that no parties get their rights shortened because everybody has a right to live with integrity and personal liberty.

## **1.5-SCOPE AND LIMITATIONS**

\* The scope of the Concept of mediation in the arena of matrimonial dispute resolution as signified in this study rotates around the established framework of matrimonial disputes in india. This signifies the need of new perspectives that are coming from the practical approach of resolution of marriage disputes.

\*the main limitation to the aspect of the mediation concept is, it costs money, in independent frame as the mediator has no power to impose a resolution , only on the basis of compromising balance between the parties, and If the mediation is recognised as unsuccessful this will result in addition to litigation, which will also cost money.

## **1.6 - RESEARCH GAP**

\* how a more influenced bringing of the mediator to impacting life of the people as compared to arbitrator and conciliator can be done.

\*in the significance that a mediator has a very small place in the philosophy of alternate dispute resolution is actually a big term of making difference in the resolution because big things are formed from these small- small terms.

\*with the involvement of new research in the area of development of mediation in matrimonial disputes, are there is chances of perfect resolution mechanism in the field of matrimonial disputes.

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## **1.7- RESEARCH OBJECTIVE**

- \* To analyse the role of mediation in matrimonial dispute resolution in India.
- \* to study the International Legal framework of mediation for matrimonial dispute resolution
- \*. To identify the gaps in matrimonial dispute resolution through mediation.

## **1.8-RESEARCH QUESTION**

This thesis aims to answer the following research questions-

- \*How The mechanism of mediation in matrimonial dispute resolution helps in saving the time?
- \* How the concept of mediation can be implemented at the grassroots level?
- \* Who Should be included as a mediator from various authorities?

## **1.9-RESEARCH METHODOLOGY**

The mode of conceptualising this research is the doctrinal mode of research.

And through the mode of understanding various case laws and international conventions.

## **1.10 -CHAPTERISATION-**

### **CHAPTER 1-INTRODUCTION**

This chapter addresses the introductory remark about the policies of mediation in Matrimonial dispute resolution mechanism.

### **CHAPTER 2-MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM -GENERAL OVERVIEW**

This chapter justifies the involvement of marriage and the concepts of dissolution of marriages and the need of mediation that has been felt with the perspective of time.

### **CHAPTER 3- MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM : INTERNATIONAL LAW**

With the passage of time the recognition of mediation in international perspectives which guides the Indian laws for the amendment and for the recognition of mediation processes in matrimonial dispute resolution is addressed in this chapter.

### **CHAPTER 4- MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM :INDIAN LAWS**

This chapter justifies the concept of matrimonial disputes inside India and the frameworks of mediations that help in the generalisation of resolution of matrimonial disputes inside India has been mentioned in this chapter.

### **CHAPTER 5-SUGGESTIONS AND CONCLUSION-**

This chapter gives evidence from second third and fourth chapter for the address of the first chapter concepts Like gaps in the research address of the statement of problem etc. In the end this chapter focuses upon the conclusion of the dissertation with a positive approach of regulations of mediation policies.

## **CHAPTER-2 MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM -GENERAL OVERVIEW**

### **2.1- MATRIMONIAL DISPUTES**

In India or in any other country, a type of custom, has been followed for the perspective of understanding of the concept of marriage. A marriage is a bond between a male and a female as defined in a typical historical evidence all around the world but with the pace of time this can be between two males or other genders qualified as transgenders.

The basic necessary unit that contributes for the welfare of the family recognition is the marriage concept. In the modern era, Marriage has been signified as the most impact on a custom that has been followed from time immemorial.

So In the cultural justification of the elements of the marriage there are certain processes that justifies the legacy of matrimonial disputes that signifies the establishment of removal of marriage framework between the parties because of a certain mishappening.

Matrimonial disputes are the disputes That arise between the parties in which the marriage has been solemnised because of that dispute the marriage can attain different framework of marriage breaking perspectives like divorce<sup>10</sup>, judicial separation, restitution of conjugal rights.

The resolution of matrimonial dispute is a very much time consuming factor. Because of the consumption of time in the aspect so resolution in the disputes in the marriage there is always a need that has been felt from time to time that there should be a less consuming time perspective of resolution of the matrimonial dispute.

In the significance of Indian laws marriage has been under various channelisation that has caused delay in the resolutions for the dispute in marriage.

Because of the very fact that the marriage isn't perspective of society to be dissolved easily as it is considered as a sacred bond that's why proper thinking ability and proper recognising aspects of addressing

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<sup>10</sup>*Marriage and Dissolution of Marriage under Family Law*, Legal Service India (last updated May 27, 2024), <https://www.legalserviceindia.com/legal/article-3014-marriage-and-dissolution-of-marriage-under-family-law.html>.



the issues in the matrimonial bond are taken into account for the justification in the recognition of the matrimonial disputes.

This is systematic in nature and this is in renowned phase of history that signifies that the limitations of any disputes of a matrimonial tie up has to be resolved as early as possible then going in the lens of societal frameworks that's how the things works and under the various methods that have been followed around the period of history. it has justified that marriage constitutes family and family constitute the belief system of the marriage so these are both terms linked to one another with the basis of justification that they are linked to one another with a special focus of family and marriage that by the marriage a family is created and by the resolutions inside the family the marriage can happen of the offsprings. From the justifiable approach it has been suggested and it has been classified from the time immemorial that marriage is a part of necessary relation forming process in the society.

Understanding the justice approach is not an all time to be understood from a philosophical point of view but from the psychological and emotional impact that has been created from time to time end up bringing the generalisation of various matrimonial disputes the expectations are always high of one another in a matrimonial lineup but if so the person's trial to bring their marriage to a happy channelisation then they have to understand that the belief towards one another should be conceptualised through the expectations and of the beautiful drinking of one another in the matrimonial life and if it is not possible then there should be a discourse then may be a dispute or there will be a dispute but the justification lies where the consciousness is not troubled and they cares of the family with the support system of their consciousness and the structure is being terminologically justified that they are caring each other.

Matrimonial disputes in India under various circumstances of religions and faith has given power to evaporate the salt of misconceptions regarding mediation in Indian framework.

Under the Indian scenario till date there are different philosophical advantages that have generalised the scope of mediation under a philosophy of better solution and less time to be consumed by the legal proceedings to resolve the dispute.

The significance of mediation flowing from Indian laws and international laws have gained a momentum of generalised framework of systematic cultural challenges and the resolution for the same. With the

speeding language of time , there is a speedy change in the framework of mediation through different acts like arbitration and conciliation act 1996<sup>11</sup>.

The Dimension of the act of 1996 has been under various amendments till date.

Because of the very fact of amendments signifies the dilemma of understanding the very fact that there are established changes in the act, and that's also due to the settlement procedure with an ease in the dispute resolution mechanism.

Because of the time perspective that how mediation is needed in a cultural process of time because of the fact that burden over the judiciary has signified for easier process over the resolution mechanism so that burden does not felt by the Parties involved.

In the justification mode of settlement the parties that are describing their rights that are violated, generalises the scope of mediation to a wider extent. With the belief system that has been promising to the legal fraternity there always lies a want of greater perspectives of changes with time for evolution of the framework.

The justification made by the statute is a hard and smooth framework of the justice framework. in the significance of the cases that has enabled for the growth and changes in the gaps in the acts is always welcomed by the Indian judicial interpretation.

In the scope of justice, the pattern followed for the attainment, of the time consuming approach is a justice attainment frame in the worldwide followed methodology. It is not about the rights but about the justice towards the rights of the parties.

The special marriages act, and the Hindu marriage act, have provisions to provide mediation in the first method of instance for resolution of dispute of matrimonial bondage.

Section 23(2) and 23(3) of the Hindu marriage act 1955<sup>12</sup> makes a mandatory obligation for the court in the first instance to try mediation wherever is possible in keeping with the nature of the case and certainly in the special marriages act it can be founded in section 34(3) and 34(4).

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<sup>11</sup>Arbitration and Mediation, Legal Affairs, Government of India (last modified May 12, 2024).

<sup>12</sup>(THE HINDU MARRIAGE ACT, 1955), Punjab and Haryana High Court (last updated May 28, 2024), [https://highcourtchd.gov.in/hclsccl/subpages/pdf\\_files/4.pdf](https://highcourtchd.gov.in/hclsccl/subpages/pdf_files/4.pdf).

This is the justification made by the Indian laws to resolve the dispute through mediation, because of the very fact that mediation works when the parties are agreeing to come to a truthful conclusion , then the Indian acts are the backbone, for this scenarios.

Filing of a petition for divorce or for institution of conjugal rights is a most common form that is in the action in matrimonial disputes.

And because of failure of matrimonial life, there always lies a fact checking sheet of consciousness of the parties which suggests about the benefits to individuals whose rights are mentioned as untruthful.

And in the scope of mediation , the result is to adjust the gaps in the consciousness of the parties, taking them serious , is the need of the hour in any matrimonial dispute. this is not always about divorce, the dimensions of cruelty against women, guardianship and maintenance rights, and the custody of the children , which is looked in the picture of matrimonial chapterisation that are need to be resolved by the fraternity.

The scope all over India has been conceptualised from the attainment of rights identified of the parties.

And with The need of settlement in the disputes the courts have identified that litigation should be done in a way that doesn't look harsh to the parties.

And that's why the flow of mediation is so much smooth in matrimonial dispute resolution that the foremost approach is also channelized from the framework of mediation. And that's because of the fact that the parties does not get their mindset framed as a dispute resolution by the courts is a fearful process that's why the neutral third party is always trying to make both the parties in a unfeared position and not getting trapped in a unjustified approach in their minds about the legal proceedings.

With the perspective of time the history itself speaks that an earlier time also there was a process of negotiation or mediation by a 3<sup>rd</sup> party which can be said as a older member of the family who tried to resolve the matter in comparison to divorce. It is said that, Parties are to be tried to resolve the method of dispute so that their name does not get unpolish in this society. And that's why, the older members of the family still try a mediating concept between the parties of matrimonial life that both the parties does not think for a supreme position of divorce in comparison of adjusting.

But now from the influence of the west majorly, the parties are in the position of ending the matrimonial life in comparison to adjusting their consciousness towards one another because they didn't want to get their right any little diminished from the achievable perspective.

The truth is harsh because now parties because of the circumstances that no harsh surroundings suggest them to be compromising their rights and that's why the cases of divorce in today's generation is high in India as compared to earlier perspective.

And focusing about the justifiable approach about the positive thinking attitude towards this harsh truth is that, the consciousness of a person should not be made to compromise with his ideals and adjusting with the unhappening situation of their partner in the matrimonial life.

Because of the fact that everybody deserves to be heard and everybody deserves to be equal suggest that whatever is asked by the parties somehow should be provided. With the conceptual idea of arranged marriage or a love marriage , the future is not known to anybody. The only thing in the future can be promising is the unknown factor that can arise in future without any justification in present.

The nature of the parties for resolving the dispute or taking the custody of a children<sup>13</sup> justifies the approach of the today's generation that what they are asking for the benefit of the children or what the benefit of their own loneliness and with the framing of time it is also crucial to understand that because of the life of the children, many parties adjust their rights to normal situation, so that the children does not get hurt of their childhood.

The true spirit of a human consciousness signifies that how a situation is deal by the person whose rights are violated by the other person and that's how the framework is cultivating in the mindset of the parties.

Under various theories around the world in the history , suggests the justification about the framework, that human consciousness has tried in every sphere, to resolve the problem. Because this is the need of generation to understand from the past and to give dimensions to the future, by living in the present.

The parties that are asking for the resolution have justified the nature of the dispute by describing the asked settlement for their own self esteem.

There are different generalised scope about the reconciliation process or the divorce process, because in the Perspective of a human described psychology, there is always a want of greater consciousness inside the case laws that are majorly signifying the role of the mediation concept, with a chain of described statutes.

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<sup>13</sup>*Custody of Children*, SCC Online Blog (last updated November 25, 2019), <https://www.sconline.com/blog/post/2019/11/25/custody-of-children/>.

After any Particular act that has evolutionary pattern, have given a general theme of amendments that are one way to the other beneficial for the mediation process.

Under the justification made by various statutes inside the cultural and custom based approach, the concept of arbitration, mediation, conciliation and negotiation have been justified to the legacy of alternative security dissolution mechanism in India.

With every layer of justification made in the consequences of various case laws the scope related to justice is always a experience based significance.

In the era of justifying growth, the experience that is based upon the legacy about the process of justification, the solemnized era of mediation concern is a glowing mode of handling situations which are required to adjust the power between the parties and concern between the parties.

Under the influential nature of the provisions in Indian statue dealing with matrimonial dispute resolution mechanism, the various phenomena like guardianship, custody, adoption are governed by personal laws<sup>14</sup> where it is necessary to conclude.

In the era of justification for every aspect, under the framework of statutes, it is necessary to solemnised the framework by the approach of handling the situation without leaving any gap to the resolution scheme.

Under the various statutes, the one thing that is necessarily common to the framework, is the legacy to adjust the frame of untruthful situations to a fruitful situations to the human concept of understanding.

Under the basic channelised scenarios, the cultivating nature of human intellect is govern by the philosophy of breaking the pattern which are acting as a wall for the judgemental scenarios.

Not only the harsh steps are governing this platform of understanding but also the significance of judgemental structures help in this framing of choices that are available.

## **2.2-CHALLENGES TO THE PARTIES HAVING MATRIMONIAL DISPUTES RESOLUTION THROUGH COURTS-**

From the classified approach the justifications that had been obtained from the legacy of generalisation of matrimonial disputes there always lies a philosophy that the dispute should be resolved in a pattern of time

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<sup>14</sup>*Deciding Child Custody Matters Under Various Personal Laws*, Manupatra Certification (last updated May 28, 2024), [http://certification.manupatra.in/LegalPost/Deciding\\_Child\\_Custody\\_Matters\\_Under\\_Various\\_Personal\\_Laws](http://certification.manupatra.in/LegalPost/Deciding_Child_Custody_Matters_Under_Various_Personal_Laws).

and money saving pattern. From the understood patterns that have justified the legacy and are up to the mark for the going generalised theory, The law always seems to be moved on to more difficult patterns with a good cause to refuse mediation. There are various philosophy that have a party is able to clarify that they have made at most level of real efforts to minimise the dispute in the settlement options for refusal to the mediation structure. They are certain frequent perspectives that are needed to be certain for matrimonial disputes resolution to be functioning that are firstly the merits of the case secondly whether the approach of success through adr can be achieved then the extent to which the settlement has been attempted to resolute the matter then comes the cost of the mediation and then finding out that any delay has been posed for the nature of the dispute is the essential.

### **2.2.1-ECONOMICAL CHALLENGES**

Due to the heavy load of litigations, Lawyers usually charge a high amount of fee for the resolution of a dispute but this causes a harmful impact of economical imbalance to the parties who are not able to provide that much of money to the lawyers for their resolution of their disputes.

In today's world as seen from the dilemma of justification from the high cost of fees that are being implemented by lawyers as fees charged by them for fighting the case, many times , make the lifes of the aggrieved person more uneasy.

The methods of fighting the case, Does not include to harass the party economically this means that the party should not be made in that position that they are vulnerable

### **2.2.2 MENTAL HARRASSMENT CHALLENGES**

The family bond, Also get destroyed if there is a mental cruelty upon the party by the other party, or because of the procedural aspects of the courts.

Living in the 21<sup>st</sup> century remarks that every should live happily and have a capacity to maintain their decision and live free from mental cruelty. But most of the time the compromises made by the party in spite of the fact that they are mental harassed, is the true justification that how much problems are suffered by the party Because of the significance to the visit to the courts they have been a remarkable impact on the mental health of the parties due to heavy litigation process involvement. Sometimes it is because of the jobs get the parties, That after coming from the jobs and than visiting to the court arena, gives a heavy impact on the psychology of a person , because of the heavy load.

In the significance of the relationship between the individuals, When A matrimonial dispute is caused, The future life of the party and not remain the same as compared to the earlier life this is the true philosophical and analytical study about the perspective of disputes

### **2.2.2.1 PRIVACY RELATED CHALLENGES**

The matrimonial dispute causes a harm to the privacy of the party. Because when a trust is broken it is hard to be built back and that is the true resolution of this issue that the privacy of the Party are under the observation of the other party.

The matrimonial Disputes have caused the dispute of unfaithfulness towards the party by the other one.

This is a failure of matrimonial significance, as the marriage in the society, has certain remarks over the bond between the parties due to the structure of court proceedings.

### **2.2.2.2 IMAGE BUILDING CHALLENGES**

Under the terminology of matrimonial disputes<sup>15</sup> it has been signified that whosoever has a dispute related to marriage, their image in the society gets turmoiled.

This is because of the factors that are related to marriage. Society judge an individual Different perspective as compared to a normal perspective. They see them as a disturbing pattern in the societal framework.

### **2.2.3 -CHALLENGES RELATED TO GROWTH OF THE CHILDREN**

The most disturbing impact due to the matrimonial dispute is on the growth of the childrens. This is because the parties of the matrimonial disputes will further go for divorce or other method of separation the life of the childrens who are related to the parties get turmoil Because of the various concepts like maintenance guardianship custody which majority impacts the childhood of the children and also the mentality of the children. This lies on a similar footing of understanding that nobody has a right to imbalance others right and especially the rights of the human beings who are not able to take care of them on their own. In India the first ever attempt to make mediation as a mandatory tool was done through commercial courts act 2000 and section 12 a was inserted in this act in 2018 with pre institutional mediation and settlement rules 2018.

### **2.2.4 MISCELLANEOUS CHALLENGES**

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<sup>15</sup>*Mediation in Matrimonial Cases*, BareLaw (last updated May 28, 2024), <https://www.barelaw.in/mediation-in-matrimonial-cases/>.

Most of the time the matrimonial disputes are being caused due to the involvement of physical torture<sup>16</sup>. Because of this very fact the parties are not able to come to a conclusion because belief over the protection of their body get unjustified due to happening crimes inside the matrimonial bondage, and this is a failure of marriage and the failure to the societal structure. Nobody has a right to beat other, it is against the fundamental principles or the rights inside the Indian constitution.

The person's who are educated get their voice to the approach where the solution can be given about the physical tortures but sometimes their situation occurs where if a person is not educated and not getting her voice to be heard by the government authorities then the sufferings of that person is a slap on the framework of the government authorities.

### **2.3- MATRIMONIAL DISPUTE RESOLUTION: A NEED OF MEDIATION AS A MECHANISM**

They are different types of marriage resolution mechanisms that are in circulation in Indian defined structure. under the various religious religions that are followed , there are various aspects of Resolutions in the marriage like in the Hindu marriage act 1955, the concept of divorce, judicial separation, restitution of conjugal rights are highlighted.

And similarly in other religion like of muslim, the concept of talaq, and similarly divorce in various frames of definitions in each and every other law, has been in totality about the justification regarding the concept of resolution of marriage.

Whenever there is a conflict between two parties, there arrives a thought of justifying or closing the matter so that the society doesn't see the conflict as in open state. That is the truth of the mankind that's how the society and the societal structure<sup>17</sup> got framed from the historical patterns to the modern era and to the upcoming times. From beginning from the legislation and from beginning to the judicial process there always lies a societal bringing for the justification in the level of upliftment of the society. Basics can be a lie but basics somehow get into picture of truth by lie itself. With the passage of time there are various theories that has been learned from time to time and has been recognised from time to time but the level of

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<sup>16</sup>General Allegation of Physical and Mental Torture in FIR, The Divorce Law Firm (last updated May 28, 2024), <https://www.thedivorcelawfirm.in/general-allegation-physical-mental-torture-fir/>.

<sup>17</sup>Theoretical Perspectives on Marriage and Family, Introduction to Sociology - Lumen Learning (last updated May 28, 2024), <https://courses.lumenlearning.com/wm-introductiontosociology/chapter/theoretical-perspectives-on-marriage-and-family/>.



perception of every person has undergone a different level of procedure of understanding the theories and the functionality procedures to achieving the goals of the limits. After every generalised case law, the bringing of the culture has been subjective to the show cause of the society.

### **2.3.1 PRE MARITAL AGGREMENTS**

In Indian culture, marriage is very important, and premarital agreements can damage family structure in india. But with time in the changes in family law, it's time to reevaluate this circumstance. It is possible to guarantee equal rights and shield to both the spouses—especially the female spouse—from abuses in Indian marriage relationships by giving them the freedom to draft a unified framework. Since projecting the future in a married relationship can be difficult and potential spouses may have emotional sentiments for one another, approaching marriage contracts in the Indian setting like commercial contracts may not be the best option.

For instance if two parties are being enabled to be criticised that why they are fighting for a causeway which can be solved ,which can be resolved, which can be dissolved in a such way that restitution can be possible. In today's law, there is a beneficial causeway for everything that has to be learned from the basic outcomes that the belief system is learned from step by step by societal beliefs and functioned by step to step of certified truth. In the arena of understanding the various philosophies and various theories the common man suffers the most. In the significance of learning new theories day by day and in the significance of giving justification to the theories day by day time passes from noon to noon and from night to morning but the justification lies where the totality of the customs resolutions are being achieved.

Therefore, the word "marital dilemma" is used to justify the need for the marriage to be rescued within the framework of recourse and to provide a clearer understanding that there are other options available to save the marriage.

Every age or generation has adopted a philosophy rooted in an honest culture that upholds the principles of conciliation and mediation as a means of channeling the natural drive for human justice and solving problems. Whoever has faith in their ability to accomplish, finds success in some way.

Just the channelization of how the job needs to be done is how the regime has been genuinely significant in terms of descriptive analysis dimensions.

The aspect of justice and welfare that is optimized is the manner in which the framework's perspective has been validated.

In the past, it was considered a reasonable course of action for any land dispute to be resolved through

regulation, with the justification being in line with the nature of the malpractice offense.

The legal framework also implies that since we are in the historical approach era, justice should be the governing mode. However, the passing of time implies that it was due to the legacy of human justification.

With the significance of time there is a liability for the choices available and the decisions that has to be contributed for the benefit of the society in this function of choices and the beneficial causeway that has to be taken into account for the justice verified approach.

In the generalization process, a conflict resolution mechanism—also referred to as an alternate form of dispute resolution mechanism—carries a difficulty when one considers the relationships between mediation, arbitration, and negotiation with conciliation.

Given the importance of time, there is a need that must be met. Over time, this need has been recognized, channeled, and asked for: during this period, what will be the role of the guidelines and what resources will be available to help resolve matrimonial disputes involving the next generation.

### **2.3.2- MATRIMONIAL DISPUTES RESOLUTIONS MECHANISMS**

After the general flow of regulation of laws which control the litigation process of matrimonial disputes, there is always a need for fast resolution of the disputes in the process of appointment of a neutral third party to resolve the matter.

Although arbitration and mediation are distinct processes with distinct meanings, they are constrained by the regulations and procedural frameworks that govern them. This allows for greater flexibility and a greater emphasis on the parties involved, making them better suited for a process that allows for the parallel completion of arbitration and mediation.

When things goes wrong, they enter the coercive regime of conflict resolution channelising, and necessitating resolution when the time comes.

One type of litigation is referred to as "alternative dispute resolution"<sup>18</sup>. Arbitration, conciliation, and negotiation are all included in this common theme. The current Perspective of defining the concept of mediation Is a large flow of different acts that are flourishing inside India.

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<sup>18</sup> *Alternative Dispute Resolution (ADR)*, Legal Service India (last updated May 28, 2024), <https://www.legalserviceindia.com/legal/article-1678-alternative-dispute-resolution-adr-.html>.

Under the different scenarios and the time to time amendments, in the laws due to case laws and involvement of parliamentary legislation is a channelised purpose of regulating customs and traditions in Indian law.

There are extremely distinct processes that distinguish circumstances and the scenarios in which they have reached a resolution, whether they are from recent, middle, or previous times.

The significance of alternative dispute resolution (ADR) has evolved, though, to become more indicative of how to determine the best method for resolving conflicts in the hybrid mode of choice that is available for the operation of litigation and to reach a resolution for the resolution of disputes arising between two parties or between any scenarios that harm the court's natural instinct and unbiasedness, which should be balanced in this continuous force.

The method for resolving disputes should be benefited. Technology has advanced on many fronts. there are various interventions like artificial intelligence, there are various sectors where they have specific design of systems that gives common considerations.

There are various cases which speaks about the mediation process, in *Capt Mrs Krishna v Uoi*<sup>19</sup>, signifies the mediation and conciliation mechanisms inside India.

parties are suggested regarding this that they can exercise their own solutions for their choices available and as the time is going it cannot be coming back so the options available are more prone to availability to the technology as compared to court and its mechanism coming to the other terms with regard to the alternative dispute resolution.

A guide to the nature of the point-of-difference procedure is adversarial in arbitration and consensual in mediation. These are just a few examples of the different neutral roles of point of deference when the decision maker is the litigation process.

Courts make decisions, but arbitration and mediation are arbitrators, and parties may also take their differences between these themes to the frameworks that have been established for future frameworks and from those frameworks that have been acknowledged for the availability of justice platforms and the recognition of alternative dispute resolution mechanisms.

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<sup>19</sup>Capt Mrs Krishna v. Uoi, W.P (C) NO. 166/2010 (High Court of Delhi October 8, 2010).

The burden of the associated procedures has reduced the amount of attention that is focused on channeling the litigation arena. It is recommended that a mediation method be used to recognize matrimonial disputes in order to put an end to litigation. As time goes on, needs will only grow, and as further time passes, things will be channelized during COVID-19.

The world has witnessed how urgent it is to determine, in a crisis, which option is best for resolving the conflict and which approach ought to be accepted as the most effective one.

In the meantime, there are technologically recognized statutory frameworks that have channeled people's diverse behavioral patterns into realizing what kind of litigation would be the most effective way to resolve the conflict. These frameworks elaborate on the legal battles that are statutory in the formation of disputes recognition mechanisms and the designs that are involved, which can be said of technical designs of rooms that are available for resolving disputes in the courts, which are referred to as mediation rooms or court halls where the judges define the justice module for the restoration of the justice framework.

In the context of the Justice Framework, mediation techniques have been viewed as a positive result during COVID-19<sup>20</sup>. Technology has expanded the scope of this theme, which defines mediation as a process where two parties work together to resolve conflicts outside of court by implementing a variety of techniques that may be judged as a causeway for justice, beneficial design for the techniques that are available, and philosophy if the dispute is resolved by terminating the matrimonial summary that is headed for divorce.

Policies such as mediation and arbitration provide a beneficial rationale for the nature of dignified justice in a competitive environment.

The implications in the current condition of history stem from the justifications and implementations of the ways in which things would be affected.

The distinction that needs to be recognized in our day of shifting cultural norms is the justice approach, even though the principles are resolved through the judge-made platform.

Things that are in a state of change are indicative of both what should be in a permanent state and what

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<sup>20</sup>*Novel Coronavirus (COVID-19) Situation*, World Health Organization (last updated May 28, 2024), <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>.

should be in a state of flux.

It is commonly declared from the identifiable patterns and the estimated advancements that have emerged for the cause that the mediation platform's regime has been channeled by alternative dispute settlement mechanisms. As can be seen from the framework, the mediation environment is a golden regime in the state of dignified performances of the mediation practise.

This suggests that the real goal is to understand growth from the occurrences that have been presented. The problem with the alternative conflict settlement process is in the patterns and regulations, the systematic approach, and the considerable welfare.

If the temporal perspective is to be respected, it must be via the importance of comprehending the well-being of all parties concerned and the appropriate distribution of power within the governing system.

When elements are grouped inside a predetermined framework, specific strengthening scenarios for the degree of portfolio adjustment are provided.

The mechanisms that are employed in the interim feasible scenarios include the selection of a conciliator<sup>21</sup> who embodies the genuine culture of the achieved framework, the negotiation and mediation techniques, and the mediation method.

If everything goes according to plan, even the difficult times are handled well; if not, the morally correct course is labelled as a terrible one. Importantly, the most effective approach is the one that demands and offers honesty to a certain degree.

From an alternative philosophical perspective, the best is always yet to come. Who knows, Maybe in the future, mediation won't be seen as a substitute for traditional legal procedures. In the meantime, anything can happen in the days or years to come.

The true culture always emerges from a justified way of thinking and the substantive aspect to be accomplished, along with the commitment to take action and the methodology to be followed.

Dreams are always calculated in a way that responds to the culture and is justified by the phase of recognition and the constructive debate.

When the mediating classification undergoes the justification the truth looks adorable. The actual welfare of the mediation perspective has been viewed as the faithfulness of the justice-oriented approach in the

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<sup>21</sup>*Conciliation: An Effective Mode of ADR Mechanism*, Law Times Journal (last updated May 28, 2024), <https://lawtimesjournal.in/conciliation-an-effective-mode-of-adr-mechanism/>.

perspective of time due to many theories that have determined the culture and that have determined the theories. There have been deliberate theories that are justified with the intention of the judicial approach providing an insightful view for the belief system and recognizing mediation as conclusive evidence for resolving the dispute. These have been caused by the major influence of litigation lasting, which has resulted in a systematic change of circumstances and influencing the dilemma of destroying the matrimonial life. , that has been arising in the matrimonial life .

Because of the very fact that marriage will last ,how much long ,because of disturbance in their thoughts, of both the parties ,there lies a dilemma that solutions should be brought.

And similar attributes were made In Bs Krishnamurthy v Bs Nagaraj<sup>22</sup> Case,

Everything is significant because of how strongly determined and heavily criticized choices are, which makes it evident that the mode of justice should be in the area of concept clarification for all judicial ways.

When the court orders that a task be completed through negotiation or conciliation, mediation steps in to help with the dilemma of pure attaining regime of gaining consciousness, gaining confidence, believing justification in the dream culture for the dispute resolution mechanism in the involved process. This is the reason mediation is preferred over other available sources because it suggests that there may be regression in both parties.

Everybody wants there should be a consensual relation between them which is termed as the relation between the parties, as binding on both the parties and taking care of the outcomes of both the parties in a very advanced nature also, the significant step to develop the consciousness arise from the very fact that the issue should be resolved by justification of the issue through the method of mediation.

Mediation is an available choice for parties concerned as the stigma of thoughts that the solution should be made by the both the parties by discussing their disputes with a mediator and coming to a conclusion which will be justified to both the parties and to glorify the mediation concept, it signifies the true nature that mediation consideration, neg., arb., all are alternative dispute resolution mechanism but also are the best dispute resolution mechanism which can lesser the overburdening over the judiciary.

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<sup>22</sup>AIR 2011 SC 794, Available at Mediation: Future of India | VIA Mediation Centre (last updated May 13, 2024).

That is the most respectable theme for mediation and for conciliation and for mediating forces of arbitration that alternative dispute resolution signifying that alternative are the helping hands for the justice approach for the significance of judiciary.

When there is a justification to the role of the neutral 3<sup>rd</sup> party that will give a solution to the dispute that has been arising between the party there always lies a dilemma of answering the question that is the forces of the justice signified approach of neutral 3<sup>rd</sup> party is significant to the causeway .

Justifiable to the approach of regaining forces of the alternative dispute resolution and to give the parties a significance that there should be a end to the dispute and the solution will be justified and will be giving the nature of significance of the culture of thought channelising and collecting the consciousness of the people.

There has been a elongated legal time that has been prescribed about the procedures that has to be followed if it is not followed then there will be a multiplicity of various cases that is why there is a solution that has been regarded as the date of the case that has been generalised in the cases by the courts in the frameworks for the generalisation of the concept and the working of the code system but the truth significance is about increased legal cost day by day and the damaged relationships because of the day to day significance of failure of justice in the mind of the parties.

That is why the mediation has been a recognised structure that has been given by the judiciary to the matrimonial parties to solve the disputes by arranging a neutral 3<sup>rd</sup> party to give them consciousness at back so that they can recognise their consciousness and develop a regime of significance and balance and thinking approach that the justice will be sooner or later will be delivered to them in the very much significance of the merits of this is that recognising the very fact of this mediation, this system has been not only last resort for solving the disputes in helping nature but also a significance in dissolving a dispute in a very limited time and saving the cost and time of the parties .

By solving the disputes or by arranging themselves to neutral 3<sup>rd</sup> party and giving their consciousness to the other party and giving the justice framework so that both the parties should come to a conclusion that both get approach of justification and both are happy at last .May be the significance arise as that by the method of neutral 3<sup>rd</sup> party, there can be the restitution of conjugal rights or the very much analysed structure of judicial process of separation of judicial nature.

Time and tide wait for no one. This serves as justification for both the human time perspective and the balance between the time perspectives of matrimonial disputes. Lawsuits arising between the parties can be numerous, but each one must be dismissed in order for justice to be served. This justice must be within a social and cultural framework that has occasionally been acknowledged and channelled as the only means of resolving disputes outside of the code by nocturnal third parties or inside the court in mediation rooms, also known as mediation centres<sup>23</sup>. It has been acknowledged and channelized as a dilemma of thought that the burden of the process is numerous in the patterns, which is why there should be an entirely recognized justice framework of mediation that will be a resourceful and justified structure for the welfare of the community and the welfare of society. and will be channelizing in the upcoming times and has been in the generalization concept of the nature of process that has been involved in the excessive disputing between the procedures involved and the parties that are hurt to the significant nature due to the stigma of judicial process involved with the passage of time.

and then focusing on national welfare, considering how other nations will interpret the nature of dispute resolution mechanisms in particular, giving rise to the Indian perspective and the generalization of the international perspective, both of which will be covered later in this theme but originating from the fundamental ideology In general, the overview states that mediation is the most effective approach compared to the lengthy, judicial legal process, if parties are unable to provide sufficient rationale for their requests.

The conceptualized theory that draws connections between different theories and concludes with the explanations offered by the courts and the legal arena has been judged as a terminology for the benefit of the parties.

The mediation process that has been regulated from time to time has been discussed from time to time and has horizon as a beneficial cause for the involvement of the parties for the regulation of the dispute resolution in a mechanism form because after COVID-19 pandemic the time has been justified as a glorious nature of facts that mediation can be a short form for disposal of cases especially to the extent of matrimonial disputes that arise due to the fact and the totality of the judgments arisen of various case laws.

We all living in 21<sup>st</sup> century knows the very fact that alternative mechanism to resolve the disputes, are needed for the benefit of the parties and for removing the burden over the course procedures and judges

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<sup>23</sup>*Effective Implementation of Mediation in India: The Way Forward*, Bar & Bench (last updated May 28, 2024), <https://www.barandbench.com/columns/effective-implementation-of-mediation-in-india-the-way-forward>.



involvement by including senior advocates as the mediators in the cases of matrimonial disputes referred by basically from the family courts, have given a prosperous amount of benefit for the very fact that mediation is actually mediate between attention of the parties.

People are remembered for the welfare they provide for the generations to come. People are remembered for their justification for their livelihood which they provide for their family ,their neighbourhoods, their colleagues, their involving philosophy terms of consciousness.

With the passage of time, there is an increase in the cases worldwide about matrimonial disputes and also there is the resolution of the disputes by the courts, by the justice mode, by the model of justification by mediation centers and by the generalization of the growth that has been arises from the basic factor that there should be less to less harm to the parties and greater to greater solution to the conflict for the very specific limits that has been prescribed are being chosen and being justified by side by various thinkers and philosophers about how the justification of the resources that are available, should be made. In the coining of the term mediation, there has been a systematic theory, that has been conceptualized from the term that there should be a solution for the conflicts of matrimonial disputes, majorly arise due to unhappening situation, that arise between the thought procedures between two parties which are in the bond of marriage. They want a judicial separation<sup>24</sup> or a break to the life involvement of marriage life but basically coming from the various thoughts processes and recognizing the justifications of the various courts, there are various landmark judgments that has classified that matrimonial disputes are happening on a wide scale but their level of disputes resolution somehow get easier to negotiate

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The parties involved have gained their consciousness through a prospectus of channelized truth, that if matrimonial dispute is arising then there should be a solution through the acts involved basically from the

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<sup>24</sup>*What is Judicial Separation? What are the Grounds for Getting Decree for Judicial Separation?*, Law Corner (last updated May 28, 2024), <https://lawcorner.in/what-is-judicial-separation-what-are-the-grounds-for-getting-decree-for-judicial-separation/>.

arbitration and conciliation act 1996<sup>25</sup> and various laws that has been generalizing the very core aspect of the mediation and giving a new form of special provisions

for the recommendation of various personalities in the legal domain to resolve that disputes, the international convention had also contributed to this to a large extent.

The work of a mediator has been conceptualized from various aspects and various terminologies that immediate resolve the disputes by listening to both the parties by exchanging the demands of the parties and giving solution to both the parties that are mutually in happy nature of providing justice and to save them from litigation and from making them to believe that justice can also be served through the means of exchange of views to in neutral party and giving more time to a mediator and giving you conclusion to the factors involved about the theory of a mediator. The basis of time, there are various theories that mediated does, that mediator does that other works but the philosophy that regards the mediation is that the mediator signifies communication between the parties involved make them to justify their participation making them capable to their respective facts and interests to encourage them to reach to an agreement and closing the case with less to less time.

IN Anu Bhandari v Pradeep Bhandari<sup>26</sup> Case, The SC has emphasised that family court has to make necessary efforts to arrive at a settlement.

With regard to the philosophies of various historical patterns a crucial element has been justified to the true belief of the mediation culture that has been justified as mediating between the conflicts and resolving the matters with a pattern of generalised truth. In the circumstances evidences there are truthful generalisation of the basic belief that how mediation functions there are various stories for the continuous tension philosophy of conflict and dispute for the final outcome of war and from the initial point of view of differences there lies a chain of events which are termed as disagreement then coming to next term to dispute the next term to conflict then coming next to violence 10 ultimately turning it into a foreign ends this concept has been generalised from various theories and has been adopted in the significance of various cultural books and thesis so this is the basic analogy which guides the adoption of various schemes and intangible factors of the relationship between the poor conflict of the aesthetic needs.

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<sup>25</sup>*The Arbitration and Conciliation Act, 1996*, India Code (last updated May 28, 2024),

[https://www.indiacode.nic.in/bitstream/123456789/11799/1/the\\_arbitration\\_and\\_conciliation\\_act%2C\\_1996.pdf](https://www.indiacode.nic.in/bitstream/123456789/11799/1/the_arbitration_and_conciliation_act%2C_1996.pdf).

<sup>26</sup> [2018] 6 SCC 389.

What we call is the perception of a person because every person have a point of view of his situation explaining scenario , this could be in terms of political views, in terms of religious factors, when one is in the dilemma of discussing the perspective then he mentions what he intended and what he did not intend it from taking various resources or examples, it has been accepted as the perception of a person, who is a true guide for the various philosophies that has been recognised under various principles, for understanding the template between the two persons of parties or in matrimonial dispute arisen between the parties.

## **2.4- MEDIATION AS AN AMICABLE PROCESS IN MATRIMONIAL DISPUTE RESOLUTION**

To understand the basic terminology that why mediation has been accepted as a universal alternative dissolution mechanism is the poor concept for the guidance. For instance for taking the example of the dissolution of marriage, the factor of divorce , both the spouses are getting separated, they start living apart from one another ,than they are having multiple childrens. one of the parents has moved to another city with the childrens and one is having no custody of the childrens , there are efforts that can be made up to catch up the marriage but they are none, they are on issues related to property, custody, visiting to the childrens to the keen concept of discussing. Their should not be late performance of dispute resolution.

In the highlighted generalized wing of the alternative dispute mechanism, the mechanism has worked out that, in the event that two parties have different court jurisdiction, one party resides in a different location than the other, and a question pertaining to the code arises, the location of the jurisdiction must be determined; in this case, the impoverished aspect of the riots is not brought to light ,that are demanded in the case for that specific purpose, there are alternative methods like mediation for fast resolution of the disputes litigation has been generalised for the resolution of the complaints.

there are various grounds to determine the very fact that why mediation should be taken into account for the beneficial cause for the childrens<sup>27</sup> or the spouse who have get the divorce from the court.

First of all the thing that has to be understood from a very specific point of view is that the children whose life get diverted for their childhood get diverted from the state pattern because of the unhappening condition of their mother and father, reflects true colour of the society that how the society changes the upcoming generation in a manner that can be regarded as a generalised untruth of the ununderstood welfare of the persons whose lives are affected because of other persons. The welfare of the children's or the persons

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<sup>27</sup>*Effects of Divorce on Children*, Healthline (last updated May 28, 2024), <https://www.healthline.com/health/parenting/effects-of-divorce-on-children>.

whose maintenance is necessary, whose taking care is necessary, the golden rule should be followed that has been guided in various philosophical natural schools, that is the innocent should not be punished, punishers should be first checked out that they have committed any wrong or not before coming into the position of giving punishment . If ,we are having children then it is our duty to take care of them and if we are only creating a generation and not taking care of them it is an example of uncultured society.

Every action that has been taken has a reaction but what type of reaction that has to be coming out as to be seen first in the renaissance structure of timing of various historical patterns it has been founded out the one who has suffered the most has been able to make other suffer less. This is the theory of human mankind . Basically understanding the human nature regards the mediation process from understanding from the basics that how a human has a feeling that the other person should not be get harmed<sup>28</sup> because of his activities is the crucial element of any study. So that it has been classified that the amount of suffering which a person holds is the true significance that how he tries to hold the suffering of others because of seeing the nature that what is the cost of sufferings that's why they try to save the others life this is the human consciousness this is the true human spirit this is the true human belief system.

When talked about a particular fact that matrimonial disputes are solved from the level of regenerating justice perspective in the era of justice prevailing factors.

In the nature of human consciousness, the developed outcomes are the recognition and the significance about the developed resources, about creating balance between different situations and hence it is a fact to be consciously significant.

Whenever dispute is tolerated , it is through the societal resources and the judging factor that is about the relation in the governing nature and about the philosophical approach regarding that as a level of approach. From the resources that are channelising under the domain of the truth , of the level approach is justice oriented. In the nature of resources, that are in channelisation, the outcomes should be truthful. Whenever a bond is broken, it creates instability. The true nature to help the other half is the desire of any matrimonial life.

The significance of any resource, that is judged is through the belief system. The diminishing nature of any resource is to recover from the facts that is in broken nature. The judged philosophy, is the dilemma of the level of the significant justified nature.

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<sup>28</sup>PubMed Central (last updated May 28, 2024), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6663571/>.

With the level of thinking, that has been in the generalised facts of the mediation core, the level of how the thinking will be termed, is the globalised nature. In the realm of facts , about how the court proceedings are done, through the level of perception that how the things will go, in the justified significance. In the era of digital framework, it is about how the level of resources will be justified.

In the significance of the dream of a relief believing truth, the resources will be in the aspects of the channelised arena of facts and the facts in issuing the real legacy of the dignified nature. From the outcomes of relations, between the surroundings and the relation between the outcomes of a derived faith is the true significance of the justified belief factor, and the relations existed between them and the true nature about resolving disputes, is judged here.

When the focus is shifted , then it is a level of achieving the significance of the desired approach. Whenever, there is distinguishing involvement, about jurisdiction of a trial, there is always a cause of responsiveness of the desired belief system, and in the stigma of what is right and what is faithful to a cause that leads to a justice oriented approach.

There are different significances about how the legacy is followed, and there exists different terminologies about the success ,about the legacy that have been channelised. In the arena of selfless talking of the right methods to be acclaimed, there is the philosophy of the behavioural pattern and the success of the dilemma, about how the faithfulness is customised.

In the matrimonial dispute resolution mechanism about the justification of negotiating emotional balances also, the level of thinking is told to be in true mode of sense of livelihood.

In spite of blaming others if we should start calculating the harm we caused to others then it will be easy method to evaluate one's own level of treating others with greetings and nurturing others with the belief of their own self that's how the situation is going to be handled and the solutions are how to be get answered. With the framing of time there are different channelisation of how the mediation has been termed into various philosophies various methods in the consciousness of the people and the various scenarios that brings clarifications in the minds of jurisdictions approach.

The true significance lies from the approach or can be said that are you wrong? or I am wrong. Philosophy because mediation is basically can be found as a process which can be generalised in confidential terms views can be expressed and exchanged in mediation with mandatory proposition of law, there are voluntary

and confidentiality which makes it a very much crucial process there is no such risk that will harm the true cultural mediation.

Mediation process specifically mentioning in India has been generalised from the flow of the parties, the parties are rivalry to each others solutions that are made by exchanging their views and the neutral third party marked the awards then there is a solution made up.

Imposing a solution is never a true aspect of mediation. In the significance of the terminology it has been justified that both the parties can give their views, can mention their flow of choices, but the result cannot be imposed by the neutral 3<sup>rd</sup> party unless the parties are alleged to the solution that has been made by their own terminology of understanding the faithfulness of cultural consciousness of dissolving the dispute.

From older times the old persons are considered as the mediator if any misappropriate occurs between the married couples because the old persons are having so much experience that they can identify the truth and can mention who is right and who is wrong and the solution will be taken out and the condition will be considered for the solution and for the cultural philosophy of making the solution for making the marriage life fruitful.

From the cultural queries that has influenced the whole scenarios of the jurisdictions of jurisdictions approach and the relationship between various laws and the true detrimental fact that arose between various theories that what will be the cultural event to mediate between the parties rich are considering the dilemma authority that there should be a solution to the cause because of the very fact there lies to dilemma that the decision should be made between the parties and the dispute between the parties should be resolved both the parties become happy and their family becomes happy and if they are not satisfied ,then other alternative measures should be taken by the mediation ,for example if they want divorce then through a procedural method divorce should be taken by which if they are having children then the proper custody and proper treatment of meeting with the children should be allowed through the cultural philosophy of consciousness that has been found in the true face of justification that we have to treat other person equal in the eyes of love or in the eyes of human belief system.

From the basic elements that have suffered from time to time and have given a linguistic approach to the societal beliefs and the matrimonial bond is suffered to a larger extent. In the arena of various philosophies urgency is various truthful nature there has been a compulsion of truth that the justice prevails everywhere. Matrimonial dispute is not a dispute of the party that are fighting for, but this is the magnitude of the society we are familiar with the type of frameworks to be generalised. From the occurring nature of various

principles for the dispute that has been arising between two parties from the bond created and to the mis happenings that are happening in the matrimonial life has been degraded and the dilemma of justification from the perspective that matrimonial life should be saved as being customised from the true belief that the matrimonial life gets saved children doesn't suffer much and the family members of the parties also not get tensed to that much extent that they can't recover easily from that.

Winning the matter is a critical idea or a thought to be justified in the arena of legal domains for the practising lawyers but the parties which are suffering have to undergo a rigorous process which make their livelihood to suffer most. In the significance of the nature of the disputes, mediation has been channelized and termed as a benefiting concept for the truth of the cultural society. In the regulations, theories of solving the disputes, Concepts giving clearance about how mediation helps, Is the sore tribute to the recognisable society that give an impression for the Renaissance process from the disputes. In the arena of learning new facts in the arena of justifying truthfulness in the arena of letting the issues and relevant facts to come into existence all things create a theory of research.

Mediation is a process that generally signifies that two parties are mediating through a neutral 3<sup>rd</sup> party and coming to a conclusion where both the parties are getting to a normal situation from where they arise first and later on they are coming to a conclusion that now the situations are normal , that is why neutral third party is called to make the situations neutral. A man's desire can never be completed in the whole lifetime of his or her culture where they signifies the justification and tolerance power of their thoughts and giving the justified approach or the belief system.

From beginning from a Fresh threshold the multiplicity of cases have been generalised in mediation in a new beginning process and giving justification to a new tolerance structure and giving a new theme of learning habits of courts arena. It is not always about money but it is always somehow about the time that's why people force to resolve the matter as early as possible maybe they can tolerate the money structure but they can't tolerate litigation to continue from months to years.

They want that the matter gets solved from years to months and months to days and days to hours. That is the true culture of the philosophy of every humankind structure from the various belief system what is been recognised in the benefit society is the bringing of true societal dreams of every generation to comes. From the basic policies of learning the various mode of channels the principles are being termed from the philosophies of basic structures that how mediation works. Is the process of time people learn that mediation is a better scope for a matrimonial dispute than a full fledged court proceedings.

## 2.4.1- CONFIDENTIALITY CLAUSE IN THE ARENA OF MEDIATION

Confidentiality is regarded the confidence that flows from one person to another by giving the information that the person wanted not to be disclosed to people at large .

Confidentiality<sup>29</sup> is the aspect of mediation that can be a major point of view of the friends between litigation and mediation because in courts there are people who can take the information of the reason of matrimonial dispute and can channelise it by making certain comments which can be emotionally harmful for the parties involved but in mediation they are in what happens in the mediation room remains in the mediation room there are no chance that it should be disclosed through media platform if a big case is going to be resolved through mediation.

The other aspect of mediation that has been channelised from the confidentiality proposal is that if there is a confidence in one party to the other and the neutral 3<sup>rd</sup> party gives an approach to the justification that they use will be expressly joined to conclude the decision and to give a implementation of thoughts for both the parties. There are certain times that one party doesn't want to disclose some information to the other party but they disclose to the neutral 3<sup>rd</sup> party to come to a conclusion and if the neutral 3<sup>rd</sup> party finds out that the party is correct in doing so and no such law is harmed why such confidential information and there is a matrimonial resolute for that then it is a very good approach for the confidentiality motion in mediation.

No party wants that their information of their family goes outside the mediation rooms and that's how the mediation rooms are made basically in ports in the mediation centres there are senior advocates who are appointed as mediators the neutral 3<sup>rd</sup> party where the cases are defined or came for conclusion by family goods that both the parties want to end the matter through a channelised concept of mediating into the disputes or if wanting the divorce should be happen then there are certain methods that both the parties get relaxed and there is a conclusion for the very much same proposal.

Sometimes things got so much diverted that the parties even in mediation does not get to a structure bound and finds out that they have to go back to family boards because they are not able to interpret their thinking approach they are not able to give their consciousness approach because they are not able to compromise

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<sup>29</sup> <https://forums.nalsar.ac.in/wp-content/uploads/2021/10/Article-Confidentiality-in-Mediation-the-Indian-prespective.pdf>  
last updated on [28/05/2024]



to the other party and that's why the mediation sometimes possess a thinking approach that the cases should be referred to the family courts back.

There are certain positive terms to be understood from their truthful aspect that justification is a necessary term to be understood but the mediation is a goal to be achieved rather justification method the purposeful organised way of the thinking that mediation will not enable the parties to suffer to that much extent that they are Unable to express their views.

Sometimes parties decide that the court proceedings are much more beneficial than the mediation process. But how this is possible there are certain modes or exceptional cases where there is a systematic exposure of concern to this problem. Run the mediation centres where both the parties are called and one party is not able to come to the specific date the mediator himself got irritated to the defined conceptualised state of the parties that they are not able to come to the mediation rooms<sup>30</sup> that they are not able to compromise for any stage that remains about the very fact that they should be sent back to family courts for the hearings as they are not able to justify in the mediation centres.

Everything that happens have positive and negative outcomes and this has been justified from the justification approach that the sufferings are being channelled from the perspective of how the concept of the justification should be bringing into picture.

There are various concepts regarding the justification of mediation that how it goes to the flow and there are various terminologies that signifies that how the mediation is roaring for the clarification of matrimonial disputes solution and this made a conclusive remark upon the structural dilemma that's how the things should be in a smooth functional method.

#### **2.4.2- AWARENESS OF RIGHTS OF PARTIES REFLECTING IN THE MARRIAGE DISPUTES**

Consciousness of a person signifies the intellectual development through his ability to discuss of the various facts which improves the justifiable psychology of the generations to come.

it is not a true belief but a necessary belief that justice should be served through the approach of justice and the regulations should be benefited to the various aspects that are ongoing from time to time and the belief system is not in turmoil or the mishappening occurring all over the world from the passage of time the things have been generalised in a time memorial terms and with the significance of the abilities and the

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<sup>30</sup> <https://districts.ecourts.gov.in/sites/default/files/MEDIATION%20RULES%20.pdf> last updated on [28/05/2024]

justifications of the true Justice is found not made that's because truth is found and lies are made that's why justice is found and corruption is made. Everything that undergoes it compromises stage has developed a thought provoking structure for the justification of the Compulsion of the thoughts .

Never ever anybody has able to stop the truth to Not get clarified. This describes the true element of Justice approach and that's why the significance of variety of welfare schemes have been under circumstantial nature but the truth is able to be arrived at a conclusion that summarises the justice approach.

In the various philosophical schools that develop from time to time have described the abilities of the resources and generalises but the functions of the theory about mediation is not a new nuance for the belief system that mediation is a very hard step. Because as concluding from the thought processes it has been finding out that a majority of the view suggesting dilemma have justified the true structure by the thoughts of various psychological schools also in the passage of time the dreams of persons are being justified and generalised from the various opaque terminologies and that is the place where the justice approach is analysed.

Family is a concept of social relationship outcomes. From the various suspects across the world families have been in the concept of relationship between a person to other persons with a feeling of oneness and to develop offspring through their own. It is an analysed concept around the world that have given a beneficial cause to live in the society and to give a generalised point of view to the societies of the world.

In *Kaushaliya v Jodha Ram*<sup>31</sup> case, the exploration of mediation policies by the supreme court has been a matter of truthful justification.

In the generalised theories around the world people around all race caste greed gender are connected to one another through the concept of family.

This is an old term, that can be summarised from the point of view of a common person around the world that how families have grown and distributed their wealth in a societal framework and assuming the nature of the family that the feeling of oneness is created by a societal bond while living in a common roof or through around the world. but if are consisting of the family then there lies an obligation of helping the members of the family in any situation that has been classified as a possible choice available and to be

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<sup>31</sup>*Kaushaliya v. Jodha Ram*, (2019) 9 SCC 927.

summarised that they are having a relationship bond on the very significance of Justice framework of making disputes arising between the members of the family who have created the beam of resources of family and to give the dilemma of successful nature in the terminologies of the framework from the juristic approach also.

By understanding the various means and successful culture the true dilemma lies at the very fact that how the humans are generalising their means to be resourceful and to identify their image that they are living in a society with a pattern of the family. so that there should be an established wealth and the circumstances benefits should be given to the family through the justification.

So coming to the philosophy of marriage, It is a concept that shapes the society to accept two parties on the contract to be with another rich in terms of the flow of family.

From the adjustable truth and the recognisable justification when a marriage is solemnised it defines a platform of two parties that they are ready to live with each other on the basis of sexual relationship or the emotional relationship or the relationship that has been, Turned in various concepts by the society. It is rightly channelised in the framework of the societal patterns because of marriage<sup>32</sup>, there is a family and there can be a dispute and for that there can be a guidance and systematically this has been under a concept of societal jurisprudence that how the society behaves and believes upon the structural balance of the marriage.

So much to be adjusting and so much to be devastating but all things lead to a concept of conservative approach for the marriage that there will be offspring and there will be the belief system of the parties for which there should be an attainable gain by the subjective needs for the society to run, Otherwise if a person does not belong to a family then he should prepare himself to go for a marriage otherwise if he is alone and is not rich then the society sees in lower position than the ones who are in marriage capacity in the level of justification by the various likelihood of livingness and various truthful nature of the marriage the families have revolved around the world with a concept of living happily.

In the systematic dilemma of various thought provoking schools, marriage has been seen as a process of the recognition of the family and if any hardship, related to family is caused by any psychological school

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<sup>32</sup> "Marriage," ThoughtCo, (<https://www.thoughtco.com/marriage-3026396#:~:text=In%20most%20societies%2C%20a%20marriage%20is%20considered%20a,relationship%2C%20though%20his%20is%20not%20always%20the%20case.>) (last visited May 28, 2024).

, then there is a hardship to that school because everybody of the population is now concerned for the upliftment of their family so nobody wants that their family get unjustified from the belief system.

It is a common concept to be thought that how a mediator is going to assist the aggrieved parties in identifying their interest and needs. This can be understood from the philosophy that a person who is not from my family and is neutral to both the parties of a family and he is getting money for that purpose and for that specific purpose he has to give different answers to the problems that have been arising by identifying the interest of both the parties that's how their interest and needs are going to be fulfilled.

Understanding the various storms of any independent era of thoughts this has been the remarkable approach that the families disputes should be resolved as informal as possible because if they are in the concept of goods litigations there will be chaos in the minds of the parties that their family dispute have horizon at that stage that they have to go to the courts.

And that is a remarkable point to be understood by the channelised format of the justification that family is accounted by their well being and how they are understanding the needs of one another of the members of the family if they are not understanding the needs, of the members of their family then they are doing wrong to their family .

This is a systematic wrong classification of a family that living in a same roof and you are not giving the attention to the family members if they are under any hardship and you are just motivating to your own cause then this doesn't mean that you are in a family because family means oneness.

The concept is clear cut picture showing of how the party is under a dispute but they are bounded by certain limitations that give a clear recognition of the parties that there has been a term of justification of marriage they are bound by clear systematic analyses and they are motivated to the focus upon the needs that are needed to be understood from various patterns.

How mediation can be considered as an effective told as compared to the court proceedings . This can be understood from the very fact that parties always want to disclose their matter where confidentiality is served and that's how a framework bonds in the arena of justice.

From the behaviour and conceptualised point of view of the code proceedings it has been justified that when a party enters the court, And seize the nature in their minds that how different type of cases are being classified and justified and punishment is served in the proceedings.Essence of panic and fearfulness

somehow creates in the minds of the people and the thought of resolving through an unfearful approach get a revolution.

Under various theories from the jurisprudential approach it has been signified that a family has recognised two partners by the marriage as in a matrimonial relation<sup>33</sup> and if they are a problem arises then the solution should be in the home itself otherwise other exceptional belief systems should be used.

What classify the man today is a justification made by the historical processes and how the society prepare a person from various point of view. This is the significance of the marriage at how a marriage is organised and matrimonial disputes arise than the older people of the family tries to resolve the dispute and if it does not get resolved then the party to resolute by the method of various terminologies that are being concept from the court proceedings and their philosophy from that to day culture.

The mediation is there then it should be followed and it should be justified in the common belief system that the marriage should be saved or if it is not saved then there should be the parties that are satisfied from the mediation this is the true culture of mediation this is also a true culture of court proceedings also but the court proceedings are time consuming and mediation is not as much time consuming and also cheap.

From the various thoughts that have arisen from the blissful nature that the disputes are justifying the belief system or not the cause of the dispute should be resolved.

The true belief system of any dispute arises from the very fact that there are expectation of both the parties that are needed to be fulfilled in a marriage and if these are not fulfilled there arise a concept of failure of Justice in the minds of the consciousness of both the parties that they are having expectations to one another which are promised before the marriage or may be not promised before the marriage but they are having a concept that the marriage should be having certain expectations that are needed to be justified and if these are not justified then there arise a conflict this is the first and the foremost structure of failure of the matrimonial arrangement between the parties this is not about Oneness. this is about Oneness in other person which a bond is created of marriage.

The true belief system describes cultivates motivates justifies the belief system that if expectations are not fulfilled then there should be a try to resolve the dispute by making both the parties to come to a Same

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<sup>33</sup> <https://nujlawreview.org/wp-content/uploads/2020/02/12-3-4-Satchit-Bhogle.pdf> last updated on [28/05/2024]

floor of thoughts that there are disputes there are upliftment of thoughts of one another this can be done by coming to a conclusion and from the justifiable approach that this has been justice oriented approach and is giving the welfare of the parties by the matrimonial chain that has been arranged in the minds of the persons.

With the framing of time there are various statutory believes that how the expectations does not get the capacity to be matched to one another of the parties are called as a spouse then misshaping happens in that cases and then there comes the position of divorce in the certain philosophy of life and in the certain perspective of justification and in the certain leave system of authorization and file taking the various thoughts and various bringingness to one another by bringing the court proceedings to the resourceful structure of matrimonial livingness to give the dispute to which resolved lived mechanism.

There also lies a different point of view of children<sup>34</sup>, the offsprings of the matrimonial life of the parties that how their child are going to be mannered skilled or to be pushed for the societal structure in a balanced way or in a criticised way that has been termed by the society as unconscious or unbothered for the childhood of the children's so there also lies a dispute between the parties that how the bringing of the children should be done and if it is done wrongly there will be chaos this is the other reason two parties get separated if their views are not matching with each other for the discipline approach of their children if children are not trained skilled or not justified for the parameters given by the society then there will be a chaos in the minds of the consciousness of the parties and there will be a unbalanced situation that will regain upliftment only by the consciousness rising from both the parties .May be both the parties are wrong or one party may be wrong or both parties are correct in their own self but if they are agreed in the situation of children by making them to assume the rich life as a good life and not pursuing the children to learn the process of how a man is made from a child then there lies a concept of dispute between parties also because everybody loves their children's and they don't want the hardship should be given to their children and sometimes they let the disciplined native approach by which they create undisciplined approach.

There is an old saying that child is the father of man this can be correct only on the terms of a person justifies the benefit of the children they are going to make into man.

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<sup>34</sup>Law and Society Magazine, "Custody of Children and the Conflict of Rights in Matrimonial Disputes," Law and Society Magazine, [date of last update: 28/05/2024], <https://lawandsocietymagazine.com/custody-of-children-and-the-conflict-of-rights-in-matrimonial-disputes/>.

Ultimate sovereignty lies on the basic principles in the minds of the people that how they create their children's to recognise the society that what is right and what is wrong and sometimes it happens that in a matrimonial life one person is not attentive towards the growth structure of their children and there lies a concept of hearts nature of not believing one another because they are not taking care of their children their lives are hardship and if mediation can rock in that functions then also the perspective of living as can be adjusted otherwise they will be a chaos.

Basic terminologies have been conceptualised from the point of view that the children should be blessed by the new system that they are recognised and they are justified in the discipline approach to go to the society and to overcome various outcomes and give a result to their family as a common outcomes of the resources that has been generalised from time to time and giving a common structure to the society that from where they are lying to a philosophy to be matched to the belief system that their children are getting day by day better and their childhood is summarised in a beautiful way that their journey suffers not that much to create chaos in their middle ages because in the middle ages of children when they become teenagers to a person of commitment then the childhood discipline came out for the conclusion that the children bringing his right or wrong it has been justified from That if the children are not given proper guidance about what is written what is wrong then there can be mishappening into the childrens, there can be unjustified approach to the childrens, there can be Unjustified belief To the bringing of the childrens.

Child education also plays a major role in the matrimonial life that how they are justifying their nature about the truthfulness of recognition of the parties concerned.

If your party is not giving your children<sup>35</sup> a proper education system or an atmosphere of truthfulness for their childhood then they are biased to the bringing of the children's and this can be a major issue for the parents to get separated if they are not able to visualise the structure by the dreams that should be followed in the eyes of the children's and because of the very fact parents get diverted on their own and come to a conclusion that the marriage should be justified on the scope of the children's benefit and if the children's benefit is not calculated there lies a dispute and the dispute described a philosophy that persons are getting separated because the partner or the spouse is not taking care of the children for the bringing of their childhood.

Then there lies another concept of financial discrepancies that shape the matrimonial life . In the structures data followed from the historical patterns it has been justified that if there arises a financial emergency who a spouse then the partners should take care of that and should be a support to the person who is undergoing the financial emergency and sometimes things get opposite to the function of this whole framework that can be understood from the belief system that if a partner is not giving money to the other person who is at home and caring the children and the home and not justified in the nature of societal ringing that money should be created in that much position that the family should be recognised and get the welfare of systematic arrangement of richness in their mind sometimes because of the belief system that they are not up to the mark of financial stability there lies a dispute between the parties and due to the dispute between the parties the separation calls get started between the parties in few years if there is not a financial stability in the matrimonial life then the things get starting to fall apart with the time.

Things are needed to be arranged in a systematic approach that the financial irregularities should not be happen in any approach to the society in which we live and which are justified with the wholesomeness that the systematic arrangement should be arranged with the belief system that they are truthful.

In *Jitendra Raghuvanshi v Babita Raghuvanshi*<sup>36</sup>, 2013 4 SCC 58, the supreme court justifies the legacy of non compoundable offences related to matrimonial disputes.

Under the significance of various historical dumps it has been calculated that due to financial instability many houses or homes get fall apart and the resolution of the dispute will not get last.

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<sup>35</sup>UNICEF India, "Early Childhood Education," UNICEF India, [last updated on 28/05/2024], <https://www.unicef.org/india/what-we-do/early-childhood-education>.

<sup>36</sup> *Jitendra Raghuvanshi v. Babita Raghuvanshi*, 2013 4 SCC 58, available at Supreme Today AI, <https://www.supremetoday.ai/cases/jitendra-raghuvanshi-v-babita-raghuvanshi> (last visited 13 May 2024).



With the arrangement of various thought about money there has been a generalised structure that if the money is not provided to the spouse there lies the concept of dissolution of marriage because money is something that is needed for everyday needs and if it is not provided then the soreness of the marriage arise.

Under the influence of various structures it has been calculated from the time to time justification that the marriage should be balanced in such a way that no financial irregularities should be provided by the spouse what working they have liability to take care of the family members and if they are not taking care of their family members and using their money and other things which are unresourceful for the structure of the society and for the family bringing them there lies a dilemma that who will going to serve the children who will going to serve the wife who will going to serve the whole parents who will going to serve the matrimonial life who will going to serve the societal needs education money food all these things the true justification about the matrimonial life and that's why it has been termed in various systematic approach that money should be provided in such a way that there should be a balance between the consciousness of the spouses and if there is no consciousness involved or how money should be protected and is used with a common effect then they will be a justification of unhappiness in the family and after time to time bringing their will always be unjustified and close that will gain consciousness to unlift structure of the matrimonial life.

It was a financial Irregularities there are various generalised concepts that has been developed over the time. And the generalised concept have gained the concept of ritual forming of money saving if money is not saved from the prospective of various livelihood concepts then the fundamental rights of living is also unbalanced other persons living in a family.

Any person who goes outside for work earn money for a common perspective of a man it has been understood from the fact that he serves his family by going out getting paid for the work we do outside and serve his family that pointlessly discuss the societal belief that the family is functioning smoothly but if it is not justified then there lies the chaos.

Every era that has been disturbed has its own conceptualised thinking approach of consciousness and jurisprudential nature of society also have gained much applause to the justification of the money matters if the money is not justified then the matrimonial life is somehow getting disturb. After the marriage process there lies a concept of time giving nature to the spouse.

If a party is unable to give time to the other party then the life is again under obligation of dispute because everybody wants time and if time is not provided then there will be shown as in the matrimonial linkage because it is the societal structure and the consciousness of a person that they don't want to live alone to get lonely they want to not be get alone And not get lonely because of the fact that time is needed for every structural marriage to be functionative in the core concept.

From the various structural dilemmas that of course of history because of time the bond of marriage is served beautifully and if it is find out that that time is not given to the other party then there arises a belief of unresolved dispute of marriage.

Majority of all types of marriage who are coming to a decision point of view are arising from the balance structure of the society that how they are giving time and is always the conflict that are arising between the parties from the fact that the marriage should be saved by talking to each other by discussing every event that is giving unhappiness to the welfare of the emotions of the spouse. this is the generalised approach.

In the dilemma of understanding the commercial disputes<sup>37</sup> it has been clarified that it dispute arising out of transaction of merchants, bankers, financiers, secondly export or import of services, thirdly related to admiralty and maritime law ,fourthly transactions of aircraft with garage of goods, sixthly construction and infrastructure contracts ,seventhly agreement relating to immovable property aid franchising agreements, ninthly distributors and licencing agreements and so on to twenty two types of commercial schools as notified by Central Government.

From the various aspects that clarifies the mediation practises and laws to resolve the disputes in various arenas of matrimonial arm of commercial or any legal dispute mediation always works smoothly as compared to the mediation functionable at non legal terms or in courts proceedings . In the justifiable approach the mediation has given the root in pursuance of achieving justice models in the frameworks of mediation given in various acts and laws from time to time and from the perspective of money there has been a demand for the saving of time. If two parties wanted to resolve the matter and they are unable to resolve the matter on their own, then significantly a third person is concerned which is neutral for both the

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<sup>37</sup>"India - Arbitration & Dispute Resolution - Commercial Courts Act, 2015: Ultimate Guide For Businesses & Legal Professionals," Mondaq, [last updated on 28/05/2024], <https://www.mondaq.com/india/arbitration-dispute-resolution/123456/india-arbitration-dispute-resolution-commercial-courts-act-2015-ultimate-guide-for-businesses-legal-professionals>.

parties and can give suggestions and negotiate from both the sides and give a welfare scheme for the established perspective of the approach of mediation.

Justice delayed is justice denied<sup>38</sup>. Are these frameworks a conceptual thought of consciousness. As because of the time consuming framework if the persons is unable to get justice then what is the role of the justice if the person is not there to get that justice if at that time of Justice demand, it is not provided. Judicial approach of providing the justice is the only method to circulate in the society by the welfare of schemes provided in the various acts and to create a balance and harmony in the society.

In the growth of recognised welfare and disabled community welfare there is a need always systematised and described India theory of law from the jurisdictions approach and jurisprudential approach the significant theory of mediation has always possessed a goal to achieve and in the significant level of justice that is demanded In the theory of functionative welfare scope.

Under the dilemma of attaining justice frameworks what the mediation has done as a no cause principle because it is a great effect to the described principles, and a great motto to the necessary statehood.

Choosing a right mediator is necessary for the beliefs and for the necessary regulation to be accepted in the mind of the parties with the balance creation of neutrality .

The discipline factor arose from the successful generalisation of the mediation between the parties as if the mediator is not neutral or biased for one side and have support to other side than the neutral term is a negative terminology in the framing of mediation processes through the Governing judicial body.

During the regulation and calculation of welfare of the party has been in a systematic arrangement for the mediation process through a generalisation of basic terminology that functions for the welfare of the parties.

During a conflict there always lies a dilemma of adjusting the behaviour of both the parties in the subjectiveness of gaining matrimonial justice in the framework of pattern of ADR mechanism.

Creativity always has a significant role to play in the adjustment of balanced culture, And that's why hundred thousands of cases around the year get installed in the mediation and get analysed in the significance of the structure.

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<sup>38</sup>William E. Gladstone, "Justice delayed is justice denied," The Socratic Method, [last updated on 28/05/2024], <https://www.socratic-method.com>

Nowhere there is the revelation for the pride to be followed in the justification of the mediation sales by the senior Advocates for the judges in the systematic alignment of mediation and conciliation processes.

Mutation as a practise and a terminology in law has been regarded as generalised scope For the recent judgments and justice equity and good conscience pattern.

Due to this nature all the methods of mediation have a systematic arrangement of lawyers to represent The parties at all stages.

There is a pattern of forgiveness and forgetting the culture, It can be of multiple reasons that describe the pattern of forgetting the culture in the sense of not judging the prospectus of different statutes and the cultural events that should be followed to generalised the mediation process. And with the passage of time forgiveness is necessary for getting one own freedom of consciousness. If forgiveness can be attained the litigation gets easily dissolved and there arise the situation of normalising the situation without getting further actions in the case law and a suitable guideline for attaining towards the negotiation process for judging the whole welfare of the parties.

From assuming from the basic concept that there are generalised truth about the case law involving various blames or authorising crimes like adultery<sup>39</sup> or murder or any mischievous act which results for the pattern of divorce in that matter the forgiveness is attained there can be choice of no divorce or of judicial separation. In the patterns of history who ever has wanted to immediate or negotiate to meet the bond strong and not breaking the bond have tried the procedure of forgiveness or forgetting the old stabs of crimes if are recognised and challenged and balanced and to Able to make the other party to believe that step will not be happen again there are chances of not breaking the bond if that type of passages followed.

For Adjudication of the matter, Parties have to go through a procedure of plaint, discovery than inspection then execution. In this philosophy the judge here both the parties and accordingly with time to time data are preserved and systematic analogy get developed in the structure.

Due to easiness in the mediation concept the parties get able to resolve the matter as early as possible by engaging with neutral 3<sup>rd</sup> party and with easiness with both the parties to the neutral 3<sup>rd</sup> party to disclose all the matters which elaborates the justification of negotiation concept and early possible solution .

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<sup>39</sup>"Adultery - Section 497 IPC," LegalServiceIndia.com, [last updated on 28/05/2024], <https://www.legalserviceindia.com>

From the collective consciousness the arrangements of the basic concepts have been terminologically arranged through the Constitution of India. The Constitution of India provides the regulations of various statutes and

acts to work into a dilemma of performance of signified nature of laws. The Indian Constitution<sup>40</sup> has described as adopted on November 26<sup>th</sup> 1949, Describes the articles in the available choices and the pair of raising of different articles that have links to the mediation concern not only from article 39A, but also other articles have supported about The concept of mediation.

Why the constitution is describing India as a union of states because union indicates that there is an arrangement of units with the result that no unit constituting the Indian Union can secede from it.

The primal of the constitution is describing the words sovereign socialist secular Democratic Republic, This concept is very much crucial to understand because with time to time things changes but the country remains at the very place where the country is.

Because of the administrative nature of the constitution and the basic regularities of the mediation concepts ,the power divided in executive regulator and judiciary have turned the differences between the admin. and the govt part.

From the justice oriented approach ,the discussion about mediation is always crucial element for the regulation and the truthfulness of Mediation process. Why mediation is chosen over litigation is the answer of any question that arise from the level of approach from Why mediation is a necessary belonging for the societal structure.

From the perspective of time, The amenities that are recognised and the benefits that are corrected in that truthful dilemma of mediating between the parties is always a good choice for a relief. Mediation in substantial nature has incorporated various benefits to the society and the abilities In advocating in mediation is a very wide term for a litigate aspect in the generalisation of the parties belief system that they will be in truth there will be a success there will be a harmony and there will be positive outcomes for the mediation process.

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<sup>40</sup>"Constitution of India," National Portal of India, [last updated on 12/05/2024], <https://www.india.gov.in/my-government/constitution-india>.

Mediation is compared to litigation is always a light term and a very crucial demand structure as it is very less expensive and takes very less time to resolve the matter as compared to litigation not years to go but maybe in months the solution arises for the generalisation.

How there is an increase of mediation as a professional skill, As the calculate to dilemma is justified by the philosophical aspect that mediation is a better place for family disputes to be resolved other than the courts other than the litigation perspectives other than the time consuming structure of the judiciary that's why there is an increase in litigation of mediation. And not only from the point of view of an advocate but also from the point of view of a normal person who has a matrimonial dispute to resolve and want confidentiality to be in force for the structural pattern this type of philosophy resolute to the old structure. Falls from the older times, the mediation process has flourished as a balance between the structures of panchayati raj system or the belief that punch of the village will resolute the matter as not compared to giving it divorce phenomena . Due to the circumstantial nature of various belief systems there is always a demand for the format of mediation as arising from the past history that if the husband and wife are not compromising then they take help from a neutral 3<sup>rd</sup> party or can be called as an old member of the family in the society who listen to both the parties and come to a conclusion to resolve the dispute other than going to courts and taking out the family dispute in picture of the whole society.

## **CHAPTER 3- MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM : INTERNATIONAL LAW**

When the question arises about the history of mankind around the world, there is a deep discussion in the historical patterns about solving the matrimony disputes through mediation as compared to legal platform of court proceedings.

In the significance of the study of mediation framework, the aspects of the arrangements of mediation policies that are flourishing and need development is justified in this study.

When the UNCITRAL MODEL law<sup>41</sup> was adopted, the arbitration and conciliation act 1996, came into force. Because of the law commission of India's response, the act solve the multiplicity of disputes, and the reframing of every attainable situation was justified.

With the perspective of the time frame, defined under the legal services authorities act, 1987, the mediation concept was remarkably justified. and that's also with the significance that there was authorities balanced at that time to construct the objective to resolve the disputes. In the significance of that time that foreign awards are needed to be justified inside india, is crucial to give a dilemma of the recover force and the justification of the New York convention as well as Geneva convention.

The welfare of the parties where the disputes arise of matrimonial proceedings there has been a generalised concept of solving the dispute by the big members of the community in various countries as accompanied by the various legal documents of various countries .

In the general culture of the role of international law is asked, then the concepts of various countries have strictly given in their historical patterns that when a marriage is in strict sense, accompanying the question that why a marriage has been done. It is on the basis of a contract between two parties for meeting the needs of personal benefits like sexual relationship and to create offsprings and so on. But in the dilemma of fast truth when neighbour the question is arranged in different manners that's why a marriage has to

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<sup>41</sup> UNCITRAL, "UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation, 2018," United Nations Commission On International Trade Law, last modified on 13/05/2024, <https://uncitral.un.org/en/texts/mediation>

undergo court proceedings for the welfare of the parties by immediating guidelines should be framed and why the principles are to be injustice nature then there should be a cause about the harmony

In RE (A CHILD)(MEDIATION PRIVILEGE)<sup>42</sup>, THE PROCEDURE FOR MEDIATION describing CONFIDENTIALITY was remark in this case in uk.

Whenever any situation becomes a cultural problem the people start recognising the possible solutions for the defined problem because they know the other way around that is injustice to their framework.

Suggesting a welfare of any community around the world has been a hard and harsh way to delay problem. In understanding the true welfare of the societies around the world and Add the justification about the harmonious way of dealing the situation that are unrecognised to that time. The true dilemma of resources what is the right welfare of a community and what is the generalised way for the justification of the community because of this skill the judgement truth arise on the welfare by alternative dispute resolution mechanism around the world it does not a new concept to be learned but it is a new way of learning this old concept.

Starting from various significances the justification is clarified in a truthful manner and have declared the justification in the horizon situation around the world this is not the way the situation belongs but this is the way that how the situation should undergo the mediation process to deal the message of resources that how the bigger suggestion are needed to be addressed through mediating between the parties by recognising their rights and their needs from the issues that has been arise and what is needed to be balanced and what is needed to be channelled in the framework and what will be the true outcome of the mediation is the true sense of the genre principle of welfare.

Nothing can be generalised as a conceptual data without the significance of the welfare of the dream of any party that how the matter should be resolved in the framework.

The justice approach of the judiciary welfare schemes have given more to the justice platform and signified more to the generalised approach that mediation is a process of resolving disputes outside the court proceedings And the frameworks of not making parties angry or to win panic situation but by making them to agree that a neutral 3<sup>rd</sup> party will resolve the dispute that is the culture of various nations and that is the culture of various authorities of the nation that has been recognised and that has been systematic to the

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<sup>42</sup> "Mediation Privilege," Case Law, IPOS Case Database, [last updated on 13/05/2024], <https://www.mediate.co.uk/ipos-case-database>



judgments of the clarification that are needed from time to time and from the various judgement that has been turmoiled in the significance of the resources available there always lies a stigma of the principle that how the things should be remarkable to the justice approach<sup>43</sup>.

It is not always about money it is sometimes more about time and and sometimes more about time not more about money. But money and time are needed to be saved there should be a cheap litigation and there should be a cost effective and time saving procedure for the welfare of the parties in the dilemma of international perspective.

The significance of the culture and the significance of the welfare of the International Institute has been a challenging situation but the welfare of the generalised truth Is from the recognition and hazardous of various thoughts philosophy and various bonds of philosophies that have been judged based approach for the international law perspective.

How situation gets blessed for the welfare of the communities that are fighting for their rights and for the arrangement of the justification for the settlement of the dispute is always in question about the regulations of the Premier Justice League framework.

Sometimes it is necessary to leave the thread of emotional damage to save the own amounting balance of a justiciable approach.

Various jurist<sup>44</sup>, Have given their opinion about the resources and about the welfare of the schemes, but No one has ever been able to resolve the dispute in totality.

Judging the philosophies of a resource person can be an easy method to be in totality to be complete in nature and can be a disputed welfare of the competitive nature.

From the western approach there lies a philosophy that the party should be in a justified manner To be able to get the justice approach. That's why they have justified their approach in their philosophy that their parties does not get emotionally backlog, but their dispute should be resolved in a manner that they are consciously, situation not in an emotional damage.

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<sup>43</sup> "Effective implementation of Mediation in India: The way forward," Bar & Bench, [last updated on 28/05/2024], <https://www.barandbench.com/>.

<sup>44</sup>"Decoding India's Draft Mediation Bill 2021," JURIST - Commentary, [last updated on 28/05/2024], <https://www.jurist.org/commentary/2021/12/decoding-india-mediation-bill-2021/>.

Things have changed with the perspective of time and the perspective of time suggests the availability of neutral third parties to resolve the dispute outside the court it is a process of neutral behaviour that give a concept of dream of justice.

No one in the world is able to calculate the level of perception of any other person in totality.

Justice if get delayed then automatically situation arises of believing that justice is not served that's why western culture has influenced saving laws of time.

Behavioural roots of the psychological behaviour has been served in the justified approach by the terminologies of the generalisation of the welfare end of the unclarified approach.

Serving the nation by injustice approach has been termed in the welfare schemes of various analysed platforms through the documents of international laws army under scrutiny of Indian law also under Indian laws the international prospective is firstly scrutinised and then have made a choice to be included in the Indian structure of society or precepting the methods and techniques that will give the concept of justice and clear dream of approach.

From the time perspective it is a method of happiness to give happiness to the parties by mediating between them by giving them the path to success not only to divide the parties but divorce but also to reinstitute the rights involved on the parties in the matrimonial life and as assumed via the methods and recognitions the justice approach is always in a significant mode.

This is not a hard way to deal but an essential way to deal. Recognition of international authorities in Indian patterns is through the time perspective but not in the delay of the time perspective.

Justice provided in the culture has been under the clarification of the basic terms and basic functions of the abilities of the clarified channel concept, That's how the mediation should be followed in a framework of recognised justice all the nations who are foreign democracy are a constitutional monarch all are judgmental to the functions of mediation policy that mediation should be done by a neutral 3<sup>rd</sup> party the environment of a neutral 3<sup>rd</sup> party is a essential cause to justify the mediation process Otherwise there will be a chaos in the minds of the parties that the mediator is biased.

Many frameworks are under various channelled scopes of recognition of various international laws and the belief of welfare of the parties involved. Confidentiality is the essence of the mediation and also the faith upon The party is the essential necessary element for the justice oriented approach.

Under the various structures that has analysed the poor growing structure of the mediation concept under the international perspective<sup>45</sup> had been a recognition step. Sometimes it is better to recognise the thing as early as possible that delaying it for future consequences. This signifies the totality of the structure of mediation cells around the world that are able to resolve the dispute by the mechanism that are followed in the various themes and by the significance of cultural processes around the world has justified the belief system that every nation has a dream to follow and every country has bring out something for the whole country to recognise in a systematic pattern of sociological theme or a psychological dilemma that has been channelized from time to time in various prospective international law and when the demand will be in high state of mediation.

The time never left any dream undisputed, but gives a successful structure for the theories to be learnt. Because of the cultural diversity that can be seen around the world there has been a justification made about the significance of the culture of a country with the relation to the significance of different styles of culture. Culture is something that passes from one generation to another because of the involvement of procedures recognised in the society and the bringing of the welfare of cultural events through time to time have framed the platform for the recognition . Will the cultural differences there always lies a dilemma of habit forming disputes and communication impact theory that has been termed in a philosophical way about how a thing will function.

Generally a culture Signifies around the world then there lies a cultural justification of the policies of a signified culture and the impact of various thought finalised working adjustment to the belief system and to implement the mediation cells to recognise the cultural hegemony for the welfare of the plans and the significance of generalised international perspectives that are developing the decision making policy is an increasingly turning over the tables of justifications about litigation and multiple bleeding and long drawn proceedings.

There always lies a philosophy of damaged relationship because of untruthful structure of society that meets the damage of the marriage.

### **3.1-INTERNATIONAL CONVENTIONS-**

#### **3.1.1-UNITED NATIONS CONVENTION ON INTERNATIONAL SETTLEMENT**

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<sup>45</sup> [mediation notes english.pdf \(un.org\)](#) last updated on [28/05/2024]

## **AGREEMENTS RESULTING FROM MEDIATION (ALSO KNOWN AS SINGAPORE CONVENTION)-**

United Nations Convention on International Settlement Agreements Resulting from Mediation<sup>46</sup> (ALSO KNOWN AS Singapore Convention). This convention can be said as a significant term for the justice orientation from the legal international frameworks.

The United Nations General Assembly adopted this Singapore Convention on Mediation on December 20, 2018. This convention provides to establish a justified framework for not only the cross-border enforcement of mediation settlement agreements but to get guided to be in inner countries framework.

Many things focuses on the belief system about the mediation framework at international level that how United Nations law will be given in the organisable aspect of mediation involving marriage.

The structure revolution around the justification about this agreement or settlement which is conclusive as Singapore Convention signifies many many beautiful concepts regarding mediation. It does not only turn the frequency of state owning justification but also the frameworks that are needed to be recognised in a well framed manner and with the justice oriented approach that how the United Nation has justified the convention and statutes to be in a performing nature.

The adoption by the United Nations General Assembly can be assumed as a factor of resonating justification that Singapore Convention is lately implemented or freshly in this current. Justified.

With the evaluation of time things got diverted from structure bases to philosophical basis also but with the spacing of time and with the resources that are being generalised in a conceptualised manner there always lies a philosophy on how the things will work with the timeframe and how the things are going on with the framework of justification this does not mean that the framework is not up to the mark but it clarifies that up to the mark bringing is going on all the countries around the world follows their cultural policies of mediation and are slowly slowly following the international prospective also they will be time when all the religions will accept the traditional perspective to their theme with a structural balance that their religion also not get diminished and not the structure of international law is not get unjustified.

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<sup>46</sup> United Nations Convention on International Settlement Agreements Resulting from Mediation (New York, 2018) (the "Singapore Convention on Mediation"), United Nations Commission On International Trade Law, [last updated on 13/05/2024], [https://uncitral.un.org/en/texts/mediation\\_conventions](https://uncitral.un.org/en/texts/mediation_conventions).

The Singapore Convention<sup>47</sup> like others convention had also provided a framework for the systematic relief for the sufferings that has to be addressed from any statute.

With the framing of time the conventions around the world have urged for the conceptualised belief that the solutions for the matrimonial dispute are bringing truth.

In every arena of law, there are different concepts regarding the process of mediation and about the justification of the limitations that the law provides but systematically it has been customised that whatever be the benefit there should be a balance outcomes.

So this convention also provides for the acts to be customised with the belief system that there is mediation evolving around the disputes around the world which should be addressed systematically following the passage of the statute with the belief that there should be an end to the dispute.

The perspective of time, the suggesting nature of the Mediation concept, the concept has been under various theories and under various philosophies and giving the generalised approach about the growth and the adjustment of the belief on the rotational basis is justified with the passage of time when the things got apart only a mediator can fix the gap that have been under the disputed league.

From a Laymen point of view an institute of international level has been conceptualised and supposed to be conflicting the trust of the societies ,the Laymen can understand the level of maturity of statutes with the perspective of time and with the generalisation of concepts of the acts revolving around to solve the disputes.

Matrimonial bringings when things get about the question arises that what should be thought in the concept to make the judgments in harmony. With the proven nature of significance the justice approach is always around the calculating shift forcing towards the benefit and sterilisation of mediation concept with the bringing of dispute resolution mechanism.

Under different philosophies the customs revenues have signified the adjustment and the belief treatment to parties who are in dispute due to that fact the question which arose in the mind of the Layman is about the gift of forgiveness.

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<sup>47</sup>"About the Convention," Singapore Convention on Mediation, [last updated on 28/05/2024], <https://www.singaporeconvention.org/about>.

Under various policies and under various frameworks the cultivation of the signified truth about the followed statute, is the recognisable dream. Under the concept of various philosophies and various psychological elements there has been a generalised concern about the welfare of the parties that has been erosion from the Singapore Convention and has been enlarged in Indian laws also with giving an effect of helping nature.

Nothing can hold something permanent they need a backup or can be said they need a gap between holding the thing to perfection. Sometimes it is better to make the concept more clear in the mind of the parties that whatever is going to be happened through the process is harsh in the court proceedings so it is better to go for an alternative.

Recognising something doesn't mean that you are following it thoroughly it means that you are conscious about that fact and it is a good thing that you are conscious about this.

Systematically when things got arranged and when the passion is arised, the dreams gets on a shining pace.

Under various concepts of customs<sup>48</sup> there lies a philosophy that if a custom is going to be followed, then the arrangements of beliefs of that consistency should also be followed and that also goes for the statutes.

Anyhow things can be systematically arranged for the beneficial cause and the result can be in the beneficial cause, but the justice prevailing attribute that have distinguished principles is the main objective of the established philosophy.

From understanding the concept of thought processes and from the path to success believe at the end the thing that remains is that knowing that the product is ready for the supplying process but the hard labour that has been done for the benefit was always the dream of a mankind in every perspective.

In 2019, when the breakthrough of Covid 19 happened, the path for alternative things from the standard behaviour arised for the blessings of the consciousness to blossom on the mankind that what should be the other factors,that should involved In the concept of gaining Consciousness and reaching To a channelised Systematic approach.

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<sup>48</sup>"Tools and Techniques for Effective Resolution of Family Disputes," National Judicial Academy, [last updated on 28/05/2024], <https://nja.gov.in>.

Mankind under various punishments by the nature have tried their best level to get back to the road of nature and to fulfil the asked gap.

Every neutral third party would want to resolute the matter have a basic understanding about the art of mediating and also the art of negotiating because only when the party is negotiating with each other and coming to a conclusion upon the fact that they are negotiating with the matters in a systematic way that upon negotiating they are coming to a similar foot to each other.

Under the various philosophies that have reward the mankind has gone through a remarkable pressure and the truth is above the origin level of justification and contradictions under the belief system of human nature. With the passage of time ,the things have developed in a remarkable manner the question the very beginning and the very end of any signified level approach of mediation. Mediation is a two way process by a third person, that's why the things are majorly justifying the true belief system in the consciousness and the developing phase of the mediation effects.

Under the Justice approach the human consciousness has been developed from the significance of customised evaporations of thoughts, and that's how mediation got into power this is not a philosophy to be understood but the conscious institute of statute to be understood.

The time is justified with the historical patterns that whatever has been assumed in history with a positive approach has gone from one period of time to another period of time. And that is the case for every mediation aspect that has undergone air philosophical change from time to time from country to country and from custom to custom through societies that are bringing in the 21<sup>st</sup> century.

The significance of time,<sup>49</sup> there arises a problem of descriptions about mediation concept. But believing upon the nature that everything will be good in future changes the perspective of every unhappening situation.

There lies certain facts that analysis the whole mediation concept into a dream of culture.

With the passage of time things got turned by the way of strengthening the perspective of every party's abilities and the concept of every party level of approach justified approach of judiciary this is not a new thing to be understood but through in new a way it is to be understood.

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<sup>49</sup>"Mediation: Scope, Process, and Techniques: An Introspective Study Into The Practical Aspects Of The Procedure Of Mediation," LegalServiceIndia.com, [last updated on 28/05/2024], <https://www.legalserviceindia.com>.

Everything culture around the world have followed their policies for the upliftment of their society but neither any belief has been aspire to fulfilment of the culture and neither have gone fully into the regime of international level.

The perspectives are clear regarding this and the way they are generalised is also an understanding proof for the upliftment of the parties.

The approach of any significant level of justification for the concept of mediation has gone for scrutiny by the perspective of time. In the influential nature of signifying the mediation concern has been in the intensity of laws and constitution of various countries and under various international statutes that guides a platform for mediating even in the situation of war.

Things become partial in nature when they justify a unjustice approach. And this is the dilemma of successful regime that gives the concept of harmony and belief over the generations to come.

Under the influential drama that has been prescribed and that has been systematically authenticated by the way of approach by various authorities it has been clarified as the instalment of neutral 3<sup>rd</sup> party in the regime of matrimonial disputes between two parties and through the behavioural pattern this has been classified under the approximity of justification.

With the passage of time, days are evolving and so are the court proceedings for the matter prescribed.in the alternative faithfulness dispute resolution, both parties to a dispute in mediation gets a breakthrough that how the arrangements should be classified for the cause.

Every dispute defining the legacy, of matrimonial nature channelises the big issue that how the framework has been utilised for the frame of collective wisdom of mediation.

In the scope of nature of thoughts between the parties that what they want to be the conclusive evidence, is the true remark for the beneficial cause.

people get separated<sup>50</sup> in the dilemma of faithfulness that how the recourse structure has been in the way of livingness. People due to circumstances get separated and in the flow of relative recourse that , how

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<sup>50</sup>Akshay Agrawal, Why Judicial Separation is Better than Divorce, MyLawman (May 28, 2024), <https://www.mylawman.co.in/why-judicial-separation-is-better-than-divorce>.



their life will be in futuristic approach is the true significance of the mediation problem. In the passing of time when things get straightened up, the liabilities also get used to the remark of attainable philosophy.

Because of the structure of courts, the proceedings done, the official claiming capacity that goes just and finite to the concept is how the situation evolves.

in the aspect of day and night work going on, in the courts, justifies the picture of how a proceeding of a case get attained to next case. than on other date, hearings have been channelised on the breakthrough level of how things are needed to be arrange to next level that is mediation.

Things got for separation between the bonds, due to irregular discourse behaviour between the husband and wife, and who is responsible other than the both to solve the dispute between the two.

Never any abilities have surpass the true dimensions because theses dimensions are itself made from the society.

The harder is the discipline, the harder is the personality and the character, due to the responsive stigma, of how things are in balance.

the true achiever of the facility is the one who control the whole socio legal behaviour between the parties.

it is not a new day, of proceedings that are not testified. they are testified and than are again framed in this perspective of logic, that mentions the logic that everything happens for a dimensional approach.

In the significance of the parties that define the responsive character, the nature of parties towards the dilemma that they are attentive to the cause of separation, the future coming recourse for what is more needed and what is needed most.

In the significance of justification to the justice that has been signified is the nature of societal routes to be channelised from the level of thinking abilities, if one party is trying that there should be a solution to the cause, means that there should be a solution to the nature of cause.

In the capacity, the philosophical school is as such that intensifies the tentative recourse of the defined adjustments. to understand the level of thinking, mind should be able to give the clear consciousness to the channelised learning.

If a person is not able to get attach to words, he will call it unacceptable, in the terms of clarification that the words are wrong. for higher consciousness, the dilemma of understanding the patterns of writing is much needed to be use to the effect.

In the circumstantial evidences, every pattern is firstly unrecognised, and than the situation arises of the recognition. nothing in this regime is tolerable to the keen concept that the philosophy is unjustified.

Every relation to the cause is attained by the legacy of how the things are needed to be channelised.

With the framework, the things are classified in the true sense that how they have to be applied in the legacy.

Dissolution of marriage is done by the situated framework of courts by western culture . in the dilemma of Indian culture , the rights of man are very large, and the scope of dissolution mainly depend on the death or through the arrangement of panchayat system to declare marriage null and void, as compared to the philosophy of Islam legacy where the pattern of TALAQ<sup>51</sup> is given.

In the western culture, people in live in relationship, or arrangement of having children without marriage is given, from theirs legacy the path is dignified and the role is justified.

In india ,there is variety of people that are living with different religions and with different frameworks of how the things are needed to be in culture.

People nowadays chooses the path which they find suitable for their consciousness in the describing elements of how to be activated in the regime of their attentiveness towards a cause , is the justification.

In nowhere around the world, things get complete on ttheir own, there is always a need and the need is fulfilled by the faithfulness by the attainable person to the cause.

With the framing of time , the dimensions are been channelised with the scope of their fruitful nature in every era .

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<sup>51</sup>Law Corner, What Is Talaq Under Muslim Law? How Talaq Is Made?, Law Corner (May 28, 2024), <https://lawcorner.in/what-is-talaq-under-muslim-law-how-talaq-is-made/>.

### **3.1.2-UNIVERSAL DECLARATION OF HUMAN RIGHTS IMPACT ON FAMILY DISPUTE RESOLUTION**

UDHR<sup>52</sup> provides individuals have a right to fair and public hearing by an independent and impartial tribunal . Article 8 of the udhr clarifies that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by law. This provision justifies that family disputes are resolved justly and in accordance with the law.

And this basic principle of udhr compulsory mandates that policies that are for beneficial cause for family dispute resolutions should be recognised all around the world.

Under the basic understanding , the udhr, is an exemplary framework for the development of mediation policies in matrimonial disputes resolution.

### **3.1.3-UNDP RECOGNITION IN FAMILY DISPUTES RESOLUTION-**

United Nations Development programme<sup>53</sup> supports countries in building Resourceful institutions, in family dispute resolution and justice systems.

This Theme of United Nations development programme of suggesting institutions for the resolution of matrimonial disputes signifies the necessity of policies of mediation programmes that are needed to be implemented in the countries framework.

The framework at international level guides the basic terminology to a greater extent and this programme suggests a disciplinary recognition of institutions for family disputes resolution.

Under the theme as an international perspective, this type of subjectivity of the development and building of the institutions is an appreciable justification.

## **3.2-INTERNATIONAL LAWS GUIDANCE TO INDIAN MEDIATION STRUCTURE**

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<sup>52</sup> Universal Declaration of Human Rights, OHCHR, [https://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf) (last visited May 28, 2024).

<sup>53</sup>United Nations Development Programme, About Us, <https://www.undp.org/content/undp/en/home/about-us.html> (last visited May 28, 2024).Top of FormBottom of Form

From the acceptable introduction of the theme that has been channelised and understood, from the common objectification is how the western influence is in order to be driving force.

### **3.2.1 THE LONDON COURT OF INTERNATIONAL ARBITRATION**

The London court of International Arbitration<sup>54</sup>, started in the 19<sup>th</sup> century in the city of London and in the next century it grows to dispute resolution services for international disputes and at present it includes arbitration and mediation and appointment and administration services for other purposes such as neutral early evaluation.

The London Board of International Arbitration launched Lcia India in April 2009 with its offices in Delhi, providing the facilities of mediation and arbitration services.

These are the building blocks of the guidance for the truthful nature about the outcomes and the symptomatic arrangements of structures at international level that have tried to guide the Indian structure with the flow of loss around the world to be adjusted in Indian platform this is not a big generalised issue but a signified remembrance truth.

And coming to the responsive truth that how things should work is the true symptom of any channelised lie. in the significance of justice that how it is going to be customised, the level of operative terminologies should be justified that how mediation cells works, how negotiation process , classifies the true initiative upon the cause.

When things are done through the process of mediation , parties tries to normalise the situation with the ability of negotiating skills and the truthful accommodation that how things will go in the flow.

with the responsive justification , that both the parties are prepare on a goal that their should be initiative for the generalising dilemma that what is the truth of a concept to be justifying the level of conciliation skills.

In the area of definitive rearranging philosophy the one thing straight is the level of creating bond of justice between the two parties.

In the substituted legacy that what is definitive in the nature of truth is how the parties clear their goals of disputes arisen in matrimonial arena of self discipline.

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<sup>54</sup>History, LCIA, [https://www.lcia.org/dispute\\_resolution\\_services/history.aspx](https://www.lcia.org/dispute_resolution_services/history.aspx) (last modified May 4, 2024).

When there was a time that the practise like sati was followed inside india. but with time the reach gone to foriegners that how much intensifying is the practise, which get thrown away by the britishers.

A person dies, and the partner left has to die with the deceased body on fire.this remarks the outline that how the Indian culture was itself a killing dimension for the people living and the females getting loss of lives for intolerable reason. This remarks that, in the situation persistant, the level of faithfulness , towards a tradition is wrong if it destroys the legacy of an individual. In the performa of the legacy adjusted the driving force is the abilities to awaken the mishappenings that are done.

With the time defined areas of assaulting the rights under described philosophy of family law indications and the basis of the define structure of the various possible phases.

Western influence has degraded or optimised the use ican be know only through the channelised theory of what is cultural to the society.

And the level of maturity that can be termed by the significance of what is best for the resources, and the relative approach is the truthful dimensions of what is gratitude full of terminologies.

These things are making sense when these are made through the best principle approach of handling pressure over mind describing various statutory provisions of language understandings.

In the philosophy of any aspects, there are remorse activation of how the thing is subject to definitive bulk of knowledge absorption. and the true identity is the benefit cause of how the thing is balanced.

In the dimensions of Indian subculture , western influence is a mark of acceptable culture in every event of described history.

Nevertheless the things will soon diminished or the things become too much absorbing in nature, the day comes the things get unattached and the relative force of defining the balance , gets substituted.

The days will be treating the imaginations of mediation in a goal to resolve dispute in totality.

With the new days, comes new strength, and with the passage of new strength , the un intensified justice get tolerated. the sooner or the later part of any definitive price will be a dream to be accustomed and the days of past and future will be describing in the path chosen.

Any how the mediation as derive as a symptom of mediating the conflict arisen, than it is not a foolish reason to be customed.it is a balance of circumstantial evidence, that how the parties are ready for the amount of pleasing moment of nurturing justice in the domain of judicial process.

Never the time is great to be criticize, not to be justified with the level of justification through the recognition of mediation process. The limit of every successful extra events are treated with the balance of understanding natures.

Never ever a situation has done a best part in the recognition of the statutes and the describing legacy of the true beneficial dream of resolving disputes. in the respectables frameworks, their if arise a situation of how the things will go with the flow is the response of the facts.

Any legacy of framing the subjective evidences is through the recovering force of enabling the framework of how the things are to be customised.

Evidences of past for future suggests that matrimonial belief system has been improved and new solutions are coming with new strengths day by day and the faith is increasing for the definite cause.in the successful evidence of what will be the legacy for the justified arena is the true limitations of the philosophies.

With the substantive evidence of the recovered forces and the dream cultured is the lengthiness of the study suggestive to the limitations of disputes arisen to the cause and the benefit to the mediation culture

With the regaining forces of time, the aroma of challenges have under the thinking subjects of what is fulfilling the descriptive fights of the patterns.

In every era there is a generation gap, and every era is a fulfilled legacy for the forces of the divine culture.

With the level of thinking approach, to justify the legacy, the situations have been under the pressure and the limitations have been utilised for the welfare schemes.

In the mediations patterns, that are justified and are renowned for the acceptable aspects are the beneficial causes, it signifies the truthful evidences that are accepted and are truth defining structures.

In the corruptive situations and the personification of the recognised truth to be balanced in nature what is truthful is justified and have a channel to be resolved in the mid of the circumstances.

Whenever the true dimensions are overlooked and are un just to the legacy , it develops descriptive analysis.

In the era of justice finding approach, the things to be channelised are the remorse active survey of the schemes that are evolving and the justification that is needed to be channelised.

With the flow of time , things never flow apart, unless and until there are the wellbeing to get things in a normal flow to justification.

Time becomes right on the face of any philosophy with the patterns of revolving in luck.

Mediation process is a process of resolution, resolution of disputes, specifically saying the judgemental truth of the philosophy of resolving the disputes, the mechanism is justified in the legacy of channelisation of welfare of the rechargeable surroundings from the outcomes of the resources.

With the perspectives of time, and with the clear consciousness of the resolving disputes mechanism the limit is not a pattern to be dissolved but a skill to be learnt.

In the era of the balanced faith between the parties, the legacy is surrounded with the benefit of recognizable mediation strategies and the very absorbing nature , that is about the legacy of refined personification.

With the times framing the level of competency and the framing of conclusiveness to the dispute resolution mechanism , there is a need of coming over the horizon. With the new days , new personal issues comes.

In the scenarios of developing nature of litigation, with the new significance , mediation has gone to a next level of generative structure.

in the time of framework, the skills get diminished. that is how the things works.in the justification related aspects of justice. Indian theme in historical patterns regarding matrimonial disputes, is always in the developing frames.

The mediation has under process under the significance of liabilities lying to the cause of true dilemma.

With the time frames when the things are not in competitive nature , things get channelised with the scenarios, and the true well being regarding the conservative approach in natures are always in discomfort.

Time changes everything and with the time frames, the process slowly construct the balancing behaviour in the name of mankind.

In the mean philosophy of how the welfare scheme has to be defining the true welfare and about how mediating skills are nurturing in nature.

After the shifting focus, from the routine philosophy of how the things are going to be nurturing, the dimensions are always in the recourse structure.

In the schemes of mankind , that what is truthful, justified and giving the structure of the focus over the defining nature.

There are versatility for the skills required for the mediation to be in utmost faith and going with a deeper pace. the psychological aspects are the need of the hour in the time perspective.

Whenever there is an upcoming regenerative force for the channelisation of the mediation process, there is always an alternative functioning choice for the resources to be in motions.

There is an alternative to any road closed , and there is always a pattern shift for the recognition of the balance methodology.

their have the time in force that made evolution of the mediation possible.

In the achieving philosophy of human surfacing truth, that the matrimonial dispute should resolute in the best possible way for the justice to be in frame, the culture exists in bringing situation to neutral possible means.

In the level of perception, the justified philosophy about the regaining structure is connotes to various philosophies undergoing under the nature of human consciousness.

With the passage of time , these philosophies have flourished in a matter of assumed welfare , this alternative dispute mechanism is a path to justify the enormous wellbeing of the layered culture in the litigation.

The fundamental of any scheme that undergoes the various channelization respectively the mediation process, the negotiation process, the conciliation process. All processes are related to a major functionality theory that there should be a resolution of the dispute and there should be a Mediation between the parties and the parties that are in conflict get their Resolution in their utmost faith resolved.

With the significance of the policies that are made in the structural framework and the justified channelisations.

there always lies a skill to be resolute that is the most overlooked scenarios, and also the most justified scenarios , in the nature of conflicting interest.



When things are not upto the mark, the situations are rising to a unknown conclusion than what will be the justified approach.

In the time framing , marriage has been channelised in the arena of conflicting interests. True significance of a function is where the thing get resolved.

Mediation in Indian terms have been conceptualised through the significance of the welfare of the grieved parties.

The scenarios are not in the top most benefit range but are in the legacy mode. every continuous moments inside the courts tells the story of briefing about how the parties have gone through the processable diagnostic welfare schemes.

The resonating structure of the framework of the dilemma lies in the fruitfulness of the mediation proceedings, and to be in general the terms which are more crucial to the advent schemes .

With time mediation proceedings if resolved at an earlier stage , signifies the totality of the scheme of the beneficial cause, mediation seems overpowering the resolution.

It justifies the overfunctionary dilemma of recognition and the channelised path to the benefit , and for the results of the subjective truth.

Imagining a situation , where a family resides, there is a dispute between the matrimonial tie up , their parties are, significantly living, want to end the marriage framework , and than also seeing each other in a happy phase of life.

Matrimonial ties ends up, they get separated and even after separation, they are living happily. what is the discourse regarding this.

This can be said as a western influence or western influence of happy nature, that thoughts of the person, if are not adjusted to each other thinking than their should be a procedure to solve, but their should be a dilemma of happy ending to the dispute.

This is necessarily needed to be recognise in the frames of justice and in the framework of justice, the dilemma is all about the scenarios of how the things funtions, in the eyes of law, never there has been a comparison phase or a situational biasedness but the goal is simple just and fair to the outcomes of the framework.

We are compromising or not, lies in the thought process that what we want from a psychological promising leadership, situated inside ourselves to give the definitive belief system and to neutralise the confiscating situation to be a bigger deal in the aroma of welfare.

Compromise on the established truth of harmonious nature that what goes beyond the skills, give unutilised established skills to the framework. In the scenarios of mankind, when the justice can be asked as a rule to be frame over the parties, there is no way to say no to the classifications.

In the compromising theories, that what should be the burden off situations to the dilemma of successive nature, the parties tries their dilemma of solving the disputes through the framework of justice oriented approach and to the significance of to be more balance in the harmony. The justification evolves through the lens of glorifying the balance between the so called proceedings and the justification to so assumed truth.

Nevertheless things get back and forth to the basic analogy of how the things are functioning but the true significance lies in the demanding capabilities of the justified approach.

If the situation arises that how the changes are to be brought in the balance of the situations, than there is the need arises of the welfare schemes and every time of the welfare the scope goes bounded to the legacy of the asked philosophy.

In the Indian patterns, and in the significance of world structure of thoughts, Indian belief system<sup>55</sup> is more diverged towards the philosophy of resolving disputes on the pattern of human consciousness that let the matters not go outside their homes. Their lies a dilemma of solving that through the nature of mediating by compromising with one another on a basic strategy of giving a signified belief of keeping the dispute to a normal situation and to be arrive on a conclusion about the promising situation of compromise.

With the framing of time, new ideas always are subjected to scrutiny from the old ones and the pattern is keep on getting fluctuate in the manner of significance, that which frameworks is better to hold the irony of the clauses.

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<sup>55</sup>odr-report-29-11-2021.pdf, NITI, <https://niti.gov.in/sites/default/files/2021-11/odr-report-29-11-2021.pdf> (last updated May 28, 2024).

In the patterns and the significance of the true justified nature is the involvement of improvement theme in the arena of justice platform, mediation as suggesting a path to not suffer much as compared to strict court proceedings , conceptualise the behavioural pattern and the significance of what is asked more and what is needed more in the situations of conflict between the parties. The scenarios of the available choices, when the dispute is identified to be not in the good framing, many times the mediation is sent to courts proceedings.

In the framing perspective of human identified truth, only those people can compromise, who have the power to fall systematically, to rise in the form of mediating nature.

Any how in the form of justice approach, the most slightest harm are happened to those who have leave only slightest conflicts to not resolve.

Being a guardian to the acts or a protector to the justice frameworks, the lawyers do what not, but the true installment lies in the framework of , how the situation has been under control by the judicial approach<sup>56</sup>.things get better with time, but the need is how the framework is channelised to resource the outcomes.

With the welfare of every aspect that is possible in nature to be justified is the significance of how things get frame and the skillful talent is always above the origin style and have the dilemma of fruitfulness in the game of nature justification.

Things take time and so as the frameworks have moved.in the beneficial cause the limits have been under judgemental pressure to resolving the matter and justifying the welfare of the cause.due to circumstances and true limitations, the welfare is needed to be gone through the framework of the true utilisation of the acts and have to signify the judging capacity that how the utilisation has occurred.

With the pace of significance , the nature of justification has been turmoiled and have been adjusted to the limitations and the significance of the goals to be achieved.

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<sup>56</sup>11-1-Rashika-Narain-Abhinav-Sankaranarayanan.pdf, NUJS Law Review, <https://nujlawreview.org/wp-content/uploads/11-1-Rashika-Narain-Abhinav-Sankaranarayanan.pdf> (last updated May 28, 2024).

There is a philosophy of proposal and the theory of offers , that are systematic to the significance of the judgemental point of view , than the basics suggesting the terminology is always with the framework of how the needs get flourished in the preparation mode of mediation the goal is to be classified and to give the corresponding outcomes for the demanding situations. Anyhow if things are muffled up than the true belief lies on the fact that how the channelisation is flourishing and the basics are surrounding.

In Indian patterns, the belief system as well as ruling system , both have undergone in a state of distributive powers and are with the optimum legacy framework of how the things will be done. In the subjective analysis of the legal time that is involved in resolving a dispute is through the framework of how the things are in patterns that wishlist the situations.

In the arena of subjective analysis, the behaviour guides , many things, for instance the true behaving nature of the justified legacy is through the balance creation between the said frames.

There is always a need of good preparation for resolving any matter so that studying those patterns also magnify the practise and the wellbeing related to the objectivity.

Many times things are aligned in a disciplined manner, that clarifies the benefit of the developing philosophies, but the legacy is through the possible choices only.by seeing the perspective, the road to success can be classified on the beneficial cause that define the analogy of patterns. In the significance of true modular challenge, that has been under the significance of truthful nature.with new days comes, new strength and a dilemma of fruitful abundance or the classification of justified truth.

In the substantive model , the mediation has been termed with the framework of compliances and gratitude to the legal fraternity.

All that mentions is proverb, all that channelise is resources and all that work is the benefit to the social hierarchy.

### **3.2.2-THE AMERICAN ARBITRATION ASSOCIATION**

The American arbitration association<sup>57</sup> model provides certain judging truth about the mediator that oral or written recommendations for settlements can be done. This type of statutory framework regards the

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<sup>57</sup>AAA Mediation, ADR.org, <https://www.adr.org/Mediation> (last modified May 4, 2024).

country's dilemma to going to a next level of mediation concept. Describing the very fact that the mediation can be done in oral or written recommendations for settlements is a point to be noted that no formal record is to be kept on the mediation or any related meeting of the parties with the mediator this is like a creation of conduct for the mediators.

There are various approaches that are being justified in the legacy of arbitration mediation conciliation negotiation but the thing about the AAA, is that it clarifies the generalisation of mediation that mediator is going to recommend poorly written settlements.

This type of generalisation guides the Indian perspectives to be in position of faithfulness of oral or written recommendations for settlements of the disputes.

There are different type of goals that are addressed by various countries and same as for the believing culture about the justification for the code of conduct that are to be addressed and recognised in the Indian culture of mediation and various philosophies that are included are guided by this American arbitration association.

This association isn't itself a guide for an international perspective as the clarification as this is of American point of view and guiding the significance in the level of justification in Indian territory it imparts a generalisation that mediation can be functionality of the societies if the party is in the matrimonial disputes are factually understanding them to that their confidentiality is not going to be biased then there is a level of justification to the truthful nature about the cause with the significance of relief.

### **3.3 COMPARING SITUATION BETWEEN INTERNATIONAL AND INDIAN FRAMEWORK**

In the conceptualised study of different countries, there are certain cases that remark certain policies that are followed in Indian circumstances with a justified approach.

In *ROJAS V LA COUNTY SUPERIOR COURT*<sup>58</sup>, there is the exclamation of the resources like photographs taken by expert witness for submission at mediation were sought to be used in further process of litigation.

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<sup>58</sup>Rojas v. Superior Court Los Angeles County et al., Unicourt, <https://unicourt.com/case/ca-la2-rojas-v-superior-court-los-angeles-county-et-al-175126> (last modified May 3, 2024).

In the context with the supremacy over The faith over the belief that in A mediation cell, there are certain things, that are needed to be in confidentiality otherwise chaos is the other mode of significance until and unless the situation justifies an approach over the climbing nature of the mediation that there will be no usage of resources for further litigation that can be harming the confidentiality of the resource persons.

Amounting to the communities that are included with the welfare scheme describes the procedure in a functionative way about how the policies are going to welfare the outcomes from a given fact. Comprising and comparing are both different things but that doesn't mean that suggestions should flow from other countries to the describe country welfare in the terms of generalising the schemes and utmost welfare of the recognition of the cases around the world and justifying the approach that there is a trend to protect the confidentiality, and that has to be done in a good trend across the jurisdictions of different patterns around the state but implying the faithfulness over the country's nature of understanding the confidentiality of a person who is asking for a mediation and for that purpose no harm should be caused in the belief system that makes situation in a greater mode of understanding.

Under various scenarios it has been held that photographs should not be taken in the fact the parties which are wanting the proceedings to be in confidentiality. It means that the significance is from the justice approach.

This type of theme cannot be taken into account for granting justification to the statutes of mediation that are discussed in Indian culture. When the provisions of mediations are mentioning confidentiality that inside India how the mediation should be in the mediation cells should be done, that embarks a duty over the factual representation over the policies.

The brief structures around the world have established the policies in the 21<sup>st</sup> century with a significance of justification and anything that looks harming the confidentiality of the parties of the disputes, than The generalisation gets certainly modified to a structural arena talk truthful justification about mediation in the matrimonial dispute resolution mechanism This has been a term of purposeful justification to adopt an Indian circumstances and evidentiary to the balances.

In *Santhany v Vijay Venketesh*<sup>59</sup>, JUSTICE DY CHANDRACHUD'S Dissenting opinion is of greater value where he highlighted the benefits of using video conferencing which reduced cost, time taken, carbon footprint etc. by connecting the parties from different geographical locations with the ease. They have given the belief that the legislation has enabled provisions that are sufficiently brought to allow video conferencing and confining video conferencing to the stage after the settlement processes and in a situation where both parties have agreed will seriously get access to justice.

This type of firm belief about Video conferencing has been generalised from international level and in various countries it has been recognised as a process to resolve the matter as early as possible where the parties are not residing in nearby places and same is given to the Indian perspective that in this case this definition of video conferencing was highlighted in a significant way of justification that how the process justifies the level of truthfulness and gaining the generalisation of video conferencing in the balancing nature of matrimonial dispute.

There are always a hypothetical situation where the party are not able to clarify their part in video conferencing level of Justice approach of proceedings but in mediation with the time to come this is not a new term to be disclosed this is a new term to be justified in the renowned mediation especially for the conflicts and the justice approach demanded for the justification and for the clarification related to video conferencing. With the time to come and with the time that have been revolved it has been justified with the pace.

In *Perry Kansagra v Smriti Madan Kansagra*<sup>60</sup>, the supreme court established the confidentiality scenario of a child minor.

The court have to follow the PARENS PATRIAE principle to resolve the issue for the best interest of the minor child .

There are different authorities around the world that govern the functioning objectivity about the interest of the minor child and that has also been followed in this case law.

With the terminology that are classified with the pace of time that are exclusively mentioning the interest of the weaker side is always considered to be a powerful tool in the hands of Govt. describing the liability

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<sup>59</sup>*Santhini v. Vijaya Venketesh: The Concept of Video Conferencing in Matrimonial Disputes*, IJLLR, <https://ijllr.in/wp-content/uploads/2022/12/Law-Renvoyer-e-Court-Technologies-and-its-Admissibility.pdf> (last modified May 4, 2024).

<sup>60</sup>*Perry Kansagra v. Smriti Madan Kansagra (15.02.2019 - SC)*, NALSAR, <https://nalsar.ac.in/resources/casebriefs/2019/2019-02-15-Perry-Kansagra-vs-Smriti-Madan-Kansagra-SC.pdf> (last updated May 5, 2024).

and ability of a litigator in the shoes of a mediator has to follow the guidelines as prescribed in this case law.

Various factors are issued on the basis of the classification and on the generalisation concept that are to be understood from the legalised point of view and the summary based culture about the significance of the child interest in the matrimonial dispute has been showcased with the belief that the neutral 3<sup>rd</sup> party will issue the best interest resolving dispute mechanism.

The welfare of a child is the responsibility of not only the persons governing as a guardian But it is also the responsibility of the person who are shaping the future of that cultured child.

In the significance of attaining justice and the relevancy of faith upon the alternative dispute resolution mechanism that governs the mediation process has justified the true dilemma of matrimonial disputes resolution mechanism in the lights of different case laws around the world and systematically have provided certain guidelines which are time to time bounded to be followed to save the interest of the weaker party.

Under the channelisation of the conduct that is governing in the philosophical sense about the issue of the matrimonial dispute suggests the core principle of mediation that the party should be on the same foot and the result should be non biased.

This is not about the time procedure but it is about the flow of the time in the procedures involved governing the mediation concept regarding parties involved in matrimonial disputes and the significance of justification by various modes of justice approach that are fascinating to the face of concern of the parties.

There are various influences around the sphere of governance that are establishing certain principles of mediation quit time to time in resolving the matrimonial dispute with the justification of the procedure that has been followed in the quantitative mode as compared to qualitative mode for the outcomes of the welfare of the parties.

Nothing in the scenario have been constructed in the times perspective that does not justify the legacy of mediation concept and the ability of the neutral third party to solve the dispute in a better condition as compared to legal proceedings in the courts This is not about the justification but the necessary evolution that has been taken place around the world for mediation practises.



The Singapore mediation centre, Signifies by justifying the allowance of online application for mediation and accepting the mediation agreements in the form of electronic records fourteen days from the date of request, will contract the remaining parties to persuade them to participate in the mediation process .

In the Indian culture the mediation centres are established inside the courts but describing the legacy of matrimonial disputes suggests that the family courts allow the matrimonial disputes to go for the mediation cells, If parties in disputes are ready to mediate through a neutral 3<sup>rd</sup> party. And under the circumstances that are followed in the facts of the case regards the testimony and the objectiveness that which perspective of the mediation will cover the end of dispute as early as possible. In the significance of learning new ideas from mediations there has been a generalised framework that has been considered and had been in the creation of balance between the parties and through the mediation cells, objectivity of the cases of the matrimonial disputes generally get resolved in The perspective of time.

From the various conceptualised theories around the world, the role of a mediator in solving the dispute or saying that coming to a picture of truthful desire about solution for the asked cause is a major approach in Indian perspective as a guidance phenomena.

From the aspects of justifications , there is a gainful impact from the channelised welfare about the matrimonial line ups that the parties are in the position to listen to one anothers point of view about justification.

The core theme with comparison can be significantly understood from the point of view that their lies a dilemma of attaining the justice approach.

In the realm of justification, when things are apart in the sense of international guidance the belief system is the core generous structure.

With the structure of comparative guidance there has been judgmental policies regarding the disputes that are taken into account.

With the pace of time any guidance that has been successful in justifying the approach in Indian perspective with a comparison with the international level of thinking there's only a guidance approach that could be signified in this study with the welfare of the parties in the disputes.

Under various themes, There is a concept that has been revolutionised by international perspective holders that the decision should not be made on the table there should be a break and when the time demand about the conclusion step of the dispute then only a solution reaching steps should be promised.

Using time is essential ingredient for the justification of the balance between the party's philosophy that generalised their own perspective with the goal of remembrance and calling a break does mean that there is a killing of time but it means the proper usage of time and that is essential for any dispute to be resolute in the time frame so not only taking a coffee break but also a break of a tea or a food break or a break regarding coming to the decision making step is the steps governing the philosophy of using time.

Not only it seems that the progress is shifted towards low mechanism but generalising the theme of the dispute requires the process to be slow and easy not to be fast in the framework of establishing justice oriented approach.

There always is a chance that has been guided in international perspectives and with comparison to Indian perspective also that there should be time to time movement of mediation otherwise this comparison will not any stage be justified, to the to the parties and also for the mediator for going for a process of dissolving the dispute through mediation.

Under the international perspectives of different case laws it has been systematically arranged and it has been under the influence of international culture that the mediator has to be bold enough to take steps of guiding the parties so that they don't indulge in no movement process in the mediation because it is necessary to be in motion otherwise things will not go in a process of Generalising the impact decisions towards the matrimonial disputes.

As compared to international Country's framework ,India always have established the principle of justification that divorce rate inside India is low as compared to other majored state which signifies the principle of mediation at a very high level .

So this is not a new thing to be learned but a new arrangement of thoughts that are to be established in the minds and a thoughtful channelisation should be in conformation with the parties in their disputes.

## **CHAPTER- 4- MEDIATION AS A MATRIMONIAL DISPUTE RESOLUTION MECHANISM :INDIAN LAWS**

### **4.1- GENERAL LAWS GOVERNING MATRIMONIAL DISPUTES IN INDIA-**

\*Firstly and majority holding law in india- the hindu marriage act,1955<sup>61</sup> ,

The Hindu Marriage Act of 1955 is the legal framework governing marriage and divorce for Jains, Sikhs, Buddhists, and Hindus. Both mutual consent and grounds-specific divorces—such as cruelty, desertion, adultery, conversion to a different religion, mental illness, etc.—are covered by its rules.

Considers the revolution of governing perspectives over the Indian hindus, describes the true element of justification towards the goals that are needed to be achieved in the face of judiciary. Various elements like custody, maintenance in this act have been addressed with the philosophy of Indian culture and customs.

\* Act on the Dissolution of Muslim Marriage 1939-

Islamic Sharia-based personal rules control Muslim marriages and divorces. According to Islamic law, there are three primary types of divorce: mutual consent divorce (mubarak), divorce initiated by the wife (khula), and divorce initiated by the husband (talaq).

This is an act to dispel uncertainties regarding the impact of a married Muslim woman renouncing Islam on her marriage bond and to harmonize and explain the laws of Muslim law pertaining to suits for dissolution of marriage by women married under Muslim law. Whereas it is desirable to remove any uncertainty regarding the impact of a married Muslim woman renouncing Islam on her marriage bond and to harmonize and clarify the laws of Muslim law pertaining to suits for dissolution of marriage by a woman married under Muslim law.

\* The Christian Marriage Act of 1872 is the legislation that controls Christian unions and dissolution. It allows for divorce on certain conditions, such as adultery, cruelty, desertion, or conversion to another religion.

\* Parsi Matrimonial and Dissolution Law of 1936: In the Parsi community, this statute regulates unions and dissolutions. Similar to the Hindu Marriage Act, it offers provisions for divorce on certain conditions.

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<sup>61</sup>Hindu Marriage Act, 1955, India Code, <https://indiacode.nic.in/handle/123456789/2296> (last updated May 8, 2024).

\*All Indian nationals are covered by the Special Marriage Act of 1954, regardless of their religious beliefs. It offers guidelines for civil unions and divorces based on offenses including cruelty, abandonment, or adultery. After the independence of India different type of cases have evolved describing the factors of matrimonial disputes under the Hindu marriage act 1955. And still the recognition is not in the position of unhappy culture or the duty to not follow the customs arose over the justification by the judiciary.

\*the code of civil procedure 1908<sup>62</sup>, which justifies the approach of settlement of disputes.

The code of civil procedure 1908 is a framework that justifies the dilemma of statutory laws that are governing the framework of civil procedures including family law and also considering the mediation process which can be concluded for the matrimonial disputes as ease. Section 89 of cpc 1908, Channelises the settlement of disputes outside the court which also signifies the concept of judicial settlement including settlement through Lok adalat or mediation Concept and majorly the concept of arbitration and conciliation. It signifies the dilemma that where it is assumed to the court that there is a chance of existence of settlement which can be accepted by the parties the court can formulate the terms of settlement and give them to the parties for their welfare under the observation and after receiving the observations of the parties the court may reformulate the terms of a possible settlement and refer the same.

\* This study examines the arbitration and conciliation act of 1996's section III, which deals with family conflict settlement, as well as the impact of the Hindu Marriage Act of 1955 and the Special Marriage Act of 1954.

The FAMILY COURTS ACT 1984's ability to facilitate the establishment of family courts in India is taken into account.

## **4.2- INDIAN LAWS-**

India has been in the dilemma of various laws conceptualised as Indian acts which govern the philosophy of marriage and divorce and various other obligations related to this has been under the significance of the culture and the tradition of the customs that has been judgmental.

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<sup>62</sup> The Code of Civil Procedure Act, 1908, Legislative Department, Ministry of Law and Justice, Gol, [https://legislative.gov.in/sites/default/files/A1908-05\\_0.pdf](https://legislative.gov.in/sites/default/files/A1908-05_0.pdf) (last modified May 10, 2024).

From the very starting to the latest upbringing the culture that justifies, signifies and elaborate the true balance under the consciousness and under the harmony of Indian Customs and influencing customs are the impactful thoughts of consciousness of Indian population.

Arrangement of case laws inside india, signifies the totality of belief system.

In *Vinita Saxena v Pankaj Pandit*<sup>63</sup>, The concept of mutual consent divorce, paraphrase the relief system with the accordance of Indian hindu law perspective. Under the law that signifies the belief system with a judgemental significance upon the states, To follow the justification of mediating in the matrimonial disputes with their own capacity to resolve the dispute.

Under the significance of Indian laws there has been a judgemental study from time to time about the procedure followed and the established laws to be amended because of the cases of new phenomena's to be cultured in the juristic and judicial approach of thinking.

#### **4.2.1-MAHOMMEDAN LAW**

In India, the mohammedan law<sup>64</sup> has been divided between two sects, the Sunnis and the Shias.

Both of the sects have different rights of the persons.

The sources in the mohammedan law are of four types-the Koran, Sunna, ijma and qiyas.

India is a multicultural country with a sizable Muslim population. Muslim personal law is essential to managing Muslim personal and family matters, including inheritance, divorce, marriage, and child support.

The following are the main laws pertaining to Muslim personal law:

-The Act of 1937 on the Application of Muslim Personal Law (Shariat),

-The Act of 1939 Dissolving Muslim Marriages

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<sup>63</sup>*Vinita Saxena v. Pankaj Pandit*, (2006) 3 SCC 78, available at Madhya Pradesh High Court | Minor Differences of opinion between the Husband and Wife does not amount to Cruelty, SCC Times, <https://www.sconline.com/blog/post/2021/05/04/mphc-minor-differences-of-opinion-between-the-husband-and-wife-does-not-amount-to-cruelty/> (last updated May 8, 2024)

<sup>64</sup>Marriage Under Muslim Law: Nikah - Explained, Lawyers Club India, <https://www.lawyersclubindia.com/articles/marriage-under-muslim-law-nikah-explained-10888.asp> (last updated May 28, 2024).

-The Act of 1986 Protecting the Rights of Muslim Women in Divorce

-The 2019 Act Protecting Rights Regarding Marriage for Muslim Women.

Although all Indian citizens are subject to the secular legal system, personal laws serve as exceptions that permit various religious communities to adhere to their own unique legal frameworks regarding inheritance, divorce, and marriage.

The major type of divorce is-

1-Talaq: A unilateral divorce brought about by the husband is known as a talaq. It can be transmitted orally, in writing, or electronically by email or text messaging. Declaring talaq, the husband starts the divorce process. Different forms of talaq exist:

-Talaq-e-Ahsan: This is the most popular type of divorce in which the husband waits for the duration of the iddah (waiting) term, which is often three menstrual cycles, after declaring talaq once. A reconciliation between the couple during this time prevents a divorce from happening.

-Talaq-e-Hasan: In this version, the husband says the word "talaq" three times in three separate tuhrs (menstrual cycles). If there is no reconciliation, the divorce becomes final after the third pronouncement.

-Talaq-e-Biddah: This contentious practice of talaq involves the husband pronouncing the word "talaq" three times in one sitting; it's also known as "triple talaq." It is a topic of discussion in India, both legally and socially.

2-Khula: The wife might start the divorce process in this way. She has the option to give her spouse financial support in exchange for a divorce or to give up her dower (mahr). For the khula to take effect, the husband must agree to it.

3-Mubarat: When a husband and wife mutually decide to dissolve their marriage, it is known as a mutual consent divorce. Under other Indian laws, it is comparable to a divorce by mutual consent.

#### **4.2.2-HINDU LAW**

Hindu marriage act 1955 ,the Hindu minority and Guardianship Act 1956, The Hindu adoptions and maintenance act 1956. These laws<sup>65</sup> governs the practises of the Hindus in India relating to marriage ,succession, maintenance, adoption, divorce. the definition of Hindu does not only include a Hindu by religion ,it also includes a person who is a Buddhist , a sikh or a jain.

Hindu law's common grounds for divorce are:

-Adultery: One spouse may be able to file for divorce if that person is able to find out that the other has been found out of having an extramarital affairs.

-Cruelty: Divorce may be justified if one spouse treats the other so cruelly that it becomes the need of the hour that it is unjustified and intolerable for them to live together. This covers cruelty in sense that is in structure of mental, emotional, or physical.

-Desertion: Divorce may be warranted if one partner leaves the other for an extended period of time, which is not a justified truth in the pattern of the history, and comprising usually between two and seven years and also without giving a good reason or getting permission is the error for that marriage concept.

-Conversion: Divorce may result if one partner gives up Hinduism and becomes a follower of another religion, which can classify for the ground of divorce.

-Mental Illness: A mental illness may give rise to divorce if it is found out that one of the partner's symptoms, make it hard for them to coexist together, or found out that the mishappening are flourishing due to the cause.

-Irreversible Illness: In the conditions that one partner has a persistent illness that is contagious or has the potential to injure the other partner in a aspect of pattern psychological harm or a physical harm, divorce may be justified in the rules framed.

-Divorce may result from one spouse's renunciation of the world through membership in a religious

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<sup>65</sup> Family Law in India: In-Depth Discussion & All Types of Family Law, LexisNexis, <https://www.lexisnexis.in/learning-360/blog/family-law-in-india-in-depth-discussion-all-types-of-family-law> (last updated May 28, 2024).

order.

-Not Heard of Being Alive: If one of the party of the dispute has been absent or not being find out from the public for seven years or longer, it in the justification mode that ,it may be a ground for divorce.

#### **4.2.3-CHRISTIAN LAW**

The main governing structure of Christian law<sup>66</sup> in India is the Indian divorce act 1869 .

The main grounds for divorce are-

-Adultery can serve as grounds for divorce if one or both spouses , for the major point of view ,engage in adultery. Unmarried individuals who voluntarily engage in sexual relations with someone other than their spouse is chiefly considered to be committing adultery.

-Desertion: as classified as one partner abandoning their other for a minimum of two years in a row without a valid explanation to the cause, justifies as grounds for divorce.

-Physical or mental abuse providing cruelty. A foundation for divorce may arise if one partner abuses the other to the point that where it is not practicable for them in the matrimonial life to live together, as life is more important in this concept.

-Conversion: a spouse choosing to become a follower of a different religion and the other spouse decides on this fact that, they are no longer compatible, this could serve as grounds for divorce.

**4.2.4-PARSI LAW**-The Parsi law<sup>67</sup> is governed by the Parsi marriage and divorce act 1936 and Indian succession act 1925.the grounds for divorce are as follows-

-Adultery: Divorce may be Concluded ,if one partner engages in adultery. Unmarried individuals who voluntarily involves in sexual types of relations with someone other than their spouse, are the chief exponents in the terminology as considered to be committing adultery.

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<sup>66</sup>Christian Law Regarding Marriage And Divorce In India: Indian Christian Marriage Act, 1872, Legal Service India, <https://www.legalserviceindia.com/legal/article-3509-christian-law-regarding-marriage-and-divorce-in-india.html> (last updated May 28, 2024).

<sup>67</sup> Parsi Marriage and Divorce Act, 1936, Bare Acts, Law Library, AdvocateKhoj, <https://www.advocatekhoj.com/library/bareacts/parsimarriageanddivorce/index.php?Title=Parsi%20Marriage%20and%20Divorce%20Act,%201936> (last updated May 28, 2024).



-Desertion: as one partner is found out that he is abandoning their other, for a minimum of two years in a consistency without giving a valid explanation, gives clarification as grounds for divorce.

-Conversion: as a spouse chooses to become a part of a different religion and the other spouse decides they are no longer compatible with this circumstantial arena, this could serve as grounds for divorce.

-Cruelty: Divorce may be justified if one partner abuses the other to that much extent that where in society it is justified, it is not possible for them to coexist together. This can be either mental or physical.

-Incurable Insanity: A divorce may be possible if it is justified that one or both spouses have been irreversibly insane in the societal judging arena for a minimum of two years.

-Venereal illness: An incurable form of venereal illness results for the qualification for divorce if one or both spouses are having it.

#### **4.2.5- OTHER CIVIL LAWS**

The significance of the Indian laws that are governing Christians, Parsis, Hindus and the Special Marriage Act 1954 have given the allowance for annulment of marriage on ground such as existence of an earlier marriage or prohibited relationship under religious law or impotency.

The judicial perspective of Indian laws due to the amendments and the cultural theory of natural significance of disputes that arise from time to time have changed the perspectives of laws in a recent way of amendments in the laws. With the passage of time the things that have been signified and under Indian laws to be in corruptive sense, to be understood, with the flow descriptive manners about the Indian laws has been under the scrutiny from time to time after independence till current COVID period. In the harsh significance, betterment of the society has been adjusted to the flow of loss in the realm of justice.

Under the betterment of society there has been a cultural approach about the customs and the traditions that signifies the marriage as a significant bond between two parties and it is not something that can be easily be unchannelised like the concept of divorce and judicial separation. If there is a need then there is the flow of loss of justifying the restitution of conjugal rights and the philosophies of various factors that are influencing the marriage which can amount to divorce like adultery, bigamy.

Under the Indian laws the most crucial element of a marriage is the faithfulness towards the bond of marriage and the caring approach towards one another to save the clause of marriage. Anything that has

been signified as pure and filling the gap in the sense of compromising position to save the thoughtfulness of the marriage is the true significance of this study not only in India but also abroad it has been generalised that it is better to save the marriage as comparing to the laws mutual consent theories of breaking down the marriage.

The justified approach of marriage has been under the influence of the culture and custom that has been followed in the society and signifies the justification about the proposal of marriage. In Indian laws, the secularism and And the freedom of religious beliefs that has been arranged from the Indian Constitution<sup>68</sup> justified the true legacy of Indian approach of matrimonial dispute resolution mechanism in India.

In this impactful scenario the involvement of alternative dispute resolution mechanism basically calling out the mediation concept around the Indian law is the base for the cultural approach of Justice framework, to be included as resolving the matrimonial disputes and culturing the Indian laws to be in Significance of justice.

With the concept of handling the highly injustice consciousness that has been formalised in the mind of parties as scars in the emotions of the parties is the needed approach for any conceptualised study that has to be justified and functionative in the litigation perspective to be in higher priority as compared to simple court proceedings. Handling the emotions of the parties concerned is an art of the mediator because if the mediator is not in firmness with the parties, then the matrimonial mediators will not be able to search the gaps inside the consciousness of the parties that has led to the dispute for the calling of the resolution to be addressed.

Under the influence of basic structure of the customs and the traditions that are followed inside India justify the culture and belief system of the population of the India that makes a resourceful impact over the cases and generalise the impact over the judicial sense to be justified In the arena of matrimonial disputes resolution.

Under the influence of the basic cultural elements that are being justified and been glorified with the impact and the significance of the alternative dispute resolution mechanism justifying the mediation concept as compared to the conciliation and arbitration concept to be in the same footnote as compared to the mediation process in the mediation cells around the courts that justifies the significance of the procedure

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<sup>68</sup>Constitution of India, Legislative Department, India, <https://legislative.gov.in/constitution-of-india> (last updated May 8, 2024)

to be addressed and to come to a conclusion within the time frame so that there should be an independence of judiciary and also there should not be an overburdening over the judiciary.

With the impact of various acts that are governing the Indian philosophies the time perspective has given the true image of Indian cases that arises from time to time signifying the concept of adultery bigamy and other perspectives, that lead to dissolution of marriage are the true nature of any matrimonial dispute resolution study to be cultured with the consciousness and the justification revolving the acts that are followed inside India and also justified to the international culture of mediation throughout the procedure of judging the nature of flow of positive outcomes from the justice oriented approach.

Considering the settlement in family disputes from the part III of ARBITRATION AND CONCILIATION ACT 1996<sup>69</sup>, and the influencing factors of THE HINDU MARRIAGE ACT 1955<sup>70</sup>, and THE SPECIAL MARRIAGE ACT 1954<sup>71</sup>, are discussed in this study.

The supporting nature of the ,THE FAMILY COURTS ACT 1984, for establishing the family courts in india, is taken into consideration.

Under the international perspective, the influencing force of the SINGAPORE CONVENTION- United Nations Convention on International Settlement Agreements Resulting from Mediation<sup>72</sup> (ALSO KNOWN AS Singapore Convention), is the systematic guiding procedure for this study and the different countries procedures mainly USA and European Union is judged in this study.

in the earlier time of resolving disputes mechanism, during the time of british era, there was scope for arbitration, in the act of 1772 and 1780 of bengal regulation act<sup>73</sup>.this was enormously recognised and with the self reliance structure to be built in this phase, the era was justified through the lens of extra judicial process.in the aim of resolving disputes, the criteria flourished with a greater aim, and the significance was justified in the dilemma of judging the harsh nature of the act.

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<sup>69</sup> Arbitration and Conciliation (Amendment) Act, 2019, Dept. of Legal Affairs, Ministry of Law & Justice, Gov't of India, last modified May 4, 2024.

<sup>70</sup> "The Hindu Marriage Act, 1955," [PDF], Kumar Rajendran, Academia.edu (last modified May 4, 2024)

<sup>71</sup> [Solemnization & Registration of Marriage under the Special Marriage Act \(indialawoffices.com\)](https://www.indialawoffices.com) last modified on [04/05/2024]

<sup>72</sup>United Nations Convention on International Settlement Agreements Resulting from Mediation (New York, 2018) (the "Singapore Convention on Mediation"), United Nations Commission on International Trade Law, last modified May 4, 2024.

<sup>73</sup>"ADR System in India: A Brief Historical Background," LegalServiceIndia.com (last modified May 29, 2024), <https://www.legalserviceindia.com/legal/article-8265-adr-system-in-india-a-brief-historical-background.html>.

with the course of time , the significance has been challenged, and justified that how the legacy is crucial for obtaining the essential nature of the harsh truth sometimes.

with the perspective of time, the negotiation approach has been justified and the legacy have come forward to a dilemma of higher skills in this performa.

in the dilemma of judging the true significance that what is attainable to the mediation resolution , the significance of the welfare has been in charge of the mediation parties.

with the passage of time frame , the legacy has been channelised in the way of approach of relative success.

in the philosophical level, if the parties at that time are mutually agreed to the decision maker , they are making a bold step to justify their approach towards the signified justification about the legacy.

the act after independence has a developed platform for the channelization to the regain force of the mediation and the developing aspects of arbitration.

the define form during the time that there will be a resolution of the disputes is justice oriented with the time frame and the main focus is characterised through the justice oriented approach.

in the perspective of time frame, the relation between the court proceedings and arbitration proceeding is significant to the justified approach , that there is always complimentary judgements between them.

in earlier legislations there were other regulations that were also giving the effect, from the understandable perspective of Sir Elijah Impey's Regulation Of 1781<sup>74</sup>,the award of any arbitrator can not be sat aside except upon full proof , that is made up by two credible witness, that the arbitrators had been guilty of gross corruption or partiality in the cause in which they had made their award.

this signifies that the arbitration is channelised through the basis of emphasis that there is corruption in the conscious dilemma of the arbitrators and signifies the true judging nature that they should not be partial to the cause.

this is the balanced creation of the judging skills that how arbitration revolutionizes in the pattern of history that defines the supreme attitude of true spirit of faithfulness of providing justice. the other legislation,

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<sup>74</sup> "Amending Act of 1781 in British India," Indianetzone.com (last modified May 29, 2024), [https://www.indianetzone.com/36/amending\\_act\\_1781\\_british\\_india.htm](https://www.indianetzone.com/36/amending_act_1781_british_india.htm).

Regulation of 1787<sup>75</sup>, suggests that how it suits to arbitration and should be referred with the consent of parties.

this justification suggests only how the suits are referred is justified in the case of this but the true balance is how they are giving judgement, the dispute between the parties , how resolute is not given more importance.

in the justice approach there is justification and then there is no defined justification, which clearly suggests of the well being in the true significance so that's how the story follows in the realm of truth about the framework.

in the patterns of history whosoever justifiably challenged the performa, the significance has been totally adjusted.

in the working phase of alternative dispute resolution the benefit side is of the true culture. whenever the justice methods resembles any justice approach there is significant drop of faithfulness in the realm that it is the true justice approach. what is enlightened in this regulation was that referring suits to arbitration and submitting them to the decision of the nizam and in the going phase, they even given provisions for reference, and award giving and setting aside that in the phase of justification, related to the happening culture to the systematic approach and the abilities to be conferred, in the arena is the welfare of the state in the balance of humanity that this decision are in the terms to be given to the nizams.

This allowed arbitration as to be justified in suits, with respect to rights in land and disputes of forcible disposition of land. in the time frame of that year, surely the question have arrived on the significance of land disputes, that they needed to be in recover position that they are , in the domain of land acquisition.

In the justification that are made through the acts of similar nature for dispute resolution like the arbitration and conciliation act 1996 and local alerts and basically for mediation report can give a purposeful compromise between the parties and self follows a procedure as may be described.

Under the court of civil procedure 1908 it has been expressly mentioned that in the proceedings to which the author applies the process should be covered by the courts in the sense of giving possible consistency with the nature and circumstances of the case to assess the parties for allowing for a settlement and secondly

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<sup>75</sup>"History and Development of Arbitration Law in India," LawLex.org (last modified May 29, 2024), [https://lawlex.org/lex-  
pedia/history-and-development-of-arbitration-law-in-india/20489](https://lawlex.org/lex-<br/>pedia/history-and-development-of-arbitration-law-in-india/20489).

if any such proceedings at any stage it appears to the court that there is clarified possibility of settlement between the party the court can urge them proceeding as it thinks that fit to enable attempts to be made to fetch such a settlement and thirdly the power conferred by the second rule justify the addition and not to the opposite of any other courts to justify the proceedings.

If it is justified from this road which contains milestone of various thresholds then this code is justified for the belief system of mediation also. Under the significance of the generalised scope, and justifying the settlement with the dignified approach towards the success of mediation is just phenomena for the governance part.

Under the systematic arrangements of the rules under the code of civil procedure 1908 there are various frameworks that justifies the ultimate liability that will arise in the family courts disputes and justifying the nature of adr mechanism to resolve the matrimonial disputes. Matrimonial dispute justifying the concept of Mediation is a overwhelming culture under the arena of customs and traditions under the Indian Laws and the significant motive behind the purposefull need, there is always a concept of ascertain whether allegations in pleadings are admitted or denied. This culture is something that can be understood as a belief over the matter revolving around the perspectives of justifications and intelligence through the concept of mediation sales in the family courts and the role of the neutral third party in making the compromising situation who is the matrimonial tie up or to cause a general clarification regarding the welfare and the purposeful dream of the culture to resonate towards the success of the justifications that are made to the true belief system and for the benefit of the cause that is justified for the welfare schemes.

Under the Indian laws it is common to understand that why the necessary frameworks are being under the certainty of the welfare and the systematic belief over the described arena of the legacy.

With the patterns that are being judgmental for the consciousness there are various perspectives that are being cultured in a framework of justice oriented approach and also that the belief system of causing the matrimonial tie up to be strong than the conditions that are being laid down from various case laws regarding the welfare and the customised belief over the certainty that there should be an end to the dispute.

Indian culture from various religion evaporates the disputes by the means of their customs and traditions which is guided by the concerned law and with the systematic generalisation inside the Indian family courts Justified the true belief system in the attainment of the true legacy, and under the data that are involved from various research works it has been calculated that divorce is not a necessary solution for the metamorphosis to be and there are other methods which are Indian countries in and are followed largely

which can be restitution of conjugal rights and the other themes like Judicial separation that is different from the clause of the legacy of justifying the matrimonial life and saving the matrimonial life is the pattern That is necessary to be understood.

Under The family courts act 1984<sup>76</sup> the state government can appoint one or more person to be the judge or judges of a family court with the concurrence of the high court.

Under section 9 of this act there has been a dilemma of duty of family courts to make efforts for settlement it is the nature of the humanly code to assist the parties in arriving at a settlement in respect of the subject matter of the suit of proceeding and regarding this purpose the family go to me subject to any rules made by the high court can follow such procedures. Under the justification regarding the family courts act, there has been a systematic arrangement of the various factors that are needed to be concluded In the frame of truthful nature and with the justifications that are surrounding about the conclusions that are needed to be justified in the instances.

Under this concept there is also a highlighted approach by the family towards the proceedings of the court if there is a dilemma of settlement between the parties then the family court may adjourn the proceedings for such time being As it seems fit to enable attempt to be made to affect such a settlement.

Under Various terminologies regarding the justification about the framework , the act Has analysed the scope into a cultured phenomena.

Through the significance of the various acts, the cultural legacy that has been justified is the resourceful impact of the matrimonial dispute resolution mechanism inside India have enabled various frameworks into a customised justification that is the totality of research and conclusive evidence towards the factors of gaps inside the matrimonial dispute legacy that, why the the time taken in the mediation is not generalised into a more minimum boundary of the cultured theme of litigation or justifying as a mediation in the clause of attaining the justice oriented approach.

Under the theme of allowing the Association of social welfare agencies the state government with consultation with high court provide for association with a family court of persons professionally engaged in promoting the welfare of family or person working in the field of social welfare and that is a cultured phenomenon that has to be in the nature of Applause.

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<sup>76</sup>The Family Courts Act, 1984, Legislative Department, Ministry of Law and Justice, Government of India (last updated May 10, 2024).

Under the Indian theme the channelisation has been under the terminology that social welfare scheme should be charged with the aim of regarding the welfare into a justified manner. The significance of the justification regarding the same has been arisen From the league of certainty and also to the justification revolving around the matrimonial disputes has been under the cultured philosophy about the legacy in a generalised form with the aim of purpose And justifying the balance through the cultured legacy.

It is not only about social welfare agencies in the involvement but also about the functioning of this agencies for the betterment of the situations that are generalising the dilemma into a framework of truthfulness and the significance of justice oriented approach.

The approach supported by Indian acts is diverse in nature,not only diverse but also a backbone to Indian customs also. With the legacy that revolved from the SPECIAL MARRIAGE ACT, 1954<sup>77</sup> , it has been developed from the fact of rights under the constitution of india , that everyone is free to choose their religion and the circumstantial evidence of having the beauty of various religions inside India, and their framing governing by the acts, stipulates the meaning of true spirit of nationalism and also the variety of religions with the framework to establish the mediation framework for the development of alternative dispute resolution mechanism inside India.

Regions of majority of different religions inside India are having a structure of generalised framework that they should not be an overlap between a particular religion and a majority based religion. The significance of the mediation concept clarifies that everybody has to be treated equal and with the significance of equal mentioning of neutral third party towards the bore parties signifies the balance of harmony and justification towards the legacy of matrimonial dispute resolution mechanism in India.

From the attainable balance between the the data needed to be addressed and needed to be attained to the policy of cultural arrangements and custom , There always lies a dilemma of attaining the goal of achieving the best possible outcomes of adjusting benefit to neutral terms and under the functionality of the possible choices the goal is adjusted towards the beneficial cause of highlighting the non discrimination policy in the frameworks.

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<sup>77</sup> The Special Marriage Act, 1954, Legislative Department, Ministry of Law and Justice, Government of India (last updated May 11, 2024).



Under various terminologies the justice attribute has been the advantageous position to find the solution to enable the practical amount of work By the lawyers in a less expensive and speedy trial Method to dissolve the dispute between the parties.

The income source found the mediating policy to the lawyers is in a greater extent of benefit for making good incomes by being a mediator or representing clients in mediation purpose.

Because of the very fact of justice approach in mediating policy as compared to litigations, many judges after the retirement and lawyers became full time mediators.

Because of the professional background of the services that are provided by lawyers for preparing plans for the mediation and pairing with the client and advising him and being involved in the every process that is needed to resolve the disputes has given a justification to the absorption of progress in the matter.

Because of the fast involvement and catchy method mediation has been able to be guided as a new method of dispute dissolution mechanism and the concept of legal profession's true outcome is the purpose that is goal oriented for the conflict resolution.

### **4.3- LEGAL JURISTIC IMPACT ON ALTERNATIVE DISPUTE RESOLUTION MECHANISM**

Upendra Baxi, a prominent legal scholar, wrote an impacting article which was written in 1976 in relation with the lok Adalat run by Harivallabh Parikh in the tribal area of Gujarat.<sup>78</sup>

This is the confidential evidence of the lok adalats steup from a juristic point of view.

When the significance of the welfare the mediation camps is highlighted ,there always lies a dilemma of different point of view to be understood in the legacy and the beneficial cause of the circumstantial evidence about the meditation and the concept of flourishing of negotiation process between both the parties through the third neutral party under the observation of the facts.

In the significance of different cases it evolves from Lok adalats and the basis of covering the justice made approach of circumstantial nature and to give the balance by the litigation authorities in the involvement

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<sup>78</sup>"From Takrar to Karar: The Lok Adalat at Rangpur - A Preliminary Study," Nalsar.ac.in (last updated May 11, 2024), <https://www.nalsar.ac.in>.

of various policies and various thought provoking steps towards outcomes of the financial legacy and resolution of the disputes of matrimonial life.

With the passage of time this mode of disputed solution has been a support centre for the connexion between dispute of heavy court proceedings and for the matrimonial tie up this has been a framework for majority based significance.

The legal issues that are framed and are under influential nature to be addressed as the justice oriented approach about the successful regime of the scrutiny of the policies and to upgrade the significance for a proper institutional framework which is preventing any delay.

Under various chapters and various authoritative policies of governments, the functionality part about the mediation cells is always from the justice oriented approach.

Under the setups and the framework, the light over the issue is always needed to be highlighted about the justification part.

Under the framing of concepts and the revelations about the frameworks that are needed to be analysed or under necessary efforts and are represented to the legacy of mediation.

Justice oriented approach are in the legacy of attaining resolution to the disputes, and giving the framework of achieving time methods and dissolving the dispute outside the heavy litigation process.

To be able to correspond to others , the one has to be authoritative to their disciplinary frameworks.

## **4.4 TYPES OF SETTLEMENTS IN MATRIMONIAL DISPUTES-**

### **4.4.1-DIVORCE**

Section 13 is a detailed section that contains several conditions for getting a Divorce Under the Hindu Marriage Act<sup>79</sup>.

Section13(1) talks about conversion, insanity, venereal disease and presumption of death.

Section 13(2) talks about grounds like Bigamy, Rape, sodomy or bestiality, Decree or order of maintenance .

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<sup>79</sup>"Divorce Under Hindu Marriage Act," LexisNexis.in (last modified May 28, 2024), <https://www.lexisnexis.in/blogs/divorce-under-hindu-marriage-act/>.

And similar grounds are under Christian law, and parsi laws.

And in the concept of mohammedan law there is a different perspective than the above given terminologies.

Procedure for divorce-

- . 1. Filing a Petition: A petition or complaint filed in the proper court by one spouse (the petitioner) starts the divorce procedure. In addition to outlining the reasons for divorce, the petition may ask for the division of assets, spousal maintenance, and custody of the children.
2. Service of Process: In order to notify the other spouse (the respondent) of the divorce proceedings, the petitioner must serve the respondent with the divorce papers in accordance with the law.
3. Response: In response to the petition, the respondent may dispute the grounds for divorce or accept the conditions that the petitioner has suggested.
4. Negotiation or Mediation: Couples may try to reach a consensus on matters through negotiation in some situations.
- 5- Court proceedings: If the parties are unable to come to an agreement, the matter is taken to court, where a judge will hear arguments, consider the available data, and render judgments on disputed matters.
- 6-Final Judgment: Following the settlement of all disputes, the court grants a final divorce decree, so ending the marriage.

#### **4.4.2-RESTITUTION OF CONJUGAL RIGHTS**

Section 9 of hindu marriage act, 1955, speaks about the restitution of conjugal rights. The procedure for saving the marriage under this scope is appreciable in the society as compared to other factors like divorce.

The procedure is as follows-

1-Petition Filing: To regain marital rights, one spouse (the petitioner) files a petition with the relevant court. It is the petitioner's responsibility to prove that the respondent, or other spouse, has left the marriage without providing a valid cause.

2-Notice and Service: The respondent receives a summons from the court notifying them of the petition and the hearing date. The petitioner makes accusations, and the responder has a chance to refute them.

3-Hearing and Evidence: Both parties may submit arguments and supporting documentation to the court during the proceedings. The best interests of any concerned children as well as the grounds for the separation and attempts at reconciliation may be taken into account by the court.

4-Court Order: The court may issue a decree restoring conjugal rights if it finds that the respondent has unjustly withdrew from the marriage. In essence, this ruling directs the respondent to move back in with the petitioner.

5-Compliance or Contempt: Under the law, the respondent must abide by the court's ruling. If this isn't done, you can be found in contempt of court and face fines or other consequences from the court.

#### **4.4.3- JUDICIAL SEPARATION**

Section 10 of The Hindu marriage act,1955, signifies the judicial separation and explains in detail about the process for lawfully getting a divorce.

The concept of judicial separation is also seen as an effective tool in the marriage concept.

Note that the particular process for a judicial separation can differ based on the personal legislation (such as the Hindu Marriage Act, Indian Divorce Act, or Special Marriage Act) that applies to the marriage. Furthermore, legal specifications and judicial processes can vary from one jurisdiction to the next. Thus, for tailored advice, those wishing to pursue judicial separation should speak with an experienced lawyer who is versed in family law in their area.

A judicial separation decision could occasionally be the first step toward a divorce. Either spouse may file for divorce with the court using the reasons outlined in the relevant personal law after a predetermined amount of time if the parties continue to be apart and reconciliation is not possible.

#### **4.5-MEDIATION AS AN EFFECTIVE TOOL IN MATRIMONIAL DISPUTES**

The mediation concept in the past decades have been enjoyed in the judicial approach because it had many bunch of cases that are very hard to be resolved in normal court proceedings so it's an helping hand to the judiciary and now consistent philosophy to be recognised as a part of the judiciary.

Under various principles that are being accompanying the Indian laws there is always a saving clause That has been conceptualised by various social thinkers as saving marriage by compromising between the partners and sometimes it is not in true welfare for the for the parties which are not in position to compromise their needs and their thoughts to be crushed by the other party for the position of compromising as a saving clause of marriage on the other hand with the significance of mediation it has been termed as saving the intellectual capacity of the parties enables a more considerable justification to the savings laws of the marriage that the marriage should be ended or a new uplifting phase should be called for saving the marriage. This can be done only by resolving the dispute by listening to both the parties and giving an impactful recognition of the rights of both the parties so that both the parties are justified that their demands are not crushed and the spirit of judiciary is alive in the every phase of justification remark about the alternative matrimonial dispute resolution.

Because of the significance of matrimonial dispute this is not only about the husband and wife, But also the persons which are involved with this bondage Like parents, childrens, siblings and so on.

With the flow of dispute resolution particularly in the sense of justification, the matrimonial dispute is the major cultural dispute that has been impacting the lives of others which are involved to the parties concerned.

The justification remark About the administration and justification of the policies of the mediation framework works in totality under the guidance of judicial nature and with the memberships of the parties concerned, so that the spirit of judiciary remains alive in every aspect of mediation concept.

With the passage of time, Indian laws are in justified approach to the cultural significance Of the welfare policies and the systematised cultural policies that are needed to be addressed from the flow of judiciary and through the outcomes of the customs involved with The matrimonial dispute.

Under the significance of alternative dispute resolution mechanism in India the passage of mediation have linked the road of Alternative disputes to the family disputes to a common bondage.

Under the influence of the Constitution of India and Indian laws the family disputes are always under the fact checking mechanism of judiciary to various mediation cases that are attached by the mediation cells

inside the court or outside the court proceedings. With the nature of addressing the disputes, there always lies a significance about the matrimonial disputes to be addressed with the flow of concepts around the Indian acts.

Under the terminologies that are followed by justifying the customs and traditions of Indian laws the generalised process are always under the significance of time saving clause.

With the passage of time Indian laws are in the justification mode for every asked phenomena from Probably disputes around the corner of India regarding the matrimonial bondage, has been in significance step.

Under the Indian culture of justification about any dispute regarding concern, there has been a significant concern that has arisen above the horizon to the mechanism to be addressed as true justification of any policy regarding matrimonial disputes by the means of alternative dispute resolution mechanism.

With the passage of time there are new bringings, and new justifications to the approach of mediation concept.

Under the influence of various international perspectives that are followed inside India with a emerging face of justification ,the mediation procedures are justified in a new course of structure.

The positions involving the concept of mediation in the era of alternative dispute resolution mechanism upbringing has justified the approach to a next level of justification.

There are various cultures under the established Indian laws but the significance of the traditions and customs despite the fact of recognition of international laws Indian laws go with a flow of justification.

The main aspects of divorce that came into play after a marriage was dissolved are guardianship and maintenance<sup>80</sup>. These two aspects of divorce should be handled in the same manner for all parties involved in the framework. The primary requirement following a divorce is how the divorcing spouse will care for herself. If maintenance and guardianship are taken into consideration, the guardian's role will be to determine the true role for the significance structures and the deemed structures for the Guardian and the platform of dignifying the benefit truth for the role of elaborating the judgmental views by the judge or mediator who must be the Guardian.

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<sup>80</sup>"Rights of a Woman in Divorce in India - Property, Alimony, Child Custody Rights Explained," Lawtendo.com (last updated May 28, 2024), <https://www.lawtendo.com/>.

Guardianship is defined as the situation in which the guardian faces the moral dilemma of providing faithful care to an individual who is unable to do so for themselves due to age, mental health issues, or other conditions for which care is required. As such, guardianship itself can be categorized as a difficult task to be carried out under the auspices of the Guardianship framework.

When it comes to the sequences of maintenance belief, the primary generalized scope concerns how the one getting separated following the divorce should provide for their spouse.

It is necessary to evaluate additional parameters in the context of produced scenarios.

If there is no situation in which a person should receive maintenance for being a regular person who is unable to support themselves, then the government will give him maintenance so that he can live his life, maintain his life, and come to the conclusions that the government is shielding him from encountering hardships, harsh realities of nature, unjustified suffering, and disloyalty to human culture.

In order to manage the maintenance costs of the person who is suffering due to the loss that has occurred, as well as for the significance of various justified models about thought-provoking, justice-oriented, and belief systems, maintenance is developed in accordance with the theory of various philosophers. This theory describes a maintaining cost for a purposeful project, which can be defined in human terms as maintaining a human by a mean of money. The concept is framed in a way that consistently treats the identifiable components of the justified legacy and the patterns surrounding matrimonial conflicts in the best outcome-based environment.

With the perspectives of history, there is a pattern that is needed to be understood and with the need of defined path ,this will fold by time.In the patterns of history, the recognisable channels have upgraded.From the old era , the circumstances made an outcome to the resource and there is a need to adjust from the legacy point of view that when husband and wife are subjected to dispute , there lies a dilemma of outcomes of thoughts that there should be a mediation scheme between the parties .

In historical patterns characterized by heightened consciousness, such as the panchayat system, the village chief attempts to mediate disputes by hearing both sides out. The relationship was deemed sacred during that time and is still revered in villages to this day.

With the passage of time, the modifications have completely transformed the plans in an extremely critical manner. In the past and in the present, the layer was covered by an Indian mythology protocol, and recommendations were made for the bonds' well-being.

The concluding section of a platform, in the live nature of statutes and descriptive philosophies, discusses the legacy of what society has judged, mentioned, and experienced in demanding capacity.

What mental conundrum has left behind in the history of humanity. Nobody wants their daughter to find herself in a divorce or separation situation.

In India, marriage is still not influenced by western culture. If the need for a divorce does arise, the first course of action should be to propose ending the belief in divorce and instead focusing on mediating the difficulties that have formed.



## CHAPTER 5-SUGGESTIONS AND CONCLUSION-

### 5.1 STATEMENT OF PROBLEM ADDRESSED

- In the Indian frameworks related to mediation, the concept of mediation has not been channelised to grassroot level to resolve the matrimonial disputes , due to lack of education, and other related concepts that are related to lack of awareness among the people.

this issue has been addressed in the thesis with the help of different statutory frameworks, that have implied upon the fact that in future and at present, there are bringing to the caused problem. This is an exemplary evidence for the awareness to the individuals.

- The need of implementing the learning procedure of alternative dispute resolution in the structural studies other than the field of law, so that more awareness of the alternative methods to be learned by the people.

The focus of legal rights have been channelised to the learning aspect with the pace of time. And it is impossible in future that the legal framework will not be thought in the books of learning. with the change in time, the things will change and the learning procedures will also get attached to alternative disputes resolution mechanism.

- If the need is felt for resolve the dispute through a mediator, than why local mediators in legal sense are not available without the involvement of judicial legacy at the grassroot level inside india.

This is because, the governing acts, describe the framework of judicial linkage to dispute resolution, this is because , no legal framework for local private mediators at low cost has been installed in Indian patterns of resolving disputes.

- The need for including legal officer as mediators inside the administrative agencies to resolve the disputes inside different administrative agencies.

. Every administrative agency requires legal officers to resolve their disputes which arise inside their agencies and this is concerning in most of the administrative agencies, But the need for including legal officer as Mediators in every administrative authority, is a big task to be done and with the time to come the need will be felt and the result will be in the favour of, including legal officers in the administrative agencies with different rules to slow

## 5.2 SUMMARY OF CHAPTERS

\*The second chapter is about the general overview of the problem of the matrimonial disputes and the need felt in the concept of mediation to be installed in the matrimonial dispute resolution mechanism. The generalisation of the historical perspectives inside India that how the mediation was flourishing from time to time in India and currently the framework under the acts which analysing the mediation concept.

The second chapter gives a general overview of the matrimonial disputes with the perspective of challenges that are significant for the concept of matrimonial dispute resolution inside the courts. The addressing of the challenges comprising of economical , mental, miscellaneous cause, has been done in this study.

In the frames of legal framework ,the second chapter is discussed as Mediation As An Amicable Process In Matrimonial Dispute Resolution is than discussed in second chapter.

The frames of resolution of marriage as divorce , restitution of conjugal rights, judicial separation, is also a concluding factor.

\*The third chapter is focused about the international perspective. In this chapter the international conventions are discussed which are helping in the recognition of mediation inside India and outside India also. The scope of United Nations frameworks which are Linked to mediation is discussed thoroughly with the case laws.

As time has passed, global norms have pushed for the conceptualized view that presenting truth to the matrimonial issue is the solution. Also, the fundamental tenet of the UDHR also requires that international recognition be accorded to laws that promote the settlement of family disputes. The United Nations Development Program assists nations in creating innovative legal, family law, and dispute resolution systems.

And than the comparative analysis between the indian perspective and international statute guidance is discussed.

\*The fourth chapter describes the Indian perspective and the various case laws that are shaping The mediation concept and various amendments that have enabled for the recognition of mediation and awareness of the mediation Up to the grassroots level and with the significance of different case laws Justifies the mediation concept.

The fourth chapter focuses on Indian laws of different religions, which provides a framework for the matrimonial dispute resolution.

The perspectives of procedures established in Hindu law, Christian law, Mohammedan law, and Parsi laws are discussed in the fourth chapter, and then the need of mediation concept in the Indian framing of matrimonial disputes is highlighted.

From a Hindu law and other law perspective, the dilemma of saving the bond—which is considered sacred in the sense of highlighting the magic of bond of caring for the other half, protecting the other half's interests, and creating a healthy environment for the other half—is one that must be addressed in order to save the marriage from the recognizable phases. To do this, the marriage is subjected to a channelized way of thinking that asks what are the immediate relief methods for the so-called distinct welfare scheme of mankind. Divorce is not a way to resolve the dispute; rather, adjustment is the way to glorify the nature, is discussed rather than about the mediation concept.

## 5.4- RESEARCH GAP ADDRESSED

\* how a more influenced bringing of the mediator to impacting life of the people as compared to arbitrator and conciliator can be done.

This can be accomplished, as stated in the thesis, by having an increasing number of legal officials work in the field of conflict settlement mechanisms. Future professional job records indicate that mediators will be in high demand compared to arbitrators and conciliators, and they will have a broad scope for resolving disputes.

\*in the significance that a mediator has a very small place in the philosophy of alternate dispute resolution is actually a big term of making difference in the resolution because big things are formed from these small- small terms

Similar to how a building's foundation supports the entire structure, the alternative dispute resolution mechanism is based on the idea of resolving disputes outside of the legal system through the use of schemes for negotiation, arbitration, conciliation, and mediation. Thus, there is a lack of knowledge regarding the advantages of mediation and the financial implications of appointing a third party mediator—a neutral third party—to resolve a disagreement.

\*with the involvement of new research in the area of development of mediation in matrimonial disputes, are there is chances of perfect resolution mechanism in the field of matrimonial disputes.

Nothing is ever completely perfect, yet everything can occasionally approach perfection. and that is the way things operate. and the fact that fresh study is being conducted in the field of development supports the idea that more significant and effective mechanisms will eventually be implemented.

## **5.5 RESULT OF RESEARCH HYPOTHESIS**

“ The process of mediation in resolving the matrimonial disputes is not yielding the desired result of reducing tendency and delay in matrimonial dispute resolution.”

Yes, it is proved that the anticipated reduction in the probability of and increase in the duration required to settle marital disputes is not being achieved by mediation. this is due to the way the statutes and convention-guided matrimonial dispute settlement procedure is structured. therefore there is an excessive load on the judiciary in addition to its independence. Furthermore, a majority of the population must be involved in any new development. However, at the moment, people are not fully updated and there is a lack of commitment for new laws and judicial frameworks. The important point is that existing laws are adequate in settling disputes; the only thing that makes them appear inadequate is a lack of awareness.

## **5.6 RESEARCH QUESTION ADDRESSED**

This thesis aims to answer the following research questions-

\*How The mechanism of mediation in matrimonial dispute resolution helps in saving the time?

Mediation is an ideal framework for resolving disputes; therefore, by involving the mediation concept, there is a reduction in the burden of the judiciary and the parties whose rights are violated can easily assess the neutral third parties to guide them and help them reach a decision. The creation of the alternative dispute resolution mechanism was motivated by the need to save time that had been uncomfortable within the frameworks of the judiciary.

\* How the concept of mediation can be implemented at the grassroots level?

Only with the participation of the parties to the alternative dispute resolution mechanism and through a government-wide awareness campaign aimed at raising public awareness of the field of alternative dispute resolution mechanisms can mediation be implemented at the local level.

\* Who Should be included as a mediator from various authorities?

Mediators come from a variety of backgrounds and professions, including retired judges, individuals with legal training, attorneys, senior advocates, and legal staff from various organizations with mediation authorization.

## 5.7 SUGGESTIONS-

In the structural patterns of Indian analysis, there are certain objectives that can be considered as the suggestions for the improvement of mediation platform in the realm of matrimonial dispute resolution mechanism in india.

First is, the necessary steps involving the concept of artificial intelligence, to help the problem to be solved at home.

If there is a adjusting philosophy that an application is created by humans, in which all the difficulties can be mentioned by the parties aggrieved and seeing the nature of offense, what is the best solution that can be provided from the Indian judicial framework, will be seen as the nature of help to Indian judiciary.

This is not an easy task to be done , because causing this type of element may help in smoothening in the conflicts that are engaged in the dispute, but it will definitely cause a harm of human togetherness or can be said as lack of employment opportunity to humans.

But this cant be stopped, as by seeing the example of smartphones, many human labour work has been taken off from the humans and transferred to artificial intelligence and no one is against this, because this gives a soothing effect.

Under the frameworks that are capable to resolve the dispute have outshined.The legacy in a justification mode about artificial intelligence is yet to come into force towards judicial nature.

This is the need of this entrepreneurship guidance and the flow of inventions and perspectives of innovations that are generalising the myth which are related to any concept which is considered as not justified.

Under the true significance of justification made by the various laws, it is always about the human consciousness and comfort that has to be provided by the inventions that are being made by human beings for their comfortableness.

This philosophical level of attainment of justification about the dispute resolution mechanism inside India will flourish with a greater pace as compared to other significant achievements that are made with the flow of time under the necessary outcomes and the dealings that are being made from the philosophical aspect and from the juristic aspect.

One thing that is clear to the human consciousness and to the consciousness of human inventions is that the future is not fully diverging towards the faithfulness towards humans.

Understand the methodology and the significance of various astonishing phenomenas, man always get behind the technology because of the use of the technology humans get used to it and they can't live without it.

And this is true regarding the fact of mediation concept also that new views are going to impact the cultural process of amendments in the statutes with the time to come.

And giving justice oriented skills from a innovation is a harsh mode of justification.

Secondly the suggestion about the mediation process is the involvement of human beings through virtual mode in the applications provided for providing solutions to the grievances at the cost of a subscription to an app which provides a homely service of lawyer through mobile phones or gadgets.

This type of aspect cant be thought as leaving on its own welfare.

Because as the situations are moving and are justifiable ,there are various terminologies that are going to be adjusting the human consciousness and the intellectual power with the significance of new applications and application considering lawyers to provide services through virtual hearings or modes of truthful justification of mediation through online resolution without a legal proceedings involvement because going before to the judicial process, firstly it will go to the practical aspect of humans and the configurations of various applications that will engage lawyers to provide solutions to the persons aggrieved.

This is true to the very aspect that has been generalised according to the needs of the society. With the time to come, the need will be verified and the justice based approach will be in accordance with the applications that are going to come to justify the needs of human beings.

With the pace of time new beginnings are coming, and the new beginnings are taking away the ends of human involvement in the structural process of mediation or any type of resolution mechanism around the world.

Under the scope of various terminologies it has been justified that whatsoever be the date but the day will come where the involvement of human beings towards the serving nature will be diminished in the aspect of justifications that are needed to be justified from the human nature.



With an example of the applications<sup>81</sup> that are used by the Supreme Court of India, it can be calculated that how the flow of artificial intelligence is coming with a greater pace.

Within the perspective of time it will be in future perspective that the artificial intelligence will act as a backbone for the cultivating philosophy of dispute resolution mechanism in India, not only in India but also to the perspective of international frameworks, it has been justified that the online dispute resolution mechanism is coming with a greater pace and will have a greater impact of justification.

This type of framework, is the true essence of social justified structure.

The third suggestion and the most important suggestion in the legal framework of India is mentioned here as follows-

The creation of a common act which will govern all the religions or the persons of various philosophical arrangements of various religious and caste based perspectives.

All the religions are having different concepts of divorce like concepts in Indian historical and current perspective but if it is looked on the significance of the smaller to smaller needs that are fulfilled by the religions and the level of comfortableness which is needed to all the religions will be found out.

And this type of framework will mention the need of every aspect of the described religions in Indian perspective. Having a common chain of the religions that are being functioning inside india, and the framework of the justifications will describe the attainable need to be addressed by a common statutory framework governing the mediation framework of not only matrimonial dispute but also governing the disputes that required alternative dispute resolution mechanism.

The things that come fast will last for very few time but the things that comes with the slowly mentioned philosophical aspects of time will last to a larger period of time.

Under the justification mode if it may be not written here then also it will come in future because we are moving towards this goal with a greater pace and advance want of this framework.

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<sup>81</sup>"Behind SUPACE: The AI Portal of the Supreme Court of India," AnalyticsIndiaMag.com (last modified May 13, 2024), <https://analyticsindiamag.com/>.

Under the arena of various analysed scope that are governing the philosophical aspect and also the practical aspect the true significance lies where the justice approach is being termed in the human necessary consciousness.

After the Covid 19<sup>82</sup> era, because of the multiplication of the variants, it still can be said that we are in the Covid 19 era.

In the mode of need of justification about virtual process of hearings of courts, this covid 19 disease has enabled the shift in the gear to enable the focus of litigation from practical approach to virtual approach.

Under the delta wave of covid-19, the amount of death that has been caused, has also devastated the consciousness to a harsh level inside india.

Before coming to the framework that has been established, the need for finding the base is muchly awaited.

In the conclusive evidence nature , the justification approach, by the framework is always on the harsh mode of capabilities and justice orienting approach.

The suggestions made to any scheme is not an easy part to be understood from a simple judgmental structure but following the legacy from time to time from the past experiences signifies the role of judgmental truth that has to be needed in the process of attaining goals.

Before an act coming to force it is needed that the trust of the citizens of the country should be upon the courts and the makers of the alternative disputes resolution mechanism framework So that any present or future act, that will justify the scope of significance about the mechanism.

The matrimonial dispute resolution mechanism will flourish in India in future with various aspects of artificial intelligence and various involvements of lawyers and litigation perspective for the disclose of the circumstances that are asked to resolve.

The immediate need of any matrimonial dispute it always lies on the very fact that the consciousness of the persons remains unfrustrated. And that's why the need of alternative methods are functioning in this scenario so that person does not get frustrated or fearful towards the very fact of justification.

The matrimonial bondage, is bounded by the situations that are necessarily needed to be cultivated in the framework of justice oriented approach.

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<sup>82</sup> "Coronavirus," WHO.int (last modified May 13, 2024), <https://www.who.int/emergencies/disease-outbreak/news>.

The citizens of a country have to justify that any alternative dispute solution mechanism is fair and practical to their needs, and for that purpose there are the methods of various standards and regulations for the assessment of the circumstances should be made.

The government of any country has to provide solutions for the redressal, as early as possible and the needs are to be adjusted with the framework that the association of parties should not be bound to the conflicts policies but also to the regenerative force that has to be igniting the generalisation.

Basically if any new act in future comment to course justifying the nature of matrimonial bondage and redressal of various disputes, the life will definitely become easy.

Under the cultural adjustments and the customs that are framed with the significance of justification , the true nature is signified with the involvement of alternative dispute resolution mechanism in the customary languages also to signify the language barriers in a higher capacity of resolving the dispute.

Under this modern era where most of the time of a person is with involvement of digital technologies signifies the concept of justification in a strengthening manner of policies and framework.

There's also a need of justifying the scope of adr mechanism with the flow of justification about the absence of any pressure who is in charge of regulating the mechanism of adr.

Because of the influence and the structure that has been justified as an organisational based approach it is necessary to potentially influence the decision making policies in a recognised framework and in a generalised manner of thought provoking steps.

Informing the parties about their rights is also a part of adr concept so that in future parties does not say that their rights are not mentioned or are cultivated or diminished in the light of proper adjustment.

This is necessary for the recognition of the patterns because adr concept as like other concepts will also have certain consequences or results for every step that has been made for the fulfilment of the choices of the parties and the rights that are described on the basis of their justifiable approach.

And this is also necessary to be in a suggested mode that the neutral third party must have a general understanding of every aspect of needed law in order to justify the legal impositions upon the parties which are influencing the rights of other person.

The guardians of the legal fraternity have to channel various concepts in order to justify that adr mechanism are effectively functioning and properly monitored for the justification of resolution of disputes.

Government should engage the representatives of different organisations to organise advertisements to guide the whole population at large, because this will not only justify the barriers but also signify the involvement of citizens in the decision making process by the generalisation of various concept that are needed to be in discussion with citizens by the government.

Under the various terminologies that has been justifying the various level of hatred towards a particular situation is also necessary to be justified otherwise the hatred will not go on its own.

In the dilemma of justifying the nature, the government has to take up the hatred from the citizens and to provide affection by the laws towards the citizens and this is a very blessed method of adjusting the behaviour pattern.

Conclusiveness towards any situation requires a total attainment of justifications that are needed to conclude the matter.

This is not a fact justifying but it is the necessary need that has to be addressed with the frame of time.

And the conclusive evidences that are being judgemental, are needed to be always in defined pattern.

Every ending of any terminology is also a new beginning of a new philosophy, and this is something that is needed to be addressed with the flow of circumstantial evidence.

Any spark that has been left to ignite the resources is also creates a dilemma of unfaithfulness towards the base where the spark has been created.

In the methodology, that has been attained , through harsh rule of attaining ,there is a bad part that is needed to be understood from the legal point of view.

Under various circumstantial nature of dispute resolution, there lies a pattern of bringing the pattern to a newer side which is necessary to be recognised.

From the journey of analysing the matrimonial dispute resolution mechanism inside India and at the international level, the necessary involvement of various case law, various statutory frameworks at country level and at international level and side by side giving the views from a normal human being who is not totally thinking about this dimension and also from a juristic approach,

In the conclusive nature of the defined philosophy of addressing the analysed situation of the concept of mediation in matrimonial dispute resolution mechanism in India in a circumstantial evidence platform can

be said that the role of mediation is a driving force for the league of the channelisation of the matrimonial bond because unless and until , the rights of the other party is not respected, our rights can not provide satisfaction to own self esteem.

In the approach of Justification the conclusive evidence towards the matrimonial bond lies on the fact that how the mediation is going to impact the generalised belief system of customs and traditions which are at most regarded as a clinical social aspect of justice.

Then the significance of various thought provoking steps that are being taken on the approval of justifying the process of mediation the conclusive steps that are being taken by the government for the disclosure and disclosing the matter of matrimonial significance is a crucial step guaranteed to every citizen of India.

Under the forces of litigation, The court proceedings are very much crucial but at the same time frightening to the parties sometimes and they are not able to regain their consciousness that's why there is a belief system of negotiation outside the court or in a friendly manner where the justification mode of justice can be provided by neutral 3<sup>rd</sup> party.

In the significance of various harmonious belief systems the nature of mediation is mediating between the parties and it signifies the level of mediation in the matrimonial dispute resolution with the significance that how mediation channel is the concept of adoption, maintenance, guardianship, custody in a wholesome nature that the parties are made to trust to the framework of the mediation sales and to justify the scope of cultural heritage of justifiable approach.

In the end, the belief system is also some how channelised from the scope of terminologies governing that's why the end is made to be existed in resourceful nature and the belief system is also in a maintain dilemma of the significance of the harsh truth of the capabilities and from the judgmental point of view that has to be distinguished from the limitations and scope of these studies.

Anything that has been changed from the scope to an extent has been under various limitations and various dimensions of the distinguished legacy.

Concluding factor of the impactful research has to be in the nature of giving certain concept related to justification to the old established research otherwise there will be no arrangement of new consciousness and that's why the league is customised to generalise the situation in a wholesome manner.

This research concluded on the basis of facts that are surrounded by current situation but also it implies the need of the harm that has to be understood from a legal point of view that currently the mediation is

flourishing not only in India but all over the world and not only to matrimonial dispute but also to be commercial arbitration or commercial negotiation or any type of dispute that needs cross border agreements to be addressed or the involvement of United Nations framework.

All of this has been under the dilemma of the chain process that has been customised from the belief system that one day or the other there will be a change that will be made.

Under the conclusive evidence of the justification that are made on the basis of linguistic basis or cultural custom based and also through the justification from the governance mode of structure.

All implies a true element , that whatever be the cause of the structural imbalance in the structure, there will be acceptance was the fact that the structure will be made again unless and until the imbalance does not stuck out.

Every end has a new beginning and that was of justification of that type of belief is from the optimistic approach of justification.

Matrimonial life does not end with the patterns of the court's signifying the matrimonial balance striking philosophy of divorce because after the divorce also the thoughts of past remains in the mind of the parties that what could be done to save the loss that has been happened. And that's why the legacy has been generalised from the framework that it is necessary to understand that the things that are done in lighter mode of understanding and faster mode of thought process strike upon the nature of life of a person for the generations to come and that is the price of this pillar of machinery, because if this is not the necessary step that has to be taken from the basic point of view to save the matrimonial life, then the future lies upon the significance that how mediation resonate around the justification approach and with the framework of the justification how the legacy is justified through the statutes is the policy of any arrangement of thoughts that become a law of a country or of the international prospective because all laws have a common thing to be understood that there should be no discrimination on any basis to each other.

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*by Ankit Bharti*

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