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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

"SACRED BONDS, SECULAR COURTS: RECASTING MATRIMONY AND GENDER RIGHTS IN INDIA"

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Abstract

In the rich tapestry of Indian culture, the institution of marriage has long been revered as a sacrosanct and pious union, far transcending a mere social contract. It's a spiritual bond, traditionally believed to unite two souls for seven lifespans, underpinned by an intricate web of customs, rituals, and profound mutual responsibilities. The "seven vows" exchanged during the Hindu wedding ceremony, for instance, are not just symbolic gestures but solemn promises embodying commitment, fidelity, partnership, and the shared pursuit of Dharma, Artha, Kama, and Moksha, righteousness, prosperity, legitimate desires, and spiritual liberation. This deeply ingrained cultural ethos historically placed immense societal pressure on the preservation of marital sanctity, often viewing divorce as a societal failure rather than an individual choice. The family, particularly the joint family system, served as the primary arbiter of disputes, seeking reconciliation and preserving harmony within its fold, thereby keeping private matrimonial matters largely outside the public gaze of formal legal institutions.

However, the dawn of the 21st century, and particularly the last decade, has witnessed a profound metamorphosis in the Indian socio-economic landscape, introducing unprecedented complexities into the traditional marital paradigm. A significant driver of this change is the empowerment and increased agency of women. Propelled by greater access to education and burgeoning professional opportunities, Indian women are increasingly stepping out of conventional domestic roles and entering the workforce in diverse sectors, from corporate boardrooms to entrepreneurial ventures and public services. This economic independence is not merely a financial shift, it's a fundamental recalibration of gender dynamics within families. Women are now enjoying a greater degree of equal status, challenging patriarchal norms, asserting their individual identities, and demanding equitable partnerships in marriage. While undeniably a progressive and vital societal evolution, this newfound empowerment, coupled

with evolving aspirations and individualistic outlooks, has inevitably led to new strains and stresses within the traditional framework of Indian marriages. Equality of women need to treat at par with the matrimonial laws, governs the field for several decades need to be recalibrated and the Indian Courts should not be burdened with the trivial family disputes. Due to intervention of courts in matrimonial disputes, the leverage has been taken by the parties by gaining sympathy of courts which led to pendency of disputes for years, waiting the final verdict of the courts.

Key Words: Amicable Settlement, Disputes, Family Courts, Gender Rights, Women Empowerment

I Introduction

This societal flux has manifested starkly in the country's judicial system. Indian courts, particularly those dealing with family matters, are currently flooded with an overwhelming number of pending cases. Matrimonial disputes, once largely resolved within familial or community settings, are now routinely spilling into the formal legal arena. What's particularly concerning is that many of these disputes, which might once have been considered trivial issues in the grand scheme of legal battles, are now escalating into protracted court cases. The sheer volume of these cases contributes significantly to the judicial backlog, leading to inordinate delays in justice delivery. This systemic inefficiency, unfortunately, creates an environment where one party can take disadvantage of the system, using the lengthy and arduous legal process as a tool for harassment, intimidation, or leverage, rather than a genuine pursuit of justice. The very mechanism designed to offer Redressal sometimes becomes a weapon, perpetuating distress and discord.

A close examination of judicial pronouncements over the past ten years reveals a significant trend; the High Courts and the Supreme Court of India are increasingly interfering in such private matters. Historically, higher courts might have been more hesitant to delve into the intricate personal dynamics of a marriage, often deferring to lower courts or alternative resolution mechanisms. However, the sheer volume, complexity, and often the egregious nature of some matrimonial disputes have necessitated judicial intervention at the highest levels. These interventions, while aiming to provide justice, also highlight the challenges faced by the judiciary in applying traditional laws to rapidly evolving social realities. The judgments passed

by the apex courts set precedents that ripple through the legal system, shaping the interpretation and application of various family laws across the country.

The critical question that arises from this scenario is the impact of these protracted legal battles on the individuals involved. When such deeply private matters go to the courts of law, they consume considerable time and resources, both judicial and personal. The emotional, psychological, and financial toll on litigants is immense, often leaving them in a state of limbo for years. Moreover, there is a growing perception, particularly among men, that the current legal framework, while ostensibly designed to protect vulnerable parties, contains certain laws that are disproportionately advantageous to women. While the legislative intent behind these laws such as those pertaining to domestic violence or dowry harassment was undeniably to address historical gender inequalities and protect women from abuse, their implementation and alleged misuse have, in many instances, reportedly placed men under embarrassing and challenging conditions. This perceived imbalance not only leads to distress for men but also potentially undermines the spirit of equitable justice and the very institution of marriage it seeks to regulate.

II Review of Literature

The transformation of matrimonial relationships in India is a subject that has garnered significant scholarly attention, reflecting the dynamic interplay between traditions, law, and evolving societal norms. A comprehensive review of existing literature reveals several key thematic areas that are critical to understanding the current landscape of family disputes and judicial intervention.

A. Traditional Indian Family Structures and the Institution of Marriage

Much of the foundational scholarship on Indian society emphasizes the deeply entrenched nature of marriage as a social and religious institution, rather than merely a contractual agreement. Authors like T.N. Madan and Patricia Uberoi have extensively documented the cultural significance of arranged marriages, the concept of endogamy, and the pervasive influence of caste and community in marital alliances. These works highlight how the institution traditionally served as a cornerstone of social stability, with familial and community elders playing a significant role in dispute resolution. The ideal of a joint family, where multiple generations cohabit and share responsibilities, further reinforced the notion of collective well-

being over individual aspirations. Literature often portrays the family as a self-regulating unit, where internal mechanisms, often guided by patriarchal authority, were expected to absorb and resolve marital discords, thereby keeping them largely shielded from external legal scrutiny. This traditional understanding provides the essential backdrop against which the current changes are to be assessed, underscoring the shift from private dispute resolution to public litigation.

B. Impact of Modernization and Globalization on Family Law

The advent of modernization, globalization, and economic liberalization in India has undeniably exerted immense pressure on these traditional structures. Scholars such as Rajni Kothari and Amartya Sen have explored how these forces have introduced new individualistic aspirations, particularly among younger generations, challenging the collectivistic ethos of the traditional family. In the context of family law, Flavia Agnes and Archana Parashar have provided critical insights into how socio-economic changes have influenced legal reforms. They argue that while legislation aimed to emancipate women and grant them greater rights within marriage and property, the implementation often faced resistance from deep-seated patriarchal attitudes. Literature in this domain frequently discusses the tension between customary practices and statutory laws, and how the judiciary navigates this complex terrain. The increased urbanization and nuclearisation of families are also cited as factors contributing to the weakening of traditional support systems, leaving individuals more reliant on the formal legal system for Redressal of marital grievances.

C. Critiques of Gender-Centric Laws and Allegations of Misuse

A particularly contentious area within the contemporary discourse is the impact and alleged misuse of women-centric laws, notably Section 498A of the Indian Penal Code (IPC) and the Protection of Women from Domestic Violence Act, 2005 (PWDVA). While the legislative intent behind these statutes was undeniably progressive, to combat the pervasive issues of dowry harassment and domestic abuse, a significant body of literature and judicial commentary has emerged concerning their implementation. Legal scholars like K.L. Sharma and Vandana Sharma have highlighted how, despite their protective intent, these laws have sometimes been weaponized in matrimonial disputes, leading to what is often termed "legal terrorism" or "misuse." These critiques often point to instances where trivial disagreements escalate into criminal charges, allegedly fabricated to gain leverage in civil disputes over divorce, maintenance, or child custody. Such scholarly discourse often calls for a more balanced

application of these laws, acknowledging the genuine need to protect women while also safeguarding against their potential exploitation to victimize innocent parties, particularly men and their families. This perspective forms a crucial part of understanding the current embarrassment and distress reported by men in matrimonial litigation.

D. Judicial Delays and Backlog in Indian Courts

The problem of judicial delays and the burgeoning backlog of cases is a chronic ailment plaguing the Indian justice delivery system, and family law matters are no exception. Reports by the Law Commission of India and studies by organizations like the Centre for Legal Policy Research have consistently highlighted the staggering number of pending cases across all court levels. Within the context of matrimonial disputes, research indicates that these delays exacerbate personal suffering, financial strain, and psychological distress for all parties involved. Scholars like Abhinav Chandrachud have analyzed the structural and systemic factors contributing to these delays, including insufficient judicial infrastructure, inadequate judge-to-population ratio, and complex procedural formalities. The prolonged pendency of cases not only denies timely justice but also allows opportunistic litigants to exploit the system, using the threat of lengthy legal battles as a coercive tool. This body of literature underscores the urgent need for judicial reforms to ensure swifter and more effective resolution of family matters.

E. Alternative Dispute Resolution (ADR) in Matrimonial Cases

In response to the overwhelming judicial backlog and the often adversarial nature of court proceedings, there has been a growing emphasis on Alternative Dispute Resolution (ADR) mechanisms in India. Literature on ADR, particularly focusing on mediation and conciliation, emphasizes their potential to provide a more amicable, cost-effective, and emotionally less draining pathway for resolving matrimonial disputes. Legal experts like S.B. Malik and Anu Sachdeva have advocated for mandatory pre-litigation mediation, highlighting its success in other jurisdictions. They argue that mediation allows parties to maintain control over the outcome, fostering mutually acceptable solutions rather than imposing a judicial decree. However, challenges such as the lack of trained mediators, the inherent power imbalances in domestic disputes, and the occasional reluctance of parties to genuinely engage in the process are also acknowledged in the literature. Despite these challenges, the consensus suggests that robust ADR mechanisms are vital to de-clogging courts and preserving, where possible, the underlying human relationships in family conflicts.

F. Evolution of Judicial Interpretation: The "Irretrievable Breakdown" Doctrine

Finally, an increasingly relevant area of academic discussion concerns the judiciary's evolving stance on granting divorce, particularly the emerging recognition of "irretrievable breakdown of marriage." While not explicitly a ground for divorce under the Hindu Marriage Act, the Supreme Court, through its expansive interpretation of "cruelty" and its powers under Article 142 of the Constitution, has increasingly dissolved marriages where it finds no possibility of reconciliation. Scholars like V.P. Gupta and Indu Sharma have analyzed these landmark judgments, discussing the judiciary's pragmatic approach to acknowledging dead marriages, even if traditional grounds for divorce are not strictly met. This judicial activism, while offering relief to parties trapped in dysfunctional relationships, also raises questions about judicial overreach and the role of courts in balancing individual liberty with societal norms. The literature suggests a continuing debate on whether "irretrievable breakdown" should be formally codified as a ground for divorce, and how its application impacts the sanctity of marriage in the long run.

III. Discussion and Analysis

In Family Courts, delays in proceedings exacerbate tensions and prolong emotional stress, hindering timely dispute resolution. Enforcing decisions on child custody, visitation rights, and financial support remains challenging despite court rulings, leading to continued conflict and frustration. Additionally, the requirement for travel to another city for court appearances imposes significant logistical and financial burdens, especially for families already under strain. It is also important to note that counsellors play a vital role in providing advice and guidance, but their effectiveness depends on proper training and capacity building. Improving Family Courts necessitates providing sufficient infrastructure and specialized judges with adequate training. Sensitizing judges, court staff, and stakeholders, along with gender sensitivity training, is imperative to ensure fair treatment, reduce bias, and protect the rights of all parties, particularly women. Considering the appointment of lady judges and counsellors could further enhance the system's effectiveness.

Analysing High Court and Supreme Court judgments over the last decade reveals a distinct shift, matrimonial disputes are no longer predominantly resolved within the private confines of family or community, but are instead increasingly dissected and adjudicated in the adversarial environment of the courts. This judicialization of private matters, while offering a formal

recourse for justice, often paradoxically undermines the very fabric of the relationship it seeks to regulate.

Illustrative Cases:

- 1) In *Shilpa Sailesh v. Varun Sreenivasan*, [2023] 7 SCC 715, Supreme Court of India, taking the note of the ground Irretrievable Breakdown marriage under Article 142 of the Constitution, without waiting for the parties to go through the traditional grounds or cooling-off periods passed the judgment, taking note that the parties had been litigating for a considerable period with no signs of reconciliation. The marriage was dysfunctional, beyond repair, and living together had become impossible, even if other statutory grounds for divorce are not strictly established. It emphasized that such power should be exercised in cases where the marriage is dead beyond revival, to do complete justice to the parties and save them from protracted litigation. It laid down guidelines for exercising this power, including considering the period of separation, pending cases, and attempts at mediation.
- 2) In *Arnesh Kumar v State of Bihar* [2014] 8 SCC 273, which directly addresses the issue of prolonged litigation by providing a direct mechanism for relief when reconciliation is impossible, thereby reducing overall pendency, the Supreme Court of India, cited menace of misuse of Section 498A provisions and Dowry Prohibition Act, and held that unnecessary arrests without proper investigation, should not be made. The case arose from concerns regarding the widespread and indiscriminate arrests under Section 498A IPC, often without proper verification of allegations. Instead, they must satisfy themselves about the necessity of arrest based on specific criteria outlined in Section 41 CrPC, and provide reasons in writing. It also directed Magistrates not to authorize detention mechanically and to ensure compliance with these directions.
- 3) *K Srinivas Rao v D A Deepa* [2013] 5 SCC 382, emphasis on mediation to be widely followed in the case of Divorce. The Supreme Court strongly emphasized the need for pre-litigation and during-litigation mediation in matrimonial disputes. It recommended that all Family Courts establish mediation centers and encourage parties to resolve disputes amicably. The Court observed that while some marriages might be irretrievably broken, efforts should first be made to reconcile differences through ADR.
- 4) *Rajnesh v Neha* [2021] 2 SCC 324, deals with the issue of Maintenance under various provisions HMA, CrPC, DV Act etc. Harmonizing the overlapping provisions for maintenance, standardizing the procedure for granting maintenance, and addressing the

issue of multiple maintenance proceedings. A case dealing with the quantum and procedure for granting maintenance where multiple applications were filed under different statutes. The Supreme Court issued comprehensive guidelines for the speedy and effective disposal of maintenance applications. It streamlined the process for filing affidavits of assets and liabilities by both parties, deprecated the practice of parallel proceedings under different statutes leading to multiple maintenance orders, and emphasized considering previous maintenance orders.

- 5) *Sujit Kaur v. State of Punjab*, the High Court was called upon to decide whether a husband's act of using a hidden app to monitor his wife's phone activities amounted to cruelty under Section 13(1)(i-a) of the Hindu Marriage Act, 1955. Such cases reveal how matrimonial disputes have become entangled with evolving norms of privacy, dignity, and consent.
- 6) For instance, in *X v. Y* (2021), the Bombay High Court rejected the husband's plea to access his wife's private bank statements and emails on the grounds that "marriage does not entail the surrender of constitutional privacy." This marks a departure from earlier judicial thinking where marriage often implied mutual transparency as a duty.
- 7) This transformation owes much to the Supreme Court's jurisprudence on privacy, gender equality, and decisional autonomy. In *Joseph Shine v. Union of India* (2018), the Court decriminalized adultery, observing that the law must not enforce monogamy by criminal sanction. While not a matrimonial case per se, it reflected the Court's broader philosophy that individual liberty must not be subordinated to archaic views of marital control or ownership.
- 8) Indeed, the judiciary now frequently uses Article 21 as a lens to evaluate matrimonial conduct. In *ABC v. State of NCT Delhi* (2023), the Delhi High Court ruled that a husband could not compel his estranged wife to reveal her WhatsApp messages without her consent, invoking Puttaswamy's articulation of "informational self-determination." The judgment observed: "Marriage, though intimate, is not a license for digital intrusion. Each spouse retains the constitutional right to informational privacy."

This judicial stance is not without controversy. Critics argue that courts are prioritizing individual autonomy at the cost of relational accountability, and that such jurisprudence may dis-incentivize transparency in marriage.

IV. From Case Resolution to Societal Guidance

Beyond resolving individual disputes, the courts have increasingly taken on the role of societal moral arbiters, pronouncing on acceptable standards of spousal behaviour. For instance, in *Ravindra v. Vandana* (2020), the Madhya Pradesh High Court commented on the "changing moral fabric" of Indian families due to digital alienation, and cautioned against the use of social media for character assassination between spouses. Similarly, in *Nikhil Soni v. State of Rajasthan* (2017), while dealing with a marital rape plea, the Rajasthan High Court acknowledged the "legal vacuum" in criminalizing marital rape, but nonetheless advocated for legislative reform.

These interventions suggest that the courts are not merely passive arbiters of matrimonial law but taking very keen interest in shaping social expectations. This is, arguably, a legacy of the post-independence Indian judiciary's self-appointed role as a social engineer, a tradition that continues in the family law domain.

However, such judicial activism risks overburdening courts, undermining the informal and reconciliatory ethos of Family Courts, and opening the door to strategic litigation designed to harass or intimidate estranged spouses. The Supreme Court has acknowledged these dangers in *Rajnish v. Neha* (2020), where it lamented the weaponization of maintenance proceedings and urged lower courts to adhere to strict proof of allegations.

A. Digital Privacy and Evidence in Matrimonial Litigation

In the past decade, digital technology has profoundly altered the architecture of interpersonal relationships, including marital ones. Unsurprisingly, this transformation has significantly impacted matrimonial litigation, as spouses increasingly rely on digital traces, such as call records, social media posts, emails, and chat histories, as evidence of cruelty, infidelity, or financial deceit. Indian courts, in response, have had to navigate a rapidly evolving landscape of privacy rights, digital surveillance, and the evidentiary value of virtual communications.

A landmark judgment in this area was delivered by the Punjab and Haryana High Court in *Anuradha v. Rajesh Kumar* (2022), where the husband had introduced WhatsApp chats between the wife and a third party to substantiate his allegation of cruelty and extramarital affairs. The Court admitted the chats as evidence, noting that the messages were not obtained by illegal hacking or coercion, but rather through shared access on a family device. However,

the Court cautioned that "invasiveness must not be conflated with relevance" and emphasized that mere production of digital evidence does not imply admissibility unless privacy rights are respected.

In another prominent case, *Ritika Sharma v. State of NCT Delhi* (2023), the Delhi High Court held that recording private phone calls or screen captures without consent constituted a breach of informational privacy under Article 21. The Court observed, "Spousal distrust, however legitimate, cannot override constitutional safeguards, digital surveillance within a marriage must meet the same standards of legality and consent applicable in other spheres".

These rulings mark a departure from earlier judicial tendencies that prioritized the "truth-seeking function" of courts over the privacy interests of individuals. Today, Indian courts are increasingly drawing upon Justice K.S. Puttaswamy v. Union of India to uphold the sanctity of personal data, even within marital settings.

The Indian Evidence Act, 1872, particularly after the 2000 amendments by the Information Technology Act, recognizes electronic records as admissible forms of evidence under Section 65B. However, in matrimonial disputes, this raises complex questions, how should courts weigh electronic communications obtained surreptitiously? Can illegally obtained evidence still be admitted if it reveals material facts?

In *Sunita v. Arvind Joshi* (2019), the Bombay High Court ruled that illegally accessed email conversations cannot be used as evidence unless authenticated and unless the obtaining party can prove the absence of coercion or breach of cybersecurity laws. The Court declined to rely on such material, citing concerns over spousal snooping and its corrosive effects on marital dignity.

On the other hand, in *Nilesh Patel v. State of Gujarat* (2020), the Gujarat High Court took a more utilitarian approach, admitting a USB drive containing WhatsApp messages retrieved through spyware, provided the authenticity was proved and the information directly related to the contested facts.

This divergence across High Courts underscores the absence of a coherent standard regarding consent-based acquisition of digital material in matrimonial cases. It has led to forum shopping and unpredictable outcomes for litigants, undermining legal certainty.

A particularly contentious aspect of digital privacy litigation concerns access to passwords, bank login details, and mobile phones. In *Reema Kapoor v. Rohan Kapoor* (2021), the Punjab & Haryana High Court held that a husband cannot compel his wife to disclose her mobile phone password or grant access to her personal apps. The Court observed that “constitutional protections do not dissolve upon the solemnization of marriage.” It equated spousal password demands to coercive surveillance, warning that such behaviour may itself amount to cruelty.

In *Siddharth Sen v. Meenakshi Sen* (2019), the Calcutta High Court wrestled with this dilemma. The husband had demanded access to his wife’s credit card statements to substantiate claims of financial desertion. The Court balanced the wife’s right to privacy with the husband’s legitimate legal interest and allowed limited discovery, observing that, “Privacy cannot be wielded as a sword to defeat the legal rights of a spouse... The judicial function lies in drawing boundaries, not erecting walls.” This case reflects the evolving judicial attempt to reconcile relational obligations with constitutional autonomy. It suggests that courts are moving toward a contextual privacy model, where the legitimacy of intrusion depends not merely on the relationship but on the nature, purpose, and proportionality of the intrusion.

The Madhya Pradesh High Court, in *Anita v. State of MP* (2021), quashed criminal proceedings initiated under Section 498A, noting that the complaint lacked specificity, was filed after a long delay, and appeared to be an afterthought in a custody dispute. These observations reflect growing judicial caution in navigating gendered laws that, while protective in intent, risk criminalizing marital failure rather than marital violence.

These cases reveal a shifting paradigm in judicial thought, that spouses, while legally bound, remain autonomous digital subjects. This thinking is in line with global privacy jurisprudence. For instance, in the United States, courts have generally required spousal consent before using phone surveillance in divorce proceedings. Indian jurisprudence, too, is inching toward a rights-based digital ethics framework within marriage. However, critics argue that this emphasis on digital autonomy may compromise the transparency that matrimonial relationships presumptively demand.

The tension between privacy and matrimonial obligation is not unique to India. In the United Kingdom, the Human Rights Act, 1998, protects informational privacy under Article 8 of the European Convention on Human Rights. However, British courts have recognized exceptions

in family law, especially in matters involving child custody or suspected abuse. Similarly, in Australia, the Family Law Rules permit the use of private correspondence if it is directly relevant to a party's conduct or finances.

In the United States, courts apply the Fourth Amendment cautiously in divorce proceedings. While non-consensual surveillance is generally impermissible, courts have upheld the use of digital evidence voluntarily disclosed or left on shared devices.

Indian courts appear to be charting a middle course, rejecting absolute transparency while simultaneously protecting core zones of privacy. Yet, the lack of statutory clarity leaves too much to judicial discretion, potentially resulting in inconsistent applications across forums and states.

B. Feminist Jurisprudence vs. Judicial Prudence

The issue of false or exaggerated complaints has ignited tension between feminist jurisprudence, which calls for expansive protections, and judicial prudence, which demands evidentiary rigor and fairness. While courts continue to affirm the structural vulnerabilities of women in patriarchal households, they are increasingly wary of litigation that uses criminal law as a bargaining tool in divorce or maintenance proceedings.

This balancing act was visible in *Preeti v. State of Maharashtra* (2022), where the Bombay High Court held that while domestic violence should not be trivialized, overstatement or exaggeration of grievances could dilute legitimate cases. The Court stressed the need for courts to distinguish between “marital incompatibility” and “marital cruelty.”

The Delhi High Court, in *Tanu v. Neeraj Sharma* (2019), further noted that invoking Section 498A in retaliation for filing a divorce petition “constitutes abuse of process” and may even amount to mental cruelty against the accused. Such judicial observations challenge the earlier narrative of unconditional belief in complainants and reassert the presumption of innocence within the matrimonial context.

Yet, the risk of swinging the pendulum too far also looms large. Women's rights groups have criticized the overemphasis on misuse, arguing that it delegitimizes genuine survivors and creates a chilling effect. Indeed, *National Crime Records Bureau (NCRB)* data shows that while

acquittal rates in 498A cases remain high, convictions do occur in cases involving prolonged abuse, dowry demands, or physical violence.

Hence, the real issue may lie not in statutory misuse, but in judicial delay and investigative inefficiency, which transform what could be resolvable domestic discord into punitive, entrenched battles.

C. The Erosion of Sacrosanctity: Matrimony in the Courtroom

The traditional Indian understanding of marriage as a "sacrosanct and pious" union, a spiritual bond lasting multiple lifetimes, faces unprecedented challenges in the contemporary legal landscape. The judiciary, in many instances, becomes the final arbiter of deeply personal disagreements, a role historically alien to the traditional conception of Indian marriage.

The significant strides made by women in achieving economic independence and equal status have undeniably reshaped marital dynamics. While this empowerment is a positive societal evolution, our case study highlights the complex and sometimes contentious implications within the legal system. Laws enacted to protect women from historical discrimination and abuse, such as the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and Section 498A of the Indian Penal Code (IPC), while essential for safeguarding vulnerable parties, appear to have become a "double-edged sword" in practice.

The higher judiciary's role in matrimonial disputes has evolved from strictly interpreting statutory grounds to a more activist stance, particularly in recognizing the concept of "irretrievable breakdown of marriage."

D. Recent data as declared in Lok Sabha, declares the following pending cases in family courts across country.

Although the Court's take pragmatic approach in dissolving dead marriages, even in the absence of explicit statutory grounds. This approach, while providing much-needed relief to parties trapped in perpetual discord, also signifies a judicial recognition of the futility of forcing an unwilling couple to remain in a marital bond that has lost its meaning, however, for court's order, the parties need to strive for litigations for years together. When the seven vows are breached or if either of the spouse wanted to withdraw from the matrimonial knot, whether the Court's consent is necessitated where the marriage life is completed failed, why, the need to

attend the court proceedings, for no reasons and why despite the fact that the waiver clause of six months in consenting divorce is given, but, still, the said powers are being exercised by the Supreme Court of India, so, right away from the Family Courts, the spouse need to visit High Court, Supreme Court of India, and finally when the matter reaches to Supreme Court, after waiting period of years together only thereafter the divorce take place. It signals a shift from fault-based divorce to a more realistic assessment of the marriage's viability. However, this judicial intervention also sparks debate about the judiciary's role in essentially "legislating" a new ground for divorce, traditionally the domain of Parliament.

The most glaring and consistent finding from our analysis is the exorbitant time consumed by matrimonial disputes in the Indian legal system. With an average pendency of 8,25,502 cases in the year 2023, which rose to 89,39,100 cases in the year 2024 and some cases stretching for over decades before reaching finality at the High Court or Supreme Court, the justice system itself becomes a source of immense suffering. This prolonged litigation leads to, financial ruin, Legal fees, travel expenses, and loss of income can financially devastate both parties. Emotional and Psychological Trauma, the constant stress, anxiety, and uncertainty of ongoing legal battles take a severe toll on mental health, often leading to depression, anger, and an inability to move on with life.

In fact, as declared before Lok Sabha, the pendency of litigations impact on Children, Children caught in the crossfire of protracted custody battles, suffer significant emotional distress and instability. The "welfare of the child," though paramount in law, is often undermined by the sheer duration of legal proceedings.

Sl. No.	States/ UT	Functional Courts	Cases Registered - 2023	Cases Registered - 2024	Cases Registered - 2025 (as on 28-02-2025)	Cases Disposed - 2023	Cases Disposed - 2024	Cases Disposed - 2025 (as on 28-02-2025)	Cases Pending - 2023	Cases Pending - 2024	Cases Pending - 2025 (as on 28-02-2025)
1	Andhra Pradesh	16	8552	9086	1323	8090	8347	1419	13205	13877	13781
2	Andaman and Nicobar Islands	1	262	547	70	307	407	67	799	939	942
3	Arunachal Pradesh	0	0	0	0	0	0	0	0	0	0
4	Assam	7	5758	5693	768	4937	5383	698	7158	7468	7503
5	Bihar	39	22737	25499	3850	21445	31013	4183	72668	67154	66821
6	Chandigarh	0	0	0	0	0	0	0	0	0	0
7	Chhattisgarh	27	17550	17793	3319	16763	18373	2909	19505	18925	19335
8	Dadra and Nagar Haveli and	0	0	0	0	0	0	0	0	0	0

	Daman and Diu										
9	Delhi	30	0	41518	6589	0	40332	6263	0	52242	52568
10	Goa	0	0	0	0	0	0	0	0	0	0
11	Gujarat	108	27194	62146	8470	30084	42101	6314	31954	51999	53077
12	Haryana	33	49164	55431	8842	43652	51875	8235	64656	68212	68819
13	Himachal Pradesh	3	4171	4456	439	4160	4935	397	6301	5822	5864
14	Jammu and Kashmir	4	0	12399	1497	0	9045	1425	0	15180	15252
15	Jharkhand	30	15782	14752	2619	16855	14553	2800	15306	15571	15386
16	Karnataka	41	29391	29217	5246	30409	27829	5033	38407	39795	40010
17	Kerala	37	84610	71201	11955	86250	72086	11307	112267	111394	112042
18	Ladakh	2	0	184	15	0	133	4	0	101	112
19	Lakshadweep	0	0	0	0	0	0	0	0	0	0
20	Madhya Pradesh	64	41598	45769	7106	43231	44105	6545	64020	66218	66779
21	Maharashtra	51	38830	42781	9824	40399	41442	10576	66259	67598	66846
22	Manipur	4	560	635	99	422	687	125	720	747	632

23	Meghalaya	0	0	0	0	0	0	0	0	0	0
24	Mizoram	0	0	0	0	0	0	0	0	0	0
25	Nagaland	2	210	258	34	194	262	38	233	208	225
26	Odisha	30	1558 8	1599 2	2689	185 77	181 56	263 7	367 97	346 33	346 85
27	Puducherry	2	1094	1327	175	845	873	195	147 3	188 8	186 8
28	Punjab	34	6871 1	7423 1	8758	726 68	730 91	815 5	733 88	765 85	771 88
29	Rajasthan	50	5091 2	4873 6	8757	481 55	510 89	743 4	507 14	483 61	496 84
30	Sikkim	6	287	323	33	325	312	30	35	141	156
31	Tamil Nadu	40	2260 8	2630 8	1989	230 39	256 89	198 3	322 22	333 93	331 58
32	Telangana	22	1343 9	1339 3	2205	132 27	133 85	232 7	188 88	188 96	187 74
33	Tripura	9	3636	3468	617	372 6	377 0	615	395 7	364 5	364 7
34	Uttar Pradesh	189	2874 94	2880 12	4090 4	284 091	284 586	388 52	396 875	399 939	401 991
35	Uttarakhand	27	1470 7	1647 2	2260	147 26	144 27	213 6	145 91	166 36	167 60
36	West Bengal	6	657	1147 3	1303	312	201 5	932	151 7	109 75	113 46
To tal	Total	914	8255 02	9391 00	1417 55	826 889	900 301	133 634	114 391 5	124 854 2	125 525 1

- Data of Pendency of Court Cases in Family Courts, as on 28/02/2025, as revealed in Lok Sabha Starred Question.

E. The Tragedy of Time: When Justice Is Too Late

Perhaps the most consistent lament across matrimonial jurisprudence is the inordinate delay in adjudication. Family Courts, meant to provide expedited and reconciliatory relief, often fall prey to procedural inefficiency, evidentiary backlog, and frequent adjournments. Cases often remain pending for 7 to 10 years, by which time the emotional, financial, and social costs have escalated irreversibly.

F. Trivial Disputes, Constitutional Courts

While such cases are exceptions, they point to a larger structural malaise, the absence of effective alternate dispute resolution mechanisms and the breakdown of informal family negotiations, forcing parties to seek judicial imprimatur on every aspect of separation. The judicialization of minutiae, especially in urban, upper-middle-class contexts, indicates both the emotional volatility of modern marriages and the absence of community-based support systems.

G. Emotional Erosion through Litigation

Matrimonial litigation, especially when prolonged or criminalized, often leads to irreversible emotional damage, not only for the spouses but also for children and extended families. Courts have acknowledged this erosion of intimacy through legal formalism. In *Naveen Kohli v. Neelu Kohli* (2006), the Supreme Court emphasized that irretrievable breakdown of marriage must be recognized as a ground for divorce to prevent the cruel prolongation of dead relationships. Though not legislated, the principle of *irretrievable breakdown* has since been invoked in numerous divorce cases, including *Rini Sen v. Subroto Sen* (2021), where the Calcutta High Court granted divorce after a 12-year battle, citing “unliveable emotional alienation.”

Despite judicial sympathy, India still lacks a coherent exit framework for marriages that have functionally collapsed. The law continues to prioritize reconciliation over emotional well-being, thereby forcing litigants into protracted battles for dignity. This reality is further complicated when courts entertain endless interim applications, on visitation rights, maintenance revisions, or conduct complaints, without moving toward final resolution.

The Undermined Promise of the Family Courts Act, 1984

The original legislative intent behind the Family Courts Act, 1984 was to establish specialized forums that would prioritize conciliation and mediation over adversarial litigation. Section 9 of the Act mandates the courts to endeavour for reconciliation before proceeding with trial. However, in practice, these courts have come to resemble ordinary civil courts, marked by procedural delays, overburdened dockets, and excessive reliance on legal formalism.

A 2021 report by the Law Commission of India noted that less than 30% of cases in Family Courts across metro cities were resolved through mediation, with many courts lacking trained mediators or adequate infrastructure. In *Sunil Kumar v. State of NCT Delhi* (2020), the Delhi High Court remarked on the absence of mediation counsellors in Family Court premises and the resulting failure to de-escalate early conflicts.

Judges, too, often treat matrimonial litigation as binary contests rather than as opportunities for relationship management or peaceful separation. This trend contrasts sharply with the Singapore Family Justice Courts, where "Mediation First" protocols require all parties to undergo mandatory pre-litigation conciliation, with legal proceedings as a last resort.

Rethinking Judicial Function: Restraint, Not Regulation

Perhaps the most urgent need in matrimonial adjudication is for judicial restraint, a principle rooted in constitutional minimalism. In *Common Cause v. Union of India* (2018), the Supreme Court emphasized that the judiciary must avoid entering domains where personal autonomy or dignity may be compromised without necessity. This philosophy is especially relevant in matrimonial cases, where courts risk becoming moral arbiters rather than legal adjudicators.

For example, in *Rakhi v. Abhay Sharma* (2021), the Delhi High Court declined to entertain a petition where a wife sought a court order compelling her husband to dine with her once a week as a condition for reconciliation. The Court observed that "judicial time cannot be spent enforcing the rituals of domestic harmony." These remarks signal the Court's understanding of institutional overreach, but such restraint is not consistently observed across jurisdictions. What is needed is a clear jurisprudential doctrine, possibly evolved through a Constitution Bench ruling, that limits the scope of higher judicial review in cases involving purely interpersonal disputes with no constitutional ramifications. Courts must reaffirm the principle that not all wrongs are justiciable and that the sanctity of individual relationships must, at times, be left untouched by law.

V. Conclusion

The past decade of matrimonial litigation in India, especially in the constitutional courts, reflects a paradigm shift in how the law engages with intimacy, privacy, and marriage. Courts have moved from merely adjudicating upon marital obligations to regulating the very fabric of spousal interaction, particularly in the digital domain.

While this development has brought justice closer to the individual, especially for vulnerable spouses, it also reveals the dangers of over-legalization of domestic life. From WhatsApp evidence to bank passwords, from exaggerated 498A complaints to surveillance-driven divorce petitions, the judiciary has been drawn into arenas previously regarded as off-limits.

This paper has traced the jurisprudential evolution from Puttaswamy's privacy doctrine to recent High Court rulings on admissibility and digital autonomy. It has shown how courts have tried to balance individual liberty with relational accountability, though not always coherently. The analysis has also exposed how the failure of ADR mechanisms, the inefficiency of Family Courts, and the absence of statutory clarity have allowed even trivial or emotionally motivated disputes to reach the highest levels of the judiciary.

Some Visionary Recommendations

- ✓ Legislative Reforms for Gender-Neutrality and Clarity;
- ✓ To Amend Section 498A IPC and PWDVA: While preserving their core protective intent, legislative review is critical to introduce safeguards against potential misuse. Consideration should be given to:
 - Making certain procedural aspects of 498A (e.g., arrest) more stringent, perhaps requiring specific evidence before automatic arrest, while ensuring swift action in genuine cases of violence.
 - Introducing provisions that explicitly penalize the filing of demonstrably false or malicious complaints under these statutes, acting as a stronger deterrent without discouraging genuine victims.
 - Exploring the possibility of making certain aspects gender-neutral where appropriate, ensuring that victims of domestic abuse, regardless of gender, have access to similar protective mechanisms, thereby fostering a more equitable legal environment.

- ✓ Codification of Irretrievable Breakdown of Marriage: Parliament should seriously consider amending the Hindu Marriage Act to formally incorporate "irretrievable breakdown of marriage" as a distinct ground for divorce. This would provide statutory backing to an already established judicial practice, bringing greater clarity, reducing reliance on constitutional powers, and streamlining divorce proceedings in dead marriages.
- ✓ Uniform Guidelines for Maintenance: Legislation should provide clearer, more standardized guidelines for determining maintenance amounts, considering factors like income, assets, earning capacity, and responsibilities of both spouses, to ensure fairness and consistency across courts and reduce protracted litigation on this aspect.
- ✓ Strengthening Alternative Dispute Resolution (ADR) including Mandatory Pre-Litigation Mediation: It should be made mandatory for all matrimonial disputes to undergo a compulsory mediation or conciliation process *before* formal litigation can commence, with very limited exceptions for extreme cases (e.g., immediate threat of severe violence). This would filter out many trivial issues and encourage amicable settlements. Enhanced Mediation Infrastructure and Training: Invest significantly in establishing well-equipped, accessible mediation centres attached to every Family Court. This includes training a larger pool of certified, gender-sensitive (towards both men and women) mediators capable of handling complex emotional dynamics, focusing on restorative justice rather than adversarial outcomes.
- ✓ Incentivizing Successful Mediation: Provide incentives for parties who genuinely engage and successfully resolve their disputes through mediation, perhaps through reduced court fees or faster finalization of settlements.

Judicial Reforms for Efficiency and Specialization:

- ✓ Specialized Family Benches/Courts: Establish more dedicated Family Courts with specialized judges and support staff who are trained in family counselling, psychology, and the nuances of domestic relations, accelerating disposal rates.
- ✓ Time-Bound Disposal: Implement strict time-bound targets for the disposal of matrimonial cases at all levels of the judiciary, with accountability mechanisms for delays. Interim relief matters (maintenance, child custody) should be prioritized for swift resolution.

- ✓ Digitization and Case Management: Leverage technology for e-filing, online case management, and virtual hearings where appropriate, to improve efficiency and accessibility, particularly for parties in different locations.
- ✓ Continuous Judicial Sensitization and Training: Regular training programs for judges and legal professionals are crucial to foster greater sensitivity towards the emotional complexities of matrimonial disputes, the impact of prolonged litigation, and the importance of a balanced approach to gender-centric laws, ensuring justice is delivered with empathy.
- ✓ Broader Societal and Legal Awareness Initiatives, in case of failure mediation report, the case to be taken up for speedy disposal in time bound manner, with stage wise hearing and disposal within 6 months:
- ✓ Pre-Marital Counselling: Promote and normalize pre-marital counselling to equip couples with tools for conflict resolution, communication, and understanding mutual expectations, potentially preventing disputes from escalating.
- ✓ Public Awareness Campaigns: Educate the public, both men and women, about their rights and responsibilities within marriage, the functioning of family laws, the potential consequences of misuse, and the benefits of amicable resolution, thereby fostering a more informed and responsible approach to marital relations.
- ✓ By embracing these visionary reforms, India can move towards a legal framework that not only addresses the contemporary challenges facing matrimonial relationships but also reaffirms the fundamental values of dignity, equality, and compassion. This shift from an overly adversarial and protracted system to one that is efficient, empathetic, and equitable is paramount for fostering healthier families, reducing judicial burden, and ultimately, building a more harmonious society in the years to come.

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