



सत्यमेव जयते

**Government of India
Ministry of Law and Justice
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An Analysis of Pendency of Cases in Family Courts of Madhya Pradesh and Methods to Reduce Pendency



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About this report

This report is the outcome of a research project funded by Department of Justice, Ministry of Law and Justice, Government of India under the Plan Scheme for Action Research and Studies on Judicial Reforms to promote research and studies on the issues related to the National Mission for Justice Delivery and Legal Reforms undertaken by the National Judicial Academy, India, Bhopal.

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FOREWORD

Family and marriage are the two most fundamental and vital institutions of social organization in India. Society has evolved progressively in family matters from the time when marriages were considered a sacred affair and divorce was considered not an option. In contemporaneous society permanence and the inviolability of marriage has eroded, breakdown of family relationship is common and divorce has become a selected choice. Therefore, a robust family justice system is critical to addressing the wide range of litigation involved in this area.

The Family Court is a vibrant and exciting branch of justice delivery system having great influence on the lives of families and children. The purpose of establishing these specialized courts is speedy settlement of family disputes through conciliation and achieving socially desirable results by adopting simplified procedures. Timely disposal of family cases is essential for providing an immediate relief to the parties and maintaining the rule of law, providing access to justice which is a guaranteed fundamental right.

The report is an outcome of research undertaken by the National Judicial Academy, India under the Scheme for Action Research and Studies on Judicial Reforms of the Department of Justice, Ministry of Law and Justice, Government of India, New Delhi. This is an in-depth research covering areas on overall functioning of Family Courts in the State of Madhya Pradesh; and identifying institutional and capacity gaps causing delay in speedy dispensation of justice in family dispute matters. The research report proposes suggestions addressing core issues and challenges in these courts which can be made workable in the current scheme of Family Courts in Madhya Pradesh. The suggestions include some policy and procedural changes to reduce pendency not alone in Family Courts of Madhya Pradesh but a similar model may be implemented across States to address delay in these specialized courts.

The report stands out in presenting the information collected from Judges of Family Courts and other stakeholders like mediators and counsellors in simple and understandable language. The workable suggestions proposed are designed to reconceptualise our approach to Family Court reform which could be segregated and implemented in present and as futuristic goals to bring these courts to levels of greater excellence.

Justice (Retd) G. Raghuram
Director

EXECUTIVE SUMMARY

The judiciary is entrusted to uphold the right and liberty of each individual in the contemporary era of globalization. The robust judiciary not only balances the societal demand, but brings stability and sense of reliability in the speedy dispensation of justice. However, the current crisis of pendency in courts raised a plethora of substantial issues pertaining to their effective functioning. Therefore, bottlenecks are required to be addressed to remove the existing impediments in speedy justice. The entire purpose for establishing a specialized court is to provide a forum for redressal which is more family oriented with involvement simplified process and procedures. Certainly the purpose is not achieved and leave courts open for regular and long-lasting proceedings. Family Court plays an important role in the life of an individual undergoing breakdown of marriage and children affected. With this intent, the Family Court Act 1984 was formulated to provide accessible and litigant friendly courts with expedited disposal of family disputes matters. Therefore, the present study analyses the impact of these specialized courts to determine how effectively it has accomplished its purpose and objectives. The study was conducted with this background.

The intent and purpose of the Act was identified through preliminary study followed by analysis of pendency by collecting secondary data from the National Judicial data grid to find out the core areas causing delay in Family Courts and needs to be addressed in depth. The pendency was further categorized and sub-categorized into civil and criminal matters falling under specific provisions of different legislations. Subsequently, a questionnaire was prepared focusing on areas identified including impact of training, reasons for delay from institution till judgment, effectiveness of alternative dispute resolution mechanism, use of information and communication technology, and role of advocates in family disputes. Based on the responses received the districts with pendency on higher side were identified for conducting field study. Data pertaining to status of available infrastructure in Family Courts was collected. Further, courtroom proceedings were observed along with effectiveness of mediation and counselling was studied. The focus was on studying the overall functioning of Family Courts in Madhya Pradesh to highlight the reasons for pendency.

Subsequently, a study of Family Courts functioning in different jurisdictions was undertaken to identify best practices which could be adopted in the existing framework of Family Courts to bring them to excellence. Based on the research, various workable suggestions and recommendations have been put forth through this report.

ACKNOWLEDGEMENT

The present research is undertaken by the National Judicial Academy, India, Bhopal pursuant to the approval of the Hon'ble Chairperson of the NJA under the Scheme for Action Research and Studies on Judicial Reforms of the Department of Justice, Ministry of Law and Justice, Government of India, New Delhi. The research was undertaken from 18 December 2019 to 31 January 2020. The Family Courts of Madhya Pradesh were taken up as the field of study. The study was indeed a learning experience for the research team. The study could not have been completed without the assistance and commitment provided by them.

We are immensely grateful to the Department of Justice, Ministry of Law and Justice, Government of India, New Delhi for giving us the opportunity and requisite resources to undertake the study on project titled "An Analysis of Pendency of Cases in Family Courts of Madhya Pradesh and Methods to Reduce Pendency". We take this opportunity to express our appreciation to Mr. C.K. Reejonia, Joint Secretary, Department of Justice for his patient follow-ups and handling our queries at all time.

We would like to convey our sincere gratitude to the former Chief Justice of India, Hon'ble Justice Ranjan Gogoi, the then Chairperson of National Judicial Academy, India, Bhopal for granting his kind approval to undertake the research project by the Academy.

We are very grateful to Justice G. Raghuram, Hon'ble Director of the National Judicial Academy in expressing his confidence in us and providing continuous support at all stages to carry out this project satisfactorily.

We are indebted to the Hon'ble Justice S.K. Seth, Former Chief Justice of Madhya Pradesh High Court, for granting his permission and assistance to conduct the study of Family courts under the jurisdiction of the Madhya Pradesh High Court. It is only due to assistance from the Madhya Pradesh High Court the task of conducting field study could be carried out smoothly. We are also thankful to Shri B.P Sharma, Registrar (D.E.), for his help and coordination to circulate the questionnaire to all presiding judges of family courts of Madhya Pradesh which facilitated us in collecting data in time.

We wish to express our sincere gratitude and appreciation to the Principal and Additional Judges of Family Courts of Madhya Pradesh who provided their honest opinions on institutional gaps and suggestions on measures to address pendency. The

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CHAPTER - ONE

INTRODUCTION

The family justice system increasingly finds itself attempting to respond to changes in family life.¹ Dramatic changes in the structure of the family have occurred in the past few decades.² Family roles and relationships also have transformed as the structure of the family has altered. These changes in family roles and relationships both arise from and contribute to the redefined functions the family now performs. The increased mobility of contemporary families often results in a loss of stability for family members.³

In the last thirty years, family matters have undergone numerous changes starting from divorce to child custody, property disputes, demands of maintenance and other dispute areas pertaining to a family with the change in society. With matters relating to separation and divorce comes bigger question of welfare of children from these disturbed marriages which have emerged as a concern over the years. With the influx of cases pertaining to family disputes and unsettled situation of dealing with these matters due to their complex nature, the already burdened courts are flooded, inefficient and under resourced to deal with the intricacies involved in family matters. It is well established that family disputes are complex and peculiar in nature, therefore, requires much time and attention before reaching to a conclusion in any case. The litigation involved in these matters is a traumatic experience for the families as well as children involved. Thus, informal hearing and quick disposal is essential requirement in family dispute cases.

The Law Commission of India in its 59th Report (1974) stressed for adoption of an approach in family dispute matters radically different from that adopted in ordinary civil proceedings and to make reasonable efforts to arrive at settlement before commencement of the trial. The Code of Civil Procedure was amended in 1976 to

¹ State Justice Institute, State Court. Caseload Statistics Annual Report, 1992 (Feb. 1994), cited in Amy Stevens, The Business of Law: Lawyers and Clients; More Than Just Torts, *Wall Street Journal*., July 1, 1994, at B6; see also Gary B. Melton, Children, Families, and the Courts in the Twenty First Century, *66 Southern California. Law Review*. 1993, 2006-07 (1993) (predicting that family law cases will increase and are likely to become more difficult).

² Mary Ann Glendon, *The Transformation of Family Law: State, Law, and Family in the United States And Western Europe* 4 (1989).

³ Janet M. Bowermaster, "Sympathizing with Solomon: Choosing Between Parents in a Mobile Society", *31 University Louisville Journal of Family Law*. 791, 795-96 (1992-93)

provide for a special procedure to be adopted in suits or proceedings relating to matters concerning the family. However, not much use has been made by courts in adopting this conciliatory procedure and courts continues to deal with family disputes in the same manner as other civil matters with prevailing adversary approach. In 1975, the Committee on the Status of Women recommended that all matters concerning the 'family' should be dealt with separately.⁴

Thereafter, considering the nature of disputes, a separate and special court was established under the Family Court Act, 1984 (hereinafter referred to as the Act) giving a separate space for family disputes where the court is dedicated to deal with family matters excluding other civil and criminal jurisdiction. The Act was enacted to achieve manifold objectives such as decongestion of ordinary trial courts and providing amicable environment for resolving family disputes. The Act provides for establishment of Family Courts by the State Government in consultation with High Court, to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs and matters connected therewith. Under Sec. 3(1)(a) of the Act, it is mandatory for the State Government to set up a Family Court for every area in the State comprising a city or a town whose population exceeds one million. In other areas of the States, the Family Courts may be set up if the State Governments deem it necessary.

The main objectives and reasons for setting up of Family Courts are to:

- (i) create a specialized court which will exclusively deal with family matters so that such a court may have the necessary expertise to deal with these cases expeditiously. Thus expertise and expedition are two main factors for establishing such a court;*
- (ii) institute a mechanism for conciliation of the disputes relating to family;*
- (iii) provide an inexpensive remedy; and*
- (iv) flexibility and an informal atmosphere in the conduct of proceedings*

The Family Courts in India have become last resort for families in dispute when they have nowhere else to approach for addressing their issues. Families are at stake and

⁴ Family Courts (Report on Working of Family Courts and Model Family Courts), *National Commission for Women*, Report of the Workshop, March 2002

much more responsibilities lies on the shoulder of judiciary to make the wheel spinning in right direction. Over passage of time Family Courts in India have retuned the interpretation of law to fit family disputes within societal demands towards betterment and reorganizing families seeking relief.

The purpose of establishing Family Court as special court was to provide speedy settlement of dispute by non-adversarial and multi-disciplinary approach. It was emphasized that alternative dispute resolution mechanism like conciliation & mediation should be resorted to in such matters to minimize court intervention and facilitate amicable settlement amongst parties. Also, it was aimed that Family Court should include gender sensitized personnel including Judge in charge, social workers and trained staff of these courts.⁵ The Family Court were expected to operate with flexible rules & procedures, and simplified norms of evidence to provide non-litigating environment for benefit of both the parties in resolving their dispute.

The Act makes it obligatory on the part of a Family Court judge to make an endeavor in the first instance to effect a reconciliation or a settlement between the parties to a family dispute subject to the circumstances of each case. It was suggested that family dispute matters must be sent for pre-litigation conciliation where proceedings should be informal and rigid rules of procedure shall not be applied.⁶ Further, to achieve the objectives of setting up these special courts, it was laid down in Sec. 13 of the Act that parties to a dispute before a family court shall not be entitled as matter of right to be

⁵ *The Family Court Act*: Sec. 5. Association of social welfare agencies, etc.

The State Government may, in consultation with the High Court, provide, by rules, for the association, in such manner and for such purposes and subject to such conditions as may be specified in the rules, with a Family Court of—

- (a) institutions or organizations engaged in social welfare or the representatives thereof;
- (b) persons professionally engaged in promoting the welfare of the family;
- (c) persons working in the field of social welfare; and
- (d) Any other person whose association with a Family Court would enable it to exercise its jurisdiction more effectively in accordance with the purposes of this Act.

⁶ *Ibid.*, Sec. 9. Duty of Family Court to make efforts for settlement.

- (1) In every suit or proceeding, endeavor shall be made by the Family Court in the first instance, where it is possible to do so consistent with the nature and circumstances of the case, to assist and persuade the parties in arriving at a settlement in respect of the subject-matter of the suit or proceeding and for this purpose a Family Court may, subject to any rules made by the High Court, follow such procedure as it may deem fit.
- (2) If, in any suit or proceeding, at any stage, it appears to the Family Court that there is a reasonable possibility of a settlement between the parties, the Family Court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect such a settlement.
- (3) The power conferred by sub-section (2) shall be in addition to, and not in derogation of, any other power of the Family Court to adjourn the proceedings.

represented by a legal practitioner and only if required the judge may appoint a legal expert as *amicus curiae*. Considering the intimate nature of these cases the court may take assistance of medical and welfare experts as required. There is also a provision under Sec. 11 of the Act for an *in-camera* proceedings which can be ordered if parties desire. Likewise, there are various other provisions in the Act to ensure speedy disposal of family dispute matters.

Along with the Act, each state has their own rules applicable to Family Courts under the jurisdiction of respective High Courts. Sec. 7 of the Act states that a Family Court shall have the power and jurisdiction exercisable by any district court or any subordinate civil court in suits and proceedings of the nature referred to in the explanation to Sec. 7(1) of the Act.

- **Nullity of Marriage:** A suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring the marriage to be null and void or, as the case may be, annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage;
- **Validity of Marriage and Matrimonial Status of a Person:** A suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person;
- **Property Disputes:** A suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them;
- **Order/ Injunction arising out of Marital Relationship:** A suit or proceeding for an order or injunction in circumstance arising out of a marital relationship;
- **Declaration of Legitimacy of any Person:** A suit or proceeding for a declaration as to the legitimacy of any person;
- **Maintenance:** A suit or proceeding for maintenance; and
- **Guardianship/ Custody of Minor:** A suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.

The above category can be divided into two broad heads;

- civil and,
- criminal whereby, the suits pertaining to maintenance under Sec. 125 of the CrPC would fall under the category.

Further, Family Court has the following powers:

- Family Courts are empowered to make their own rules and procedure as per the requirement.

- During trial, the presiding judge is not required to record the oral statement of the witness at length.
- The court can receive any document or statement even if not admissible under the Indian Evidence Act.

Since the present study relates to analyzing pendency in Family Courts of Madhya Pradesh, it is necessary to understand how a dispute is instituted in Family Courts to find out the reason for delay from the stage of institution till its final disposal. The steps for filing a case in the Family Court are as follows:

- Detailed description in the suit about the nature of problem, section involved, duration of problem, type of intervention sought from Family Court to be submitted on water marked paper along with court fee.
- An affidavit declaring the facts to be true as mentioned in the suit.
- The suit along with required documents submitted to the registrar of Family Court, who verifies all relevant documents and then presents it to the Principle Judge of the Family Court.
- After verification of file and hearing the petition the Principal Judge decides whether the suit is fit to be registered in family court.
- If the case is registered, then summons is issued to the other party and a date of hearing is given.

The legal process must operate effectively due to the unique and powerful impact Family Courts have by intervening explicitly in families and children's lives. These courts were setup to incorporate flexible rules and procedures to deal with the complex and intricate nature of family dispute cases. The liberal procedures and the powers were entrusted with these Family Courts to make them more accessible, and more responsive to children, parents and families.⁷

1. Significance of the Research

The Family Courts were established to fast track the court procedures and provide quick relief to the parties affected. The Act empowers the presiding judge with numerous alternatives and powers which can be used as a tool to speed up the matter without unusual delay. However, the recent facts and figures tell a different story about

⁷ Barbara A. Babb, Family Courts are here to Stay, So Let's improve them, *Family Court Review*, Vol 52, No. 4, October 2014, 642-647

Family Courts in India. The problem of delay in Family Courts is persistent and it is increasing rapidly. The courts are flooded with plethora of cases demanding and seeking remedies. The purpose of the Act to set up a separate court dealing specifically with family matters and provide quick relief is not achieved as it was expected. The court has become another civil court where the load of procedures and slow pace of hearing have encroached the trial proceedings. These courts are now suffocating with huge pendency and low disposal rate.

It is important to note that the state of Kerala has the highest number of pendency (52436) followed by Madhya Pradesh and Bihar. This is an alarming state where the pendency is accumulated every day but the courts are deficient to dispose-off the cases within stipulated time period.

It is a matter of concern that Family Courts in the country are still lacking from uncertainties and gaps that are yet to be bridged. Therefore, the present study focuses to abridge the institutional and capacity gap by proposing measures to make litigant friendly and accessible Family Courts, such as upgrading them with ICT, adopting simplified procedure, and expeditious process & procedures to facilitate speedy disposal. Thereby reducing the pendency in these courts by addressing issues which are responsible for delay and congestion in the state of Madhya Pradesh. The project is an attempt to devise a way forward strategy for Family Courts by deliberating upon the findings of, and recommendations made in this report.

2. Objective of the Research

The study on analysis of pendency of cases in Family Courts of Madhya Pradesh and methods to reduce pendency was undertaken to achieve the following objectives to:

- understand the pattern of pendency in family dispute by categorizing cases and to identify bottlenecks for the purpose of analysis;
- suggest measures to remove identified bottlenecks affecting expeditious disposal of family cases and factors triggering delay;
- find out the efficacy of Alternate Dispute Resolution Mechanism in the system to address concerns of pendency in Family Courts;
- undertake a comparative study of different jurisdictions of common law countries to suggest best practices; and
- recommend policy and procedural change which may be adopted in family disputes cases.

3. Universe of the Research

The Indian judiciary was saddled with about 3 crore pending cases of which 81 lakh cases were just a year old and 50 lakh were petty cases such as Motor Vehicle Act violation. About 25 lakh cases had been pending for more than 10 years which was a cause of concern as pendency was resulting in a lot of disrepute to the judicial system.⁸ In view of increasing number of marital disputes, the Supreme Court directed all Family Courts in the country to dispose-off matrimonial disputes expeditiously, further pointing that delay in adjudicating of dispute by Family Court will not only be considered against human rights but also a contravention to the basic embodiment to the dignity of an individual. Out of total pendency in the Indian courts, approximately 800,000 are pending in family courts of India. Since this report is confined to analysis of pendency in Family Courts of Madhya Pradesh, the present study limits its data to pendency and bottlenecks of districts falling under the jurisdiction of the Madhya Pradesh High Court.

Approximately 40,000 cases are pending in Family Courts of Madhya Pradesh. The total number of cases falling under 0-1 year are 10185 for civil, and 12174 for criminal. A total of 9666 cases are pending under 1-3 years as on 26 February 2019. Out of which 3429 are civil and 6237 are criminal. Under the category 3-5 years (2014-2015), it was observed that 2360 cases are pending. Further, there are 436 cases pending under 5-10 years and 79 cases pending from 10-20 years. There are two districts Satna and Sidhi each of them have a case pending for more than 20 years as on 28 February 2019.

The tables below gives an overview of cases pending from 0-1 year, 1-3 years, 3-5 years, 5-10 years, and 10-20 years in 42 Family Courts working under the jurisdiction of Madhya Pradesh High Court.*

⁸ (2019), 'Pendency a cause for concern, says CJI', The Hindu, 04 February, Available at: <https://www.thehindu.com/news/national/andhra-pradesh/pendency-a-cause-for-concern-says-cji/article26169645.ece> Accessed on: 20/09/2019

* Note: The data for Family Courts of Indore and Gwalior was not available on the NJDG and hence not represented in tables below.

Sr. No.	Districts	Between 0-1 year	Between 1 -3 years	Between 3 -5 years	Between 5 -10 years	Between 10 - 20 years
1.	<i>Ashoknagar</i>	217	91	20	8	-
2.	<i>Balaghat</i>	443	209	19	-	-
3.	<i>Barwani</i>	82	36	6	-	-
4.	<i>Bhopal</i>	2838	1462	332	88	20
5.	<i>Betul</i>	509	168	87	-	-
6.	<i>Bhind</i>	608	256	69	22	3
7.	<i>Burhanpur</i>	482	202	24	10	-
8.	<i>Chhatarpur</i>	461	127	13	2	3
9.	<i>Chhindwara</i>	778	468	86	10	1
10.	<i>Damoh</i>	485	251	93	1	-
11.	<i>Datia</i>	406	86	17	-	-
12.	<i>Dewas</i>	366	70	13	-	-
13.	<i>Dhar</i>	341	104	39	-	-
14.	<i>Dindori</i>	324	143	84	1	1
15.	<i>Guna</i>	549	168	26	-	-
16.	<i>Hoshangabad</i>	301	181	22	1	-
17.	<i>Jabalpur</i>	2180	941	195	69	5
18.	<i>Katni</i>	747	379	142	42	7
19.	<i>Jhabua</i>	188	39	12	-	-
20.	<i>Khandwa</i>	632	180	43	-	-
21.	<i>Narsinghpur</i>	417	210	19	1	-

Sr. No.	Districts	Between 0-1 year	Between 1 -3 years	Between 3 -5 years	Between 5 -10 years	Between 10 - 20 years
22.	<i>Mandla</i>	429	272	69	6	1
23.	<i>Morena</i>	455	275	79	-	-
24.	<i>Mandsaur</i>	77	42	4	-	-
25.	<i>Neemuch</i>	509	168	87	-	-
26.	<i>Panna</i>	323	99	20	25	-
27.	<i>Raisen</i>	144	26	8	-	-
28.	<i>Rajgarh</i>	456	280	66	16	-
29.	<i>Ratlam</i>	570	224	27	-	-
30.	<i>Rewa</i>	378	230	58	20	-
31.	<i>Sagar</i>	415	205	34	23	5
32.	<i>Satna</i>	726	400	124	5	-
33.	<i>Sehore</i>	380	74	37	-	-
34.	<i>Seoni</i>	590	223	102	44	30
35.	<i>Shahdol</i>	303	148	56	15	-
36.	<i>Shajapur</i>	275	75	7	-	-
37.	<i>Shipuri</i>	434	69	1	-	-
38.	<i>Sidhi</i>	199	189	80	7	3
39.	<i>Singrauli</i>	235	140	37	-	-
40.	<i>Tikamgarh</i>	467	104	59	27	-
41.	<i>Ujjain</i>	915	327	56	14	-
42.	<i>Vidisha</i>	261	38	154	27	-

** The above data is collected and collated from National Judicial Data Grid (NJDG) as on 26 February 2019*

Considering the increasing number of disputes coming before Family Courts, it is apparent from the above table that the level of pendency in Family Courts of Madhya

Pradesh is consecutively increasing. Since the family which is in dispute is at stake, any delay would vitiate the purpose for setting up these special courts. Family Courts in Madhya Pradesh are effectively overwhelmed and disputes relating to separation, divorce and maintenance are major component of that overload. The result is the significant delays, and those delays in final resolution increase anxiety and uncertainty at a time when parents and children need stability to reorganize their lives.

4. Research Methods

A. Primary Data

There are 52 districts in the state of Madhya Pradesh, out of which around 48 districts have functional Family Courts (additional Family Courts are excluded and some courts have linked courts for one or more districts).

Sample: Data was collected from all Family Courts of Madhya Pradesh through questionnaire. The stakeholders for this research are principal judges of Family Court from different districts of Madhya Pradesh like Ashoknagar, Betul, Bhind, Bhopal, Burhanpur, Chhatarpur, Chhindwara, Datia, Dewas, Dhindori, Guna, Gwalior, Hoshangabad, Indore, Jabalpur, Katni, Khandwa, Mandsaur, Morena, Neemuch, Panna, Rajgarh, Ratlam, Rewa, Sagar, Satna, Seoni, Shahdol, Shivpuri, Sidhi, Tikamgarh, Ujjain.

To obtain inclusive data, varied tools and techniques were adopted in the light of objectives of the study:

- **Questionnaire:** A comprehensive questionnaire was prepared and circulated through the High Court of Madhya Pradesh to all the Family Courts under its jurisdiction. The questionnaire was designed to identify the relevant problems of delay in delivery of justice and speedy trial in crisis area before Family Courts of Madhya Pradesh and it was to be filled in by the Principal Judges presiding over these courts.
- **Visit to Family Courts:** A field study was undertaken to Family Courts of various districts to identify ground realities and infrastructural requirements. Physical verification of records/files and registers was undertaken to understand details of proceedings, facts presented in cases and the manner in which cases are handled by the Family Courts was also studied during the visit.

- **Interview of Principal Judge of Family Courts:** Since the Principal Judge are main functionaries of Family Courts, their inputs are pertinent for the present research to identify the problems faced by them while adjudicating matters of family dispute, the capacity and institutional deficiencies.
- **Interview of Mediators and Counselors:** A cooperative use of ADR is well accepted mechanism to resolve family disputes before adjudication which will help in reducing the burden of Family Courts. To understand the role of mediators and counselors in family disputes interview of mediators and counsellors was undertaken.
- **Observation:** The research team observed courts proceedings and infrastructure available to family courts.

B. Secondary Data

An analysis of existing legislative mechanism in the light of family matters and data on pendency in Family Courts was undertaken. To address the question of pendency in the Family Courts, a detailed study was conducted to the extent of available data. Online resources like the National Judicial Data Grid, and e-courts website were assessed for collecting preliminary data. Scholarly commentaries, by the Indian as well as foreign scholars were relied upon to build a theoretical understanding of the subject. A detailed study of the working of Family Courts in various countries was carried out which included category of matters coming before Family Court, the number of judges, duration of cases and the available staff in these courts.

5. Scope and Limitation of the Study

The present research is an attempt to analyze the pattern of pendency in Family Courts of Madhya Pradesh and evolving action points to reduce the pendency and address bottlenecks. The major limitation of the study stems from the fact that consistently uniform data under different districts identified for the study is not static which creates impediments to arrive at an accurate comparative picture in all arears.

6. Structure of the Research Report

The *First Chapter* introduces the context, need and parameters of the study, along with a detailed explanation of the methodology followed in conducting research.

The *Second Chapter* provides an overview of pendency under various categories & sub-categories of cases filed before Family Courts.

The *Third Chapter* includes an analysis of the questionnaire which mainly focuses on core areas like the need for continuous training, reasons for pendency, importance of court and case management, role of alternative dispute resolution, use of information and communication technology, and available infrastructure.

The *Fourth Chapter* collates findings of field study which includes inputs from main functionaries of Family Courts and observation of court proceedings.

The *Fifth Chapter* undertakes a comparative study of best practices followed in Family Courts across different jurisdictions of Australia, New Zealand, Singapore, United Kingdom and United States.

Finally, the *Sixth Chapter* concludes with recommendations based on findings through the study and suggests immediate possible solutions to deal with the current crisis of delay in Family Courts and to optimize their efficiency.

CHAPTER-TWO

PENDENCY: CATEGORIZATION & SUB-CATEGORIZATION OF CASES

Family Courts have been experiencing docket explosion, pending cases and arrears for over a long time. At present there are more than 40,000 cases pending in various courts of Madhya Pradesh. Large number of pending cases have crippled the efficient working of Family Courts adversely affecting timely delivery of justice in family disputes. The Act was enacted to provide for establishment of Family Courts to streamline the specific category of disputes which can be settled by special courts to reduce the burden of regular courts by promoting conciliation techniques to secure speedy settlement in family affairs and matters connected therewith. Courts are deemed to be custodian and are entrusted to uphold rights of the citizen. Public confidence is essential to maintain a freedom limited by the need for order in society. There are beliefs that could destroy society's confidence in courts and can do great damage to the society. People may believe that value of a just judgement will be lost due to inefficiency and delay by courts; people come to believe that law will be inefficient to fulfill its primary function to protect them and their families in all spheres.⁹

The Supreme Court in *Bhuwan Mohan Singh v. Meena and ors*¹⁰ made certain observations while dealing with maintenance cases that it is unfortunate for such cases to continue for nine years before the Family Court. The Court further observed that on certain occasions judges have been granting adjournments in a routine manner as a consequence of which both the parties suffer and wife becomes the worst victim. When such methodologies are adopted by judges then it will vitiate the entire purpose of law.

The Apex Court further emphasized that Family Court Judge is expected to be sensitive to issues pertaining to the marriage and ancillary thereto. He is expected to draw a distinction wisely and should be aware of the situation he is dealing with. A

⁹ V. R. Krishna Iyer, *Democracy of Judicial Remedies*, According to Chief Justice Warren E. Burger of the US Supreme Court: "A sense of confidence in courts is essential to maintain the fabric of ordered liberty for free people and three things could destroy that confidence and do incalculable damage to society: that people come to believe that inefficiency and delay will drain even a just judgement of its value; that people who have long been exploited in the smaller transactions of daily life come to believe that courts cannot vindicate their legal rights from fraud and over-reaching; that people come to believe the law—in the larger sense—cannot fulfil its primary function to protect them and their families in their homes, at their work, and on the public streets."

¹⁰ AIR 2014 SC 2875

Family Court judge should remember that delay in family disputes would gradually build unthinkable bitterness among the parties. The Court further highlighted that Family Court judges should remain alert and decide the matters as expeditiously as possible keeping in view the objects and reasons of the Act and upholding the scheme of various provisions pertaining to grant of maintenance, divorce, custody of the child, property disputes, etc.

The Apex Court underlined the importance of Sec. 125 of the CrPC which was conceived to ameliorate the agony and financial suffering of a woman who has left her matrimonial home, so that some suitable arrangements can be made by the Court by expanding the scope of the provision. The Court further pointed out that wife is entitled in law to lead a life in a similar manner as she would have lived in the house of her husband and situation is not to be maladroitiy created where under she is compelled to resign to her fate and think of life "dust unto dust". It is totally impermissible. In fact, it is the sacrosanct duty to render financial support even if the husband is required to earn money with physical labour if he is able-bodied. There is no escape route unless there is an order from the Court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds.

Based on the above observations, it is vital to find out and analyze the pendency in Family Courts, and reasons for delay to address institutional and capacity gaps. Therefore, data pertaining to pendency of cases for over a year and above was collected from National Judicial Data Grid. The cases were analyzed and grouped to find out the category with maximum pendency. While the research team restricted to categorizing cases pending for 3 years and above, it was noted that approximately 2877 cases are pending. Out of which 2360 cases are pending for 3-5 years, 436 cases are pending for 5-10 years and around 79 cases are pending for 10 years and more. There were districts with cases pending for 20 years, however the number is minimum. The cases, categorized under broad heads of civil and criminal, were sub-categorized under specific provisions of different legislations.

Criminal Cases

Criminal Procedure Code							
Sections	Sec. 123	Sec. 125	Sec. 125(3)	Sec. 126	Sec. 127	Sec. 128	Misc.
3-5 Years	1	353	1250	4	37	68	45
5-10 Years	-	34	264	-	27	12	12
10-20 Years	-	3	61	-	-	-	1

(Table No. 1)

From the above table, it can be noted that out of 2260 total criminal cases pending, approximately 390 cases are pending under Sec. 125 (Maintenance cases) and 1575 cases are pending under Sec. 125(3) (Recovery proceedings). Other provisions under which cases are pending include Sec. 126, 127 and 128 of the CrPC. (A detailed district wise, categorization tables are attached at the end of this chapter).

Civil Cases

The categorization of cases could also be done based on different legislations which are applicable to family courts such as Hindu Marriage Act, 1955; Hindu Adoptions and Maintenance Act, 1956; Guardians and Wards Act, 1890; Hindu Minority and Guardianship Act, 1956; Special Marriage Act, 1954; Indian Divorce Act, 1869; Code of Civil Procedure 1908, Dissolution of Muslim Marriage Act, 1939 and Muslim Personal Shariat Act, 1937.

Civil Cases

3-5 Years						
Hindu Marriage Act						
Sec. 9	Sec. 10	Sec. 11	Sec. 12	Sec. 13	Sec.(s) 20,21,24, 25,27 & 28	Misc.
83 cases	5 cases	3 cases	7 cases	182 cases	19 cases	63 cases
Civil Procedure Code						
Sec.(s) 6 & 7		Sec. 13	O. 9 R. 4	O.12 & 21	O.21	
2 cases		3 cases	4 cases	5 cases	14 cases	
Guardian and Wards Act						
Sec. 6,7,10 & 25		Sec. 8	Sec.12	Sec. 19 & 20	Sec.25	
14 cases		2 cases	3 cases	2 cases	9 cases	
Hindu Adoption and Maintenance Act						
Sec. 6		Sec. 9 & 10		Sec. 18, 19 & 20		Sec. 25
1 case		2 cases		5 cases		2 cases

(Table No. 2)

5-10 years				
Hindu Marriage Act				
Sec. 9	Sec. 11	Sec. 12	Sec. 13	Sec. 24

12 cases	1 case	7 cases	29 cases	2 cases
Civil Procedure code			Guardian and Wards Act	
O. 21			Sec. 25	
7 cases			2 cases	

(Table No. 2.1)

10-20 years	
Hindu Marriage Act	
Sec. 3	Sec. 9
6 cases	1 case

(Table No. 2.2)

From the above charts, it can be noted that cases under Sec. 9 (Restitution of Conjugal Rights) and Sec. 13 (Dissolution of Marriage) of the Hindu Marriage Act largely contribute to pendency. Other sections of the Hindu Marriage Act include Sec. 10, 11, 12, 20, 21, 24, 25, 27 and 28 under which cases can be seen pending for 3-5 years.

Around 30 cases are pending under different provisions of the Civil Procedure Code and 30 cases under the Guardian and Wards Act, 10 cases under the Hindu Adoption and Maintenance Act and 1 case was found pending under the Dissolution of Muslim Marriage and Muslim Personal Shariat Act each for 3-5 years.

Further cases pending for 5-10 years mostly fall under Sec. 9, 11, 12, 13 and 24 of the Hindu Marriage Act, 7 cases under Order 21 of the CPC and 2 cases under Sec. 25 of the Guardian and Wards Act. Cases pending for 10-20 years include one case pending under Sec. 9 and 6 cases pending under Sec. 13 of the Hindu Marriage Act.

For the purpose of analysis some sections have been put together only to find out total pendency under a specific legislation. Therefore, it can be observed that there are only a few categories of cases responsible for adding to pendency in Family Courts of Madhya Pradesh.

The reasons for pendency under the above identified categories and sub-categories of cases have been dealt in Chapter III including an in-depth analysis of the reasons and bottlenecks.

Institution v. Disposal

Considering the current situation, pending cases were analyzed. However, it is essential to study the type of cases instituted and the rate of disposal in Family Courts of Madhya Pradesh, to identify the capacity gap.

From the preliminary study, it was found that the institution of new cases is increasing rapidly over the years, but the disposal of these new cases is slower than the number of cases instituted. It was also observed that maximum cases are filed under Sec. 9 and 13 of the Hindu Marriage Act and Sec. 125 of the CrPC. (The said detail have been collected through questionnaire which is analyzed at length in Chapter III)

The Table No. 3 gives year-wise breakup of cases instituted under two specific categories: (1) criminal cases relating to maintenance, and (2) civil cases relating to divorce.

Year	Maintenance Cases	Divorce Cases	Total
2015-2016	5819	4134	9953
2016-2017	6089	3557	9646
2017-2018	6809	3572	10,381
Total	16,717	11,263	27,980

(Table No. 3)

During the period of 2015-2018, a total of 16,717 cases were filed under Sec. 125 of the CrPC and around 11,263 cases were filed under Sec. 13 of the Hindu Marriage Act. It is pertinent to note that a total of 27,980 cases were instituted under these two categories.

An application for maintenance must be disposed of at the earliest considering the observations of the Supreme Court. Therefore, systematic arrangements are required to deal with the situation otherwise it will add to ever increasing backlogs.

A judge alone is not responsible for speedy disposal of family dispute cases, the disposal and outcome of a case depends on several factors such as facts and circumstance of each case, the legal position, and manner in which case is presented, outcome of settlement procedures, ability and efficiency of advocates, care taken by litigants to place evidence on record, infrastructure available, and support staff etc. All these factors are equally relevant and plays a key role to address concerns of delay and speed up the process and procedures in Family Courts.

The following data sheet provides a brief analysis of cases pending under various categories & sub-categories in different family courts of Madhya Pradesh.

Categorization of Criminal Cases – District Wise Pendency

Tables below gives a detailed categorization of criminal cases pending under specific provisions of Criminal Procedure Code. The said tables also provide districts wise

pendency for 3-5 years [Table No. 4 (Criminal)], 5-10 years [Table No. 4.1 (Criminal)] and 10-20 years [Table No. 4.2 (Criminal)] under each category.

Criminal Cases (Table No. 4)

3-5 Years

S. N.	District	Criminal									Total
		Maintenance			CrPC S. 126	CrPC S. 127	CrPC S. 128	CrPC S. 340	CrPC S. 446	Misc.	
		S. 123	S. 125	S. 125(3)							
1.	Ashoknagar	-	-	16	1	-	-	-	-	-	17
2.	Balaghat	-	4	9	-	2	-	-	-	-	14
3.	Barwani	-	2	1	-	-	-	-	-	-	3
4.	Bhopal	1	90	117		3	1			12	224
5.	Betul	-	1	75	-	-	-	-	-	6	82
6.	Bhind	-	5	48	-	-	7	-	-	-	60
7.	Burhanpur	-	-	21	-	-	-	-	2	-	23
8.	Chhatarpur	-	2	-	-	-	8	-	-	-	10
9.	Chhindwara	-	17	52	-	4	-	-	-	3	76
10.	Damoh	-	8	51	-	5	16	-	-	-	80
11.	Datia	-	5	9	-	1	-	-	-	-	15
12.	Dewas	-	1	4	-	-	-	-	-	1	6
13.	Dhar	-	1	36	-	-	-	-	-	-	37
14.	Dindori	-	4	73	-	-	-	-	-	3	80
15.	Guna	-	3	-	-	-	17	-	-	-	20
16.	Hosangabad	-	5	3	-	1	-	-	-	-	9
17.	Jabalpur	-	50	87	-	3	-	1	-	3	144
18.	Katni	-	16	94	-	2	2	-	-	-	114
19.	Jhabua	-	2	8	-	-	-	-	-	-	10
20.	Khandwa	-	11	30	-	-	-	-	-	-	41
21.	Narsinghpur	-	4	12	-	-	-	-	-	-	16
22.	Mandla	-	2	4	-	-	53	-	-	-	59
23.	Morena	-	19	39	1	1	1	-	-	-	61
24.	Mandsaur	-	4	18	-	1	2	-	-	2	27
25.	Mandleshwar	-	-	2	-	-	-	-	-	-	2
26.	Neemuch	-	5	1	-	1	8	-	-	-	15
27.	Panna	-	4	19	-	1	-	-	-	-	24
28.	Raisen	-	1	6	-	-	-	-	-	-	7
29.	Rajgarh	-	5	53	-	3	-	-	-	-	61

S. N.	District	Criminal									Total
		Maintenance			CrPC S. 126	CrPC S. 127	CrPC S. 128	CrPC S. 340	CrPC S. 446	Misc.	
		S. 123	S. 125	S. 125(3)							
30.	Ratlam	-	7	3	-	1	1	-	-	-	12
31.	Rewa	-	4	24	-	3	-	-	-	-	31
32.	Sagar	-	3	11	-	-	-	-	-	8	22
33.	Satna	-	14	81	1	2	-	-	-	3	101
34.	Sehore	-	3	28	-	-	-	-	-	2	33
35.	Seoni	-	7	83	-	-	-	-	-	1	91
36.	Shahdol	-	2	48	-	-	-	-	-	-	50
37.	Shajapur	-	2	-	-	-	-	-	-	-	2
38.	Shivpuri	-	-	-	-	-	-	-	-	1 (IPC)	1
39.	Sidhi	-	11	46	1	1	-	-	-	-	59
40.	Singrauli	-	7	23	-	-	-	-	-	-	30
41.	Tikamgarh	-	-	-	-	2	52	-	-	-	54
42.	Vidisha	-	-	15	-	-	-	-	-	-	15

Criminal Cases (Table No. 4.1)
5-10 Years

S. N.	District	Criminal Cases							
		Maintenance		CrPc S. 126	CrPc S. 127	CrPc S. 128	CrPc S. 340	Misc.	Total
		S. 125	S. 125(3)						
1.	Ashoknagar	-	2	--	--	--	--	--	2
2.	Balaghat	-	-	--	--	--	--	--	
3.	Barwani	-	-	--	--	--	--	--	
4.	Bhopal	9	56	--	--	--	--	3	68
5.	Betul	-	-	--	--	--	--	--	
6.	Bhind	1	13	-	-	4	--	--	18
7.	Burhanpur	1	9	-	-	-	--	--	10
8.	Chhatarpur	-	-	-	-	2	--	--	2
9.	Chhindwara	1	7	-	-	-	--	--	8
10.	Damoh	-	-	-	-	-	--	--	
11.	Datia	-	-	-	-	-	--	--	
12.	Dewas	-	-	-	-	-	--	--	
13.	Dhar	-	-	-	-	-	--	--	
14.	Dindori	-	1	-	-	-	--	--	1

S. N.	District	Criminal Cases							
		Maintenance		CrPc	CrPc	CrPc	CrPc	Misc.	Total
		S. 125	S. 125(3)	S. 126	S. 127	S. 128	S. 340		
15.	Guna	-	-	-	-	-	-	-	
16.	Hosangabad	-	-	-	-	-	--	--	
17.	Jabalpur	7	35	-	-	1	1	2	46
18.	Katni	1	41	-	-	-	--	--	42
19.	Jhabua	-	-	-	-	-	--	--	
20.	Khandwa	-	-	-	-	-	--	--	
21.	Narsinghpur	-	-	-	-	-	--	--	
22.	Mandla	-	1	-	-	5	--	--	6
23.	Morena	-	-	-	-	-	--	--	
24.	Mandsaur	-	-	-	-	-	--	--	
25.	Mandleshwar	--	--	--	--	--	--	--	
26.	Neemuch	--	--	--	--	--	--	--	
27.	Panna	--	--	--	--	--	--	--	
28.	Raisen	--	--	--	--	--	--	--	
29.	Rajgarh	--	13	--	--	--	--	2	15
30.	Ratlam	-	-	-	-	-	-	-	
31.	Rewa	3	13	-	1	-	-	2	18
32.	Sagar	5	10	-	-	-	-	2	17
33.	Satna	-	1	-	-	-	-	-	1
34.	Sehore	-	-	-	-	-	-	-	
35.	Seoni	5	39	-	-	-	-	-	44
36.	Shahdol	-	15	-	-	-	-	-	15
37.	Shajapur	-	-	-	-	-	-	-	
38.	Shivpuri	-	-	-	-	-	-	-	
39.	Sidhi	-	5	1	-	-	-	1	7
40.	Singrauli	-	-	-	-	-	-	-	
41.	Tikamgarh	-	-	-	-	27	-	-	27
42.	Vidisha	1	3	-	-	-	-	-	4

Criminal Cases (Table No. 4.2)
10 - 20 Years

S. N.	District	Criminal						
		Maintenance		CrPC S. 126	CrPC S. 127	CrPC S. 128	Misc.	Total
		S. 125	S. 125(3)					
1.	Ashoknagar	-	1	-	-	-	-	1
2.	Balaghat	-	-	-	-	-	-	-
3.	Barwani	-	-	-	-	-	-	-
4.	Bhopal	1	13				-	14
5.	Betul	-	-	-	-	-	-	-
6.	Bhind	-	2	-	-	-	-	2
7.	Burhanpur	-	-	-	-	-	-	-
8.	Chhatarpur	-	1	-	-	2	-	3
9.	Chhindwara	-	1	-	-	-	-	1
10.	Damoh	-	-	-	-	-	-	-
11.	Datia	-	-	-	-	-	-	-
12.	Dewas	-	-	-	-	-	-	-
13.	Dhar	-	-	-	-	-	-	-
14.	Dindori	-	-	-	-	-	-	-
15.	Guna						-	
16.	Hosangabad	-	-	-	-	-	-	-
17.	Jabalpur	-	5	-	-	-	-	5
18.	Katni	-	5	-	-	1	-	6
19.	Jhabua	-	-	-	-	-	-	-
20.	Khandwa	-	-	-	-	-	-	-
21.	Narsinghpur	-	-	-	-	-	-	-
22.	Mandla	-	-	-	-	1	-	1
23.	Morena	-	-	-	-	-	-	-
24.	Mandsaur	-	-	-	-	-	-	-
25.	Mandleshwar	-	-	-	-	-	-	-
26.	Neemuch	-	-	-	-	-	-	-
27.	Panna	-	-	-	-	-	-	-
28.	Raisen	-	-	-	-	-	-	-
29.	Rajgarh	-	-	-	-	-	-	-
30.	Ratlam	-	-	-	-	-	-	-
31.	Rewa	-	-	-	-	-	-	-
32.	Sagar	-	2	-	-	-	1	3
33.	Satna	-	-	-	-	-	-	-

S. N.	District	Criminal						
		Maintenance		CrPC S. 126	CrPC S. 127	CrPC S. 128	Misc.	Total
		S. 125	S. 125(3)					
34.	Sehore	-	-	-	-	-	-	-
35.	Seoni	1	29	-	-	-	-	30
36.	Shahdol	-	-	-	-	-	-	-
37.	Shajapur	-	-	-	-	-	-	-
38.	Shivpuri	-	-	-	-	-	-	-
39.	Sidhi	1	2	-	-	-	-	3
40.	Singrauli	-	-	-	-	-	-	-
41.	Tikamgarh	-	-	-	-	-	-	-
42.	Ujjain	-	-	-	-	-	-	-
43.	Vidisha	-	-	-	-	-	-	-

Categorization of Civil Cases – District Wise Pendency

Tables below gives a detailed categorization of civil cases pending under specific provisions of different legislations. The said tables also provide districts wise pendency for 3-5 years [Table No. 5 (Civil)], 5-10 years [Table No. 5.1 (Civil)] and 10-20 years [Table No. 5.2 (Civil)] under each category.

Civil Cases (Table No. 5) 3-5 Years

S. N.	District	Civil Cases													Total
		Hindu Marriage Act													
		S. 6, 21	S. 7 & 22	S. 9	S. 10	S. 11	S. 12	S. 13	S. 20	S. 24	S. 25	S. 27	S. 28	Misc.	
1.	Ashoknagar	-	-	-	-	-	-	-	-	-	-	-	-	-	0
2.	Balaghat	-	-	-	-	-	-	-	-	-	-	-	-	-	0
3.	Barwani	-	-	-	-	-	-	1	-	1	-	-	-	-	2
4.	Bhopal	-	-	2 3	1	-	3	4 3	-	-	-	-	-	24	94
5.	Betul	-	-	1	-	-	-	1	-	-	-	-	2	1	5
6.	Bhind	-	-	5	-	-	-	3	-	-	-	-	-	-	8
7.	Burhanpur	-	-	1	-	-	-	-	-	-	-	-	-	-	1
8.	Chatarpur	-	-	1	-	-	-	1	-	-	-	-	-	-	2
9.	Chhindwara	-	-	2	-	-	-	4	-	-	-	-	-	-	6
10.	Damoh	-	-	4	-	-	1	4	-	-	-	-	-	-	9
11.	Datia	-	-	-	-	-	-	2	-	-	-	-	-	-	2

S. N.	District	Civil Cases													Total
		Hindu Marriage Act													
		S. 6, 21	S. 7 & 22	S. 9	S. 10	S. 11	S. 12	S. 13	S. 20	S. 24	S. 25	S. 27	S. 28	Misc.	
12.	Dewas	-	-	2	-	-	-	3	-	-	-	-	-	1 (CCC)	6
13.	Dhar	-	-	-	-	-	-	2	-	-	-	-	-	-	2
14.	Dindori	-	-	1	-	-	-	2	-	-	-	-	-	-	3
15.	Guna	-	-	-	-	-	-	-	-	-	-	-	-	6	6
16.	Hosangabad	1	-	2	-	-	-	9	-	-	-	-	-	1	13
17.	Jabalpur	-	-	5	1	1	1	1 8	-	-	3	1	-	3	33
18.	Katni	-	-	4	-	1	1	1 3	-	-	-	-	1	3 (CCC)	23
19.	Jhabua	-	-	-	-	-	-	1	-	-	-	1	-	-	2
20.	Khandwa	-	-	1	-	-	-	-	-	-	-	1	-	-	2
21.	Narsinghpur	-	-	-	-	-	-	2	-	-	-	-	-	-	2
22.	Mandla	-	-	1	-	-	-	-	-	-	-	-	-	6 (CCC)	7
23.	Morena	-	1 (S. 7)	1	-	-	-	8	-	-	-	-	-	1	11
24.	Mandsaur	-	-	-	-	1	-	3	-	-	-	-	1	2	7
25.	Mandleshwar	-	-	-	-	-	-	2	-	-	-	-	-	-	2
26.	Neemuch	-	-	-	-	-	-	1	-	-	-	-	-	1 (Specific Relief)	2
27.	Panna	-	-	-	-	-	-	1	-	-	-	-	-	-	1
28.	Raisen	-	-	1	-	-	-	-	-	-	-	-	-	-	1
29.	Rajgarh	-	-	2	-	-	-	3	-	-	-	-	-	-	5
30.	Ratlam	-	-	2	-	-	-	7	-	-	1	-	-	1	11
31.	Rewa	-	-	9	3	-	-	1 0	-	-	-	1	-	3 (CCC)	26
32.	Sagar	-	-	1	-	-	-	2	1	-	-	-	-	3+1 (S. 125(3) CrPC)	8
33.	Satna	-	-	2	-	-	-	1 1	-	1	-	-	-	5	19
34.	Sehore	-	-	-	-	-	-	3	-	-	-	-	-	-	3
35.	Seoni	-	-	-	-	-	-	6	-	-	1	-	-	1	8
36.	Shahdol	-	-	-	-	-	-	3	-	-	-	-	-	1	4
37.	Shajapur	-	-	2	-	-	-	2	-	-	-	-	-	1 (CRA)	5
38.	Shivpuri	-	-	-	-	-	-	-	-	-	-	-	-	-	0
39.	Sidhi	-	-	9	-	-	1	7	-	2	-	-	-	-	19

S. N.	District	Civil Cases													Total
		Hindu Marriage Act													
		S. 6, 21	S. 7 & 22	S. 9	S. 10	S. 11	S. 12	S. 13	S. 20	S. 24	S. 25	S. 27	S. 28	Misc.	
40.	Singrauli	-	1 (S.22)	1	-	-	-	4	-	-	-	-	-	1	7
41.	Tikamgarh	-	-	-	-	-	-	-	-	-	-	-	-	-	0
42.	Vidisha	-	-	-	-	-	-	-	-	-	-	-	-	-	0

S. N.	District	Civil Cases											
		Civil Procedure Code											Total
		S. 6, 7	S. 9	S. 10	S. 12, 21	S. 13	S. 19, 20	S. 25	S. 54, 151	O. 9 R. 4	O. 21	Misc.	
1.	Ashoknagar	-	-	-	-	-	-	-	-		1	-	1
2.	Balaghat	-	-	-	1	-	-	-	-	1	-	-	1
3.	Barwani	-	-	-	-	-	-	-	-		-	-	0
4.	Bhopal		2	-	-	-	-	-	-		-	-	2
5.	Betul	-	-	-	-	-	-	-	-		-	-	0
6.	Bhind	-	-	-	-	-	-	-	-		1 (O. 21 R. 11)	-	1
7.	Burhanpur	-	-	-	-	-	-	-	-		-	-	0
8.	Chatarpur	1 (S.7)	-	-	-	-	-	-	-		-	-	1
9.	Chhindwara	-	-	-	-	-	-	-	-		1 (R.11)	-	1
10.	Damoh	-	-	-	-	-	-	-	-		-	-	0
11.	Datia	-	-	-	-	-	-	-	-		-	-	0
12.	Dewas	-	-	-	-	-	-	-	-		-	-	0
13.	Dhar	-	-	-	-	-	-	-	-		-	-	0
14.	Dindori	-	-	-	-	-	1	-	-		-	-	1
15.	Guna	-	-	-	-	-	-	-	-	-	-	-	0
16.	Hosangabad	-	-	-	-	-	-	-	-		-	-	0
17.	Jabalpur	-	-	1	-	-	2	-	-	1	1 (R.10)	-	5
18.	Katni	-	-	-	-	-	-	-	-	-	2 (R.25) 1 (R.11)	-	3
19.	Jhabua	-	-	-	-	-	-	-	-	-	-		0
20.	Khandwa	-	-	-	-	-	-	-	-	-	-		0
21.	Narsinghpur	-	-	-	-	-	-	-	-	-	-		0
22.	Mandla	-	-	-	-	3	-	-	-	-	-		3

S. N.	District	Civil Cases											
		Civil Procedure Code											Total
		S. 6, 7	S. 9	S. 10	S. 12, 21	S. 13	S. 19, 20	S. 25	S. 54, 151	O. 9 R. 4	O. 21	Misc.	
23.	Morena	-	-	-	-	-	-	-	-	-	3 (R.11)	1 (S. 127)	4
24.	Mandsaur	-	1	-	-	-	-	1	-	-	-		2
25.	Mandleshwar	-	-	-	-	-	-	-	-	-	-		0
26.	Neemuch	-	-	-	-	-	-	-	-	-	-		0
27.	Panna	-	-	-	-	-	-	-	-	-	-		0
28.	Raisen	-	-	-	-	-	-	-	-	-	-		0
29.	Rajgarh	-	-	-	-	-	-	-	-	-	-		0
30.	Ratlam	-	-	-	2 (S.21)	-	-	-	-	-	-		2
31.	Rewa	-	-	-	-	-	-	-	-	-	-		0
32.	Sagar	-	-	-	-	-	-	-	2 (S. 151)	-	-		2
33.	Satna	-	-	-	-	-	-	-	-	-	-		0
34.	Sehore	-	-	-	1	-	-	-	-	-	-		1
35.	Seoni	1 (S.6)	-	-	-	-	-	-	-	-	2 (R.11)		3
36.	Shahdol	-	-	-	-	-	-	-	-	-	1 (R.11)		1
37.	Shajapur	-	-	-	-	-	-	-	-	-	-		0
38.	Shivpuri	-	-	-	-	-	-	-	-	-	-		0
39.	Sidhi	-	-	-	-	-	-	-	-	-	-		0
40.	Singrauli	-	-	-	-	-	-	-	-	-	-		0
41.	Tikamgarh	-	-	-	1 (S.21)	-	2 (S.19)	-	1 (S.54)	-	1 (R.11)		5
42.	Vidisha	-	-	-	-	-	-	-	-	-	-		0

S. N.	District	Civil Cases										
		Guardian & Wards Act										Total
		S. 6	S. 7	S. 8	S. 10	S. 12	S. 19	S. 20	S. 25	S. 7, 10, 25	S. 8, 10, 12	
1.	Ashoknagar	-	-	-	-	1	-	-	-	-	-	1

S. N.	District	Civil Cases										
		Guardian & Wards Act										Total
		S. 6	S. 7	S. 8	S. 10	S. 12	S. 19	S. 20	S. 25	S. 7, 10, 25	S. 8, 10, 12	
2.	Balaghat	-	-	-	-	-	-	-	-	1	1	2
3.	Barwani	-	-	-	-	-	-	-	1		-	1
4.	Bhopal	-	6	1	-	2	-	-	-	2	1	12
5.	Betul	-	-	-	-	-	-	-	-	-	-	0
6.	Bhind	-	-	-	-	-	-	-	-	-	-	0
7.	Burhanpur	-	-	-	-	-	-	-	-	-	-	0
8.	Chatarpur	-	-	-	-	-	-	-	-	-	-	0
9.	Chhindwara	-	-	-	-	-	-	-	1	-	-	1
10.	Damoh	-	1	-	-	-	-	-	-	-	-	1
11.	Datia	-	-	-	-	-	-	-	-	-	-	0
12.	Dewas	-	-	-	-	-	-	-	-	-	-	0
13.	Dhar	-	-	-	-	-	-	-	-	-	-	0
14.	Dindori	-	-	-	-	-	-	-	-	-	-	0
15.	Guna	-	-	-	-	-	-	-	-	-	-	0
16.	Hosangabad	-	-	-	-	-	-	-	-	-	-	0
17.	Jabalpur	-	2	1	-	-	-	-	3	-	-	6
18.	Katni	-	-	-	-	-	-	-	-	-	-	0
19.	Jhabua	-	-	-	-	-	-	-	-	-	-	0
20.	Khandwa	-	-	-	-	-	-	-	-	-	-	0
21.	Narsinghpur	-	-	-	-	-	-	-	1	-	-	1
22.	Mandla	-	-	-	-	-	-	-	-	-	-	0
23.	Morena	-	-	-	-	-	1	-	1	-	-	2
24.	Mandsaur	-	-	-	-	-	-	-	-	-	-	0
25.	Mandleshwar	-	-	-	-	-	-	-	-	-	-	0
26.	Neemuch	-	-	-	1	-	-	-	1	-	-	2
27.	Panna	-	-	-	-	-	-	-	-	-	-	0
28.	Raisen	-	-	-	-	-	-	-	-	-	-	0
29.	Rajgarh	-	-	-	-	-	-	-	-	-	-	0
30.	Ratlam	-	-	-	1	-	-	1	-	-	-	2
31.	Rewa	-	1	-	-	-	-	-	-	-	-	1
32.	Sagar	-	-	-	-	-	-	-	-	-	-	0
33.	Satna	-	-	-	-	-	-	-	-	-	-	0
34.	Sehore	-	-	-	-	-	-	-	-	-	-	0
35.	Seoni	-	-	-	-	-	-	-	-	-	-	0

S. N.	District	Civil Cases										
		Guardian & Wards Act										Total
		S. 6	S. 7	S. 8	S. 10	S. 12	S. 19	S. 20	S. 25	S. 7, 10, 25	S. 8, 10, 12	
36.	Shahdol	-	-	-	1	-	-	-	-	-	-	1
37.	Shajapur	-	-	-	-	-	-	-	-	-	-	0
38.	Shivpuri	-	-	-	-	-	-	-	-	-	-	0
39.	Sidhi	1	-	-	-	-	-	-	1	-	-	2
40.	Singrauli	-	-	-	-	-	-	-	-	-	-	0
41.	Tikamgarh	-	-	-	-	-	-	-	-	-	-	0
42.	Vidisha	-	-	-		-	-	-	-	-	-	0

S. N.	District	Civil Cases									Total
		Hindu Adoption and Maintenance Act							Dissolution of Muslim Marriage Act	Muslim Personal Shariat Act 1957	
		S. 6	S. 9	S. 10	S. 18	S. 19	S. 20	S. 25	S. 2	S.125	
1.	Ashoknagar	-	-	-	-	-	-	-	-	-	-
2.	Balaghat	-	-	-	-	-	-	-	-	-	-
3.	Barwani	-	-	-	-	-	-	-	-	-	-
4.	Bhopal	-	-	-	-	-	-	-	1	-	1
5.	Betul	-	-	-	-	-	-	-	-	-	-
6.	Bhind	-	-	-	-	-	-	-	-	-	-
7.	Burhanpur	-	-	-	-	-	-	-	-	-	-
8.	Chatarpur	-	-	-	-	-	-	-	-	-	-
9.	Chhindwara	1	-	-	-	-	-	1	-	-	2
10.	Damoh	-	-	-	-	2	-	-	-	-	2
11.	Datia	-	-	-	-	-	-	-	-	-	-
12.	Dewas	-	-	-	-	1	-	-	-	-	1
13.	Dhar	-	-	-	-	-	-	-	-	-	-
14.	Dindori	-	-	-	-	-	-	-	-	-	-
15.	Guna	-	-	-	-	-	-	-	-	-	-
16.	Hosangabad	-	-	-	-	-	-	-	-	-	-
17.	Jabalpur	-	-	-	-	-	1	-	-	1	2
18.	Katni	-	-	1	1	-	-	-	-	-	2
19.	Jhabua	-	-	-	-	-	-	-	-	-	-

S. N.	District	Civil Cases									Total
		Hindu Adoption and Maintenance Act							Dissolution of Muslim Marriage Act	Muslim Personal Shariat Act 1957	
		S. 6	S. 9	S. 10	S. 18	S. 19	S. 20	S. 25	S. 2	S.125	
20.	Khandwa	-	-	-	-	-	-	-	-	-	-
21.	Narsinghpur	-	-	-	-	-	-	-	-	-	-
22.	Mandla	-	-	-	-	-	-	-	-	-	-
23.	Morena	-	-	-	-	-	-	-	-	-	-
24.	Mandsaur	-	-	-	-	-	-	-	-	-	-
25.	Mandleshwar	-	-	-	-	-	-	-	-	-	-
26.	Neemuch	-	-	-	-	-	-	-	-	-	-
27.	Panna	-	-	-	-	-	-	-	-	-	-
28.	Raisen	-	-	-	-	-	-	-	-	-	-
29.	Rajgarh	-	-	-	-	-	-	-	-	-	-
30.	Ratlam	-	-	-	-	-	-	-	-	-	-
31.	Rewa	-	-	-	-	-	-	-	-	-	-
32.	Sagar	-	1	-	-	2	-	1	-	-	4
33.	Satna	-	-	-	-	-	-	-	-	-	-
34.	Sehore	-	-	-	-	-	-	-	-	-	-
35.	Seoni	-	-	-	-	-	-	-	-	-	-
36.	Shahdol	-	-	-	-	-	-	-	-	-	-
37.	Shajapur	-	-	-	-	-	-	-	-	-	-
38.	Shivpuri	-	-	-	-	-	-	-	-	-	-
39.	Sidhi	-	-	-	-	-	-	-	-	-	-
40.	Singrauli	-	-	-	-	-	-	-	-	-	-
41.	Tikamgarh	-	-	-	-	-	-	-	-	-	-
42.	Vidisha	-	-	-	-	-	-	-	-	-	-

Civil Cases (Table No. 5.1)
5-10 Years

S. N.	District	Civil Cases											
		Hindu Marriage Act					G & W Act	CPC			Maintenance & Welfare of Parents & Senior Citizens Act 2007, S. 12	Misc.	Total
		S. 9	S. 10	S. 13	S. 11	S. 24	S. 25	S. 7	O. 21 R 11	S. 151			
1.	Ashoknagar	-	-	3	-	-	-	-	3	-	-	-	6
2.	Balaghat	-	-	-	-	-	-	-	-	-	-	-	
3.	Barwani	-	-	-	-	-	-	-	-	-	-	-	
4.	Bhopal	4		12	-	-	1	1	1	-	-	1	20
5.	Betul	-	-	-	-	-	-	-	-	-	-	-	
6.	Bhind	2	-	2	-	-	-	-	-	-	-	-	4
7.	Burhanpur	-	-	-	-	-	-	-	-	-	-	-	
8.	Chatarpur	-	-	-	-	-	-	-	-	-	-	-	
9.	Chhindwara	-	-	1	-	-	-	-	1	-	-	-	2
10.	Damoh	-	-	-	-	-	-	-	-	-	-	1 (CCC S. 12)	1
11.	Datia	-	-	-	-	-	-	-	-	-	-	-	
12.	Dewas	-	-	-	-	-	-	-	-	-	-	-	
13.	Dhar	-	-	-	-	-	-	-	-	-	-	-	
14.	Dindori	-	-	-	-	-	-	-	-	-	-	-	
15.	Guna				-	-		-		-			
16.	Hosangabad	-	-	1	-	-	-	-	-	-	-	-	1
17.	Jabalpur	3	2	6	1	2	1	-	2 (R. 32)	1		4	18
18.	Katni	-	-	-	-	-	-	-	-	-	-	-	
19.	Jhabua	-	-	-	-	-	-	-	-	-	-	-	
20.	Khandwa	-	-	-	-	-	-	-	-	-	-	-	
21.	Narsinghpur	-	-	-	-	-	-	-	-	-	1	-	1
22.	Mandla	-	-	-	-	-	-	-	-	-	-	-	
23.	Morena	-	-	-	-	-	-	-	-	-	-	-	
24.	Mandsaur	-	-	-	-	-	-	-	-	-	-	-	
25.	Mandleshwar	-	-	-	-	-	-	-	-	-	-	-	
26.	Neemuch	-	-	-	-	-	-	-	-	-	-	-	
27.	Panna	-	-	-	-	-	-	-	-	-	-	-	
28.	Raisen	-	-	-	-	-	-	-	-	-	-	-	

S. N.	District	Civil Cases											
		Hindu Marriage Act					G & W Act	CPC			Maintenance & Welfare of Parents & Senior Citizens Act 2007, S. 12	Misc.	Total
		S. 9	S. 10	S. 13	S. 11	S. 24	S. 25	S. 7	O. 21 R 11	S. 151			
29.	Rajgarh	-	-	1	-	-	-	-	-	-	-	-	1
30.	Ratlam	-	-	-	-	-	-	-	-	-	-	-	
31.	Rewa	1	-	-	-	-	-	-	-	-	-	-	1
32.	Sagar	1	-	2	-	-	-	-	-	-	-	3	6
33.	Satna	1	-	1	-	-	-	-	-	-	-	2	4
34.	Sehore	-	-	-	-	-	-	-	-	-	-	-	
35.	Seoni	-	-	-	-	-	-	-	-	-	-	-	
36.	Shahdol	-	-	-	-	-	-	-	-	-	-	-	
37.	Shajapur	-	-	-	-	-	-	-	-	-	-	-	
38.	Shivpuri	-	-	-	-	-	-	-	-	-	-	-	
39.	Sidhi	-	-	-	-	-	-	-	-	-	-	-	
40.	Singrauli	-	-	-	-	-	-	-	-	-	-	-	
41.	Tikamgarh	-	-	-	-	-	-	-	-	-	-	-	
42.	Vidisha	-	-	-	-	-	-	-	-	-	-	-	

Civil Cases (Table No. 5.2)
10 -20 Years

S. N.	District	Civil Cases					
		Hindu Marriage Act			CPC O. 21 R. 11	G & W Act S. 8, 10	Misc.
		S. 9	S. 10	S. 13			
1.	Ashoknagar	-	-	-	-	-	
2.	Balaghat	-	-	-	-	-	
3.	Barwani	-	-	-	-	-	
4.	Bhopal	1		4			1
5.	Betul	-	-	-	-	-	
6.	Bhind	-	-	-	1	-	
7.	Burhanpur	-	-	-	-	-	
8.	Chatarpur	-	-	-	-	-	
9.	Chhindwara	-	-	-	-	-	
10.	Damoh	-	-	-	-	-	
11.	Datia	-	-	-	-	-	

S. N.	District	Civil Cases					
		Hindu Marriage Act			CPC O. 21 R. 11	G & W Act S. 8, 10	Misc.
		S. 9	S. 10	S. 13			
		-	-	-	-	-	
12.	Dewas	-	-	-	-	-	
13.	Dhar	-	-	-	-	-	
14.	Dindori	-	-	-	-	-	
15.	Guna						
16.	Hosangabad	-	-	-	-	-	
17.	Jabalpur	-	-	-	-	-	
18.	Katni	-	-	-	-	1	
19.	Jhabua	-	-	-	-	-	
20.	Khandwa	-	-	-	-	-	
21.	Narsinghpur	-	-	-	-	-	
22.	Mandla	-	-	-	-	-	
23.	Morena	-	-	-	-	-	
24.	Mandsaur	-	-	-	-	-	
25.	Mandleshwar	-	-	-	-	-	
26.	Neemuch	-	-	-	-	-	
27.	Panna	-	-	-	-	-	
28.	Raisen	-	-	-	-	-	
29.	Rajgarh	-	-	-	-	-	
30.	Ratlam	-	-	-	-	-	
31.	Rewa	-	-	-	-	-	
32.	Sagar	-	-	2	-	-	
33.	Satna	-	-	-	-	-	
34.	Sehore	-	-	-	-	-	
35.	Seoni	-	-	-	-	-	
36.	Shahdol	-	-	-	-	-	
37.	Shajapur	-	-	-	-	-	
38.	Shivpuri	-	-	-	-	-	
39.	Sidhi	-	-	-	-	-	
40.	Singrauli	-	-	-	-	-	
41.	Tikamgarh	-	-	-	-	-	
42.	Ujjain	-	-	-	-	-	
43.	Vidisha	-	-	-	-	-	

CHAPTER-THREE

ANALYSIS OF THE DATA

Part I: About the Questionnaire

A comprehensive questionnaire was prepared by the research team for the purpose of collecting primary data to study and analyse the functioning of Family Courts in the state of Madhya Pradesh. The questionnaire was circulated through the High Court of Madhya Pradesh which was meant to be filled in by the Principal Judge of each Family Court in the state. It was designed to identify the efficiency, reasons for pendency, bottlenecks and other relevant problems leading to delay in justice delivery before the Family Court. The opinion of Presiding judges of Family Courts is vital for the present research undertaken by the National Judicial Academy. Therefore, Principal Judges were requested to provide an honest and forthright opinion pertaining to current situation of functioning of these special courts in their respective districts.

The questionnaire was divided into seven parts. *The first part (Part I)*, dealt with personal information of presiding judge filling the said questionnaire.

The second part (Part II), included questions pertaining to the importance of training before/after being designated as a judge of Family Court. This part also included questions on aspects of training imparted to Family Court judges at the State Judicial Academy and how far the trainings have been effective in improving the efficiency of Family Courts.

The third part (Part III) of the questionnaire comprised of twenty-six questions dealing with stages of a Family Court case from its institution to disposal. The research team tried to identify stages which often face bottlenecks and leads to delay that could be addressed in the present study. The average time required for a case from the phase of institution till pronouncement of final judgement was also assessed in this part. Further, questions pertaining to reasons for delay and type of cases which are complex in nature and requires multiple adjournments were included. The Principal Judges of respective Family Courts were asked to provide their opinion on factors contributing to delay and methods to overcome these bottlenecks which could be proposed as best practices for other districts to adopt.

Information on the efficiency of ADR mechanism like mediation & conciliation in family dispute matters and willingness of parties to adopt alternative means of

resolving disputes was also sought in this section. This part tried to identify the infrastructure impediments such as availability of court annexed mediation center, proper spaces for maintaining court records, proper server rooms etc. Efficiency of *Lok-Adalats* in family dispute matters was also assessed in this part of the questionnaire.

While collecting data on pendency in Family Courts of Madhya Pradesh from National Judicial Data Grid, it was observed that Sec. 125 of the CrPC and Sec.13 and Sec. 9 of the Hindu Marriage Act cases are filed in maximum numbers, which are of complex nature and often tends to get delayed. The questionnaire tried to find out ways in which these cases could be tried in a speedy manner.

Court and case management was also covered in this part which dealt with prospects of management techniques in Family Courts. Hence, the Presiding Judges were asked to provide details regarding number of cases put up on daily board, whether cases could be prioritized on the basis of urgency and if so, to list cases which could be categorized as most urgent.

The *fourth part (Part IV)* dealt with the potential of Information and Communication Technology in Family Courts of Madhya Pradesh. Presiding judges were asked to provide information regarding ICT enablement in Family Courts and how far they are operational in these courts. The prospect of e-filing to speed up the court process in family matters was analyzed in this part. Data pertaining to availability of computers and laptops along with proper internet connectivity was sought for. The Infrastructure availability for in-camera trial, video conferencing facility and how far Family Court is utilizing this technology to speed up the trial process was analyzed.

The *fifth part (Part V)* tried to find out average number of adjournments required in family dispute matter depending on its complexity. Since, it was observed that regular adjournments is one of the main reason for delay in speedy disposal. The research team also tried study the reasons for parties seeking adjournments, in order to suggest methods to reduce adjournments.

The *sixth part (Part VI)* focused on gathering information relating to bar and bench relationship and the extent to which Principal Judges receives assistance from the bar in resolving family disputes in speedy manner. The problems and challenges faced by judges from advocates involved in family dispute litigation was also identified.

The *seventh part (Part VII)* of the questionnaire, sought information regarding additional responsibility designated upon Principal Judges of Family Court. Judges

were asked to provide opinions and suggestions on measures to ensure expeditious disposal of family dispute matters by addressing institutional gaps.

The questionnaire was distributed subsequent to an approval by the High Court of Madhya Pradesh, and the High Court also provided assistance in forwarding the questionnaire to Principal Judges of 50 Family Courts under the jurisdiction of Madhya Pradesh High Court.

Out of 50 Family Courts of Madhya Pradesh, 32 filled in forms were received by the NJA which included following districts of Ashoknagar, Betul, Bhind, Bhopal, Burhanpur, Chhatarpur, Chhindwara, Datia, Dewas, Dhindori, Guna, Gwalior, Hoshangabad, Indore, Jabalpur, Katni, Khandwa, Mandsaur, Morena, Neemuch, Panna, Rajgarh, Ratlam, Rewa, Sagar, Satna, Seoni, Shahdol, Shivpuri, Sidhi, Tikamgarh, Ujjain. It was observed that some smaller districts have linked Family Courts whereby the Principal Judge of one district's Family Court have been given charge of another district or linked district. The research team came across with two districts with linked courts which included Annupur and Shahdol, Panna and Satna, which were presided over by one Principal Judge. Family Court in the districts of Alirajpur, Bardwani, Balaghat, Damoh, Dhar, Harda, Jhabua, Mandla, Mandleshwar, Narsingpur, Raisen, Sheopur, Singrouli, Umaria and Vidisha did not respond.

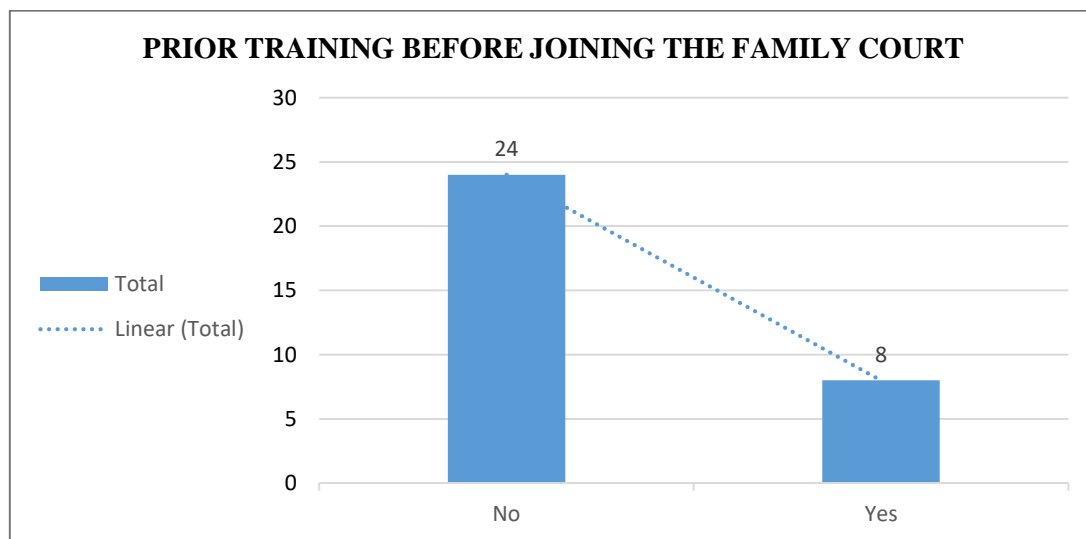
Part – II: Training, Prior Posting and Qualifications

The Family Court judges face a unique challenge of balancing law and procedure against ethical values. Hence training plays an essential role to enable judges to gain education and experience in issues that may have bearing on the nature of Family Court cases. Formal studies on the subject are not usually required and specialized knowledge is not a technical requirement either. It is an important aspect, which shows however the merit of a potential Family Court judge and could equip a judge to efficiently handle these specific matters.

The questions focused on finding out the importance of training according to the Presiding Judge of Family Court and whether training is being imparted to all judges prior to or after taking charge as a judge of Family Court. For the purpose of this study, it was important to find out some aspects of training received by some of the judges and subjects dealt with during these trainings. Further, the study tried to identify effectiveness of these training programmes in bridging capacity gaps and ensuring speedy trials.

Responses indicated that training offered to judges on family dispute matters is not adequately provided to all judges who are presiding over Family Courts in Madhya Pradesh. There is a lot of potential for improvement in trainings imparted on the subject and expanding it to maximum judges presiding over Family Courts.

The research team through this part aims to facilitate the State Judicial Academy of Madhya Pradesh to develop a model curriculum for training in this domain which can help judges of these special courts in disposing off these matters expeditiously.



(Chart No. 1)

From the above chart, it can be seen that out of 32 judges who are currently presiding over Family Courts in various districts of Madhya Pradesh, only 8 judges have received training before taking charge as Principal Judge of the Family Court (*Chart no. 1*) The remaining 24 judges stated that they did not receive training prior to taking charge of special court. Training plays a vital role in justice delivery as the changing dynamics of law requires judicial officers to abreast their knowledge pertaining to the court they are heading. Regular training of judicial officers presiding over these courts is essential and should be taken into consideration.

It was suggested that adequate training should be provided to judicial officers before designating them as a judge of Family Court. Since Family Courts are not regular civil or criminal court, much attention is required to deal with the complexities of these matters involving social issues such as child custody, maintenance, divorce, and senior citizen etc. Henceforth, induction programmes should be conducted by the

State Judicial Academies on a regular basis to equip judicial officers to fulfil the purpose of these courts.

A detailed module including areas that may be considered for inclusion in training is annexed as *Annexure 1* for the reference of State Judicial Academies while designing the training program for Family Court judges.

The *Table no. 6* below gives detail regarding prior postings of judicial officers who are currently heading Family Courts under the jurisdiction of the Madhya Pradesh High Court. The research team tried to analyze the specific requirements and background that may be considered for appointing or designating a judicial officer as a judge of Family Court.

Districts	Training Received	Prior Position
Seoni	Yes	Special Judge, Prevention of Corruption Act
Chhindwara	No	Special Court for SC/ST
Rajgarh	No	Secretary, District Legal Service Authority
Rewa	No	Add. District Judge
Jabalpur	No	Legal Advisor, Economic Offences Wing of State of Madhya Pradesh
Morena	No	Session Judge
Dewas	No	Presiding officer M.P State Waqf Tribunal
Mandsaur	Yes	2nd Add. District Judge
Datia	No	Session Judge
Sagar	No	1st Additional District and Session Judge
Satna	No	Special Judge, Prevention of Corruption Act
Tikamgarh	No	Additional District and Session Judge
Burhanpur	Yes	Special Court for SC/ST
Bhind	No	Add. District and Session Judge
Hoshangabad	No	Add. District and Session Judge
Bhopal	No	Add. Judge Bhopal
Katni	Yes	Special Judge (POCSO Act)
Shivpuri	No	Additional District Judge
Panna	Yes	Special Judge, Prevention of Corruption Act
Chhatarpur	No	Special Judge, Prevention of Corruption Act
Sidhi	No	Secretary, District Legal Service Authority
Indore	No	Special Judge, Prevention of Corruption Act
Dhindori	Yes	Add. District and Session Judge

Betul	No	Add. District Judge
Shahdol	Yes	3rd Add. District Judge
Ratlam	No	Add. District Judge
Gwalior	No	Special Judge, Prevention of Corruption Act
Guna	No	Special Court (NDPS)
Ashoknagar	No	Special Court (NDPS)
Ujjain	Yes	Add. District Judge
Neemuch	No	Special Judge (Electricity Act)
Khandwa	No	Add. District and Session Judge

(Table No. 6)

It is evident from the table above that judges who are currently presiding over Family Courts come from dissimilar background with different criminal/civil area of practice, prior to taking charge of the Family Court. Since it was observed that proper cadre of family law judges is important to deal with the current crisis of pendency, it is required that dedicated number of judges should be trained and then posted to preside over these courts. It is also essential that these judges are not transferred before substantial years of service in Family Court. For instance, a judge dealing with matter relating to the Prevention of Corruption Act when transferred to a Family Court lacks knowledge to deal with the complex nature of family matters and therefore, causes a bottleneck in disposing family dispute matter expeditiously. To resolve this problem, proper training should be imparted prior and after joining as a judge of Family Court to sensitize them on social issues involved thereto.

It was also observed that not all judges are suitable to preside over Family Courts owing to the nature of cases instated before these courts. Therefore, selected judges dedicated towards achieving the objective of the Act must be designated as Principal Judge of these special courts.

It was suggested unanimously through the responses that, prior training is essential before joining as a judge of Family Court. Further, training will help judges to understand the dispute and dispose the matter quickly.

If we observe *Table no. 6*, presiding judges from Chhatarpur, Gwalior, Indore, Panna, Satna, and Seoni were heading special court constituted under the Prevention of Corruption Act. Similarly judges from Ashoknagar, Burhanpur, Chhindwara, and Guna were heading the Narcotics Drugs and Psychotropic Substance courts and special court constituted under the SC and ST Act.

According to the Act, a person shall not be qualified for appointment as a judge of a Family Court unless he fulfills the condition specified in cl. (a) or cl. (b) of sub-sec (3) of Sec. 4 of the Family Court Act, 1984. Sub-sec (4) of Sec. 4 clearly specifies that *every endeavor shall be made to ensure that persons committed to the need to protect and preserve the institution of marriage and to promote the welfare of children and qualified by reason of their experience and expertise to promote the settlement of disputes by conciliation and counseling* shall be appointed as Family Court judge. Therefore, without proper understanding and training of the subject judges may lack the efficiency to uphold the intention behind this section.

In 1988, the Department of Justice (Ministry of Law and Justice) issued a notification exercising the power conferred by sub-sec (1) of Sec. 22 of the Family Court Act with the concurrence of the then Chief Justice of India and made certain rules called as the Family Court (Other Qualification for Appointment of Judges) Rules, 1988

Apart from Sec. 4 of the Family Courts Act, the other qualifications which may be considered for a judge of Family Court as per the central government notification is as follows:

(i) A Post-Graduate in Law with specialization in Personal Laws;

Or

A Post-Graduate degree in Social Sciences such as Master of Social Welfare, Sociology, Psychology/Philosophy with a Degree in Law; and

(ii) At least seven years' experience in field work/research or of teaching in a Government Department or in a College/University or a comparable academic institute, with special reference to problem of women and children;

Or

seven years' experience in the examination and/or application of Central/State Laws relating to marriage, divorce, maintenance, guardianship, adoption and other family disputes.

After analyzing this part, three points should be taken into consideration effectively:

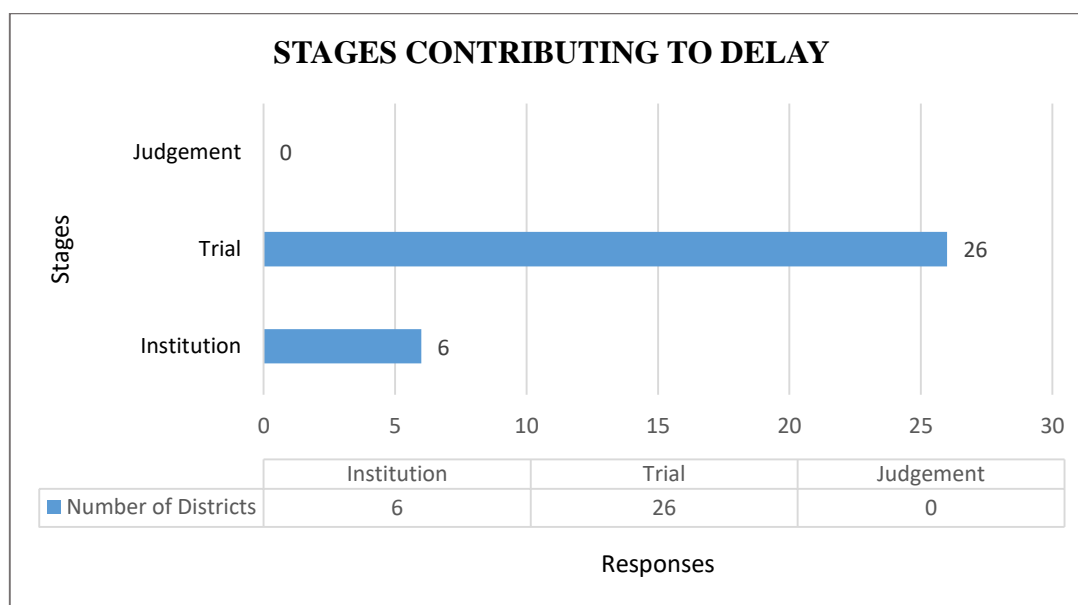
- A separate cadre of judges is required for Family Courts (where judges are selected to adjudicate upon family matters) and should not be transferred in any other civil or criminal court. They should be designated as specialized judge in matrimonial matters.
- Continuous and in-depth training should be imparted to all judges who will be presiding over Family Courts established under the Act. Training modules

including latest development in law must be made available to all judicial officers taking charge of special court.

- The other qualifications for appointment of judges of Family Court as mentioned in notification passed by the central government should be taken into consideration.

Part – III: Reasons for Delay causing Pendency

Chart No. 2: According to your experience as a judge of Family Court, can you mention which stage(s) of proceedings causes delay or bottlenecks in a family matter?



(Chart No. 2)

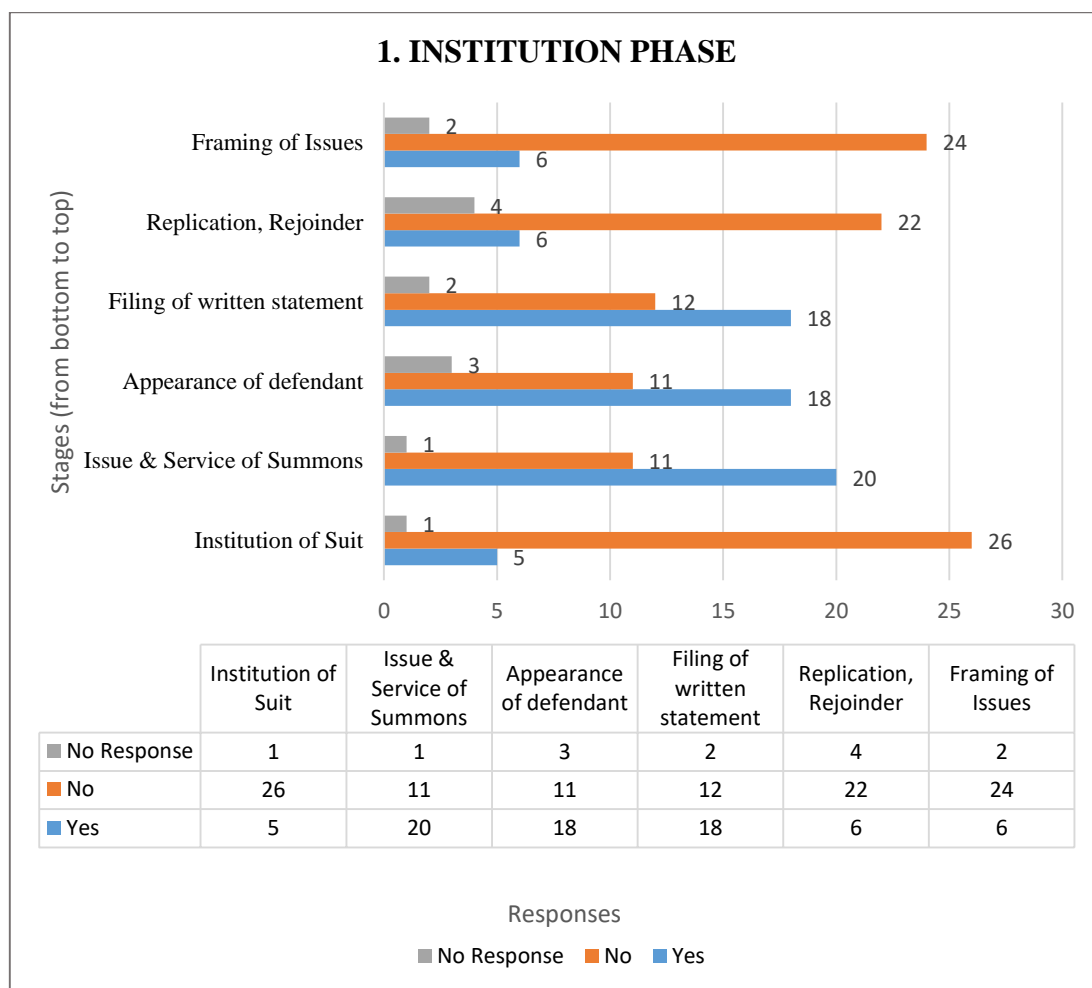
Out of 32 responses received, 26 judges mentioned that the trial phase leads to maximum delay, while 6 responses indicated that the institution phase also causes delay. Judges were in consonance that the judgement stage does not cause much delay in family matters.

Further, each stage was sub-categorized including the procedure involved which is separately analyzed including the average time taken for each stage from its institution till final judgement in later questions.

Average time taken by different stages of trial and whether the stage contributes to delay significantly: (Chart no. 3, 4, 5 and Table No. 7, 8, 9)

It is well established that there are three stages in every trial. It was observed that family trial involves many complex issues with high demonstrative litigation including lawyers, parties, mediators, counsellors and court. Keeping this background and for better understanding reasons for bottlenecks which results in delay, various stages were identified for study to find out which stage contributes to maximum delay in a family dispute matter. The stages were broadly categorized into three phases for the proper of analysis as mentioned below:

1. Institution phase;
2. Trial phase; and,
3. Judgment phase



(Chart No. 3)

Table No. 7 indicates average time taken at various stages falling under the institution phase below:

Average Time	Institution of Suit	Issue of Summons & Service	Appearance of defendant	Filing of written statement	Replication, Rejoinder	Framing of Issues
Seoni	10-15 mins	1-2 months	1-2 months	2 months	No Response	10 mins
Chhindwara	30 mins	1-4 months	1-2 months	1-2 months	No Response	15 Days
Rajgarh	5-10 mins	1 1/2 months	1 1/2 months	2 months	No Response	15 minutes
Rewa	Same day	Same day	1 year	6 months	1 month	Same time
Jabalpur	3 days	1 month - 1 year	Did not specify	1-3 Months	NA	15 Days
Morena	same day	3 months	No Response	1 month	10 days	1 day
Dewas	1 day	1 month	No Response	2 months	No Response	15 days
Mandsaur	3 days	7 days	1 month	2 months	NA	3 months
Datia	1 hour	3 days	1 month	1-2 months	No Response	2-3 months
Sagar	Did not specify	Did not specify	2-3 months	2-3 months	No response	Did Not specify
Satna	30 mins	2-3 months	3-4 months	2-3 months	NA	6-7 days
Tikamgarh	Same day	2-4 months	Did not specify	Did not specify	Did not specify	8-10 days
Burhanpur	3 days	15 days	7 days	7 days	7 days	No Response
Bhind	Same day	within 3 months	within 3 months	within 3 months	NA	Did not specify
Hoshangabad	Same day	2-3 months	2-3 months	1-2 months	No Response	No response
Bhopal	18- 24 months	Did not specify	Did not specify	3-6 months	No Response	6 months
Katni	No Response	Same day	6 months- 1 year	6 months- 1 year	No Response	No Response
Shivpuri	1 hour	3-6 months	10-15 days	10-15 days	Nil	Same day
Panna	30 mins	2-3 months	3-4 months	2-3 months	No Response	6-7 days

Chhatarpur	1-3 days	15-30 days	1 month	2 months	NA	1 week after WS (2 Months +1 week)
Sidhi	Same day	Did not specify	Did not specify	1-3 months	NA	1-5 days
Indore	1 day	1 year	1 year	2 months	NA	15 days
Dhindori	No Response	No Response	No Response	No Response	No Response	No Response
Betul	Same day	2 months	3 months	3 months	No Response	3 months
Shahdol	3 days	15 days - 1 Month	15 - 45 days	15 days - 2 Months	10 days	1 day
Ratlam	3 days	2 months	2 months	2 months (60 days)	20 days	1 days
Gwalior	Same day (5 mins)	Did not specify	Did not specify	Did not specify	NA	Did not specify
Guna	4-8 months	4-8 months	4-8 months	4-8 months	4-8 months	4-8 months
Ashoknagar	4-8 months	4-8 months	4-8 months	4-8 months	4-8 months	4-8 months
Ujjain	No Response	Same day	1-6 months	1 month	Same day	Same day
Neemuch	1-2 days	3-4 months	1-2 months	1-3 months	No Response	1-2 days
Khandwa	1 day	1 year	1 year	2 months	NA	15 days

(Table No. 7)

Institution Phase

Institution of Suit: Out of 32 responses, 26 judges were of the opinion that institution of suit does not take much time. Filing or instituting a fresh suit is only a matter of 15 to 20 minutes as per the responses and, it may take maximum 2 to 3 days. Judges of few districts including Ashoknagar, Bhopal, and Guna stated that institution may take 8 months to 1 year which does not correspond with the responses of other districts and therefore, steps should be taken to reduce time for institution of suit.

Issue of Summons and Service: Out of 32 responses, 20 responses indicated that issuing of service and summon takes considerable time in this phase and tends to delay the proceedings. From the above *Table 7* it is clear that average time taken for issue of service and summon varies from 2 to 4 months or longer. It is important to note that

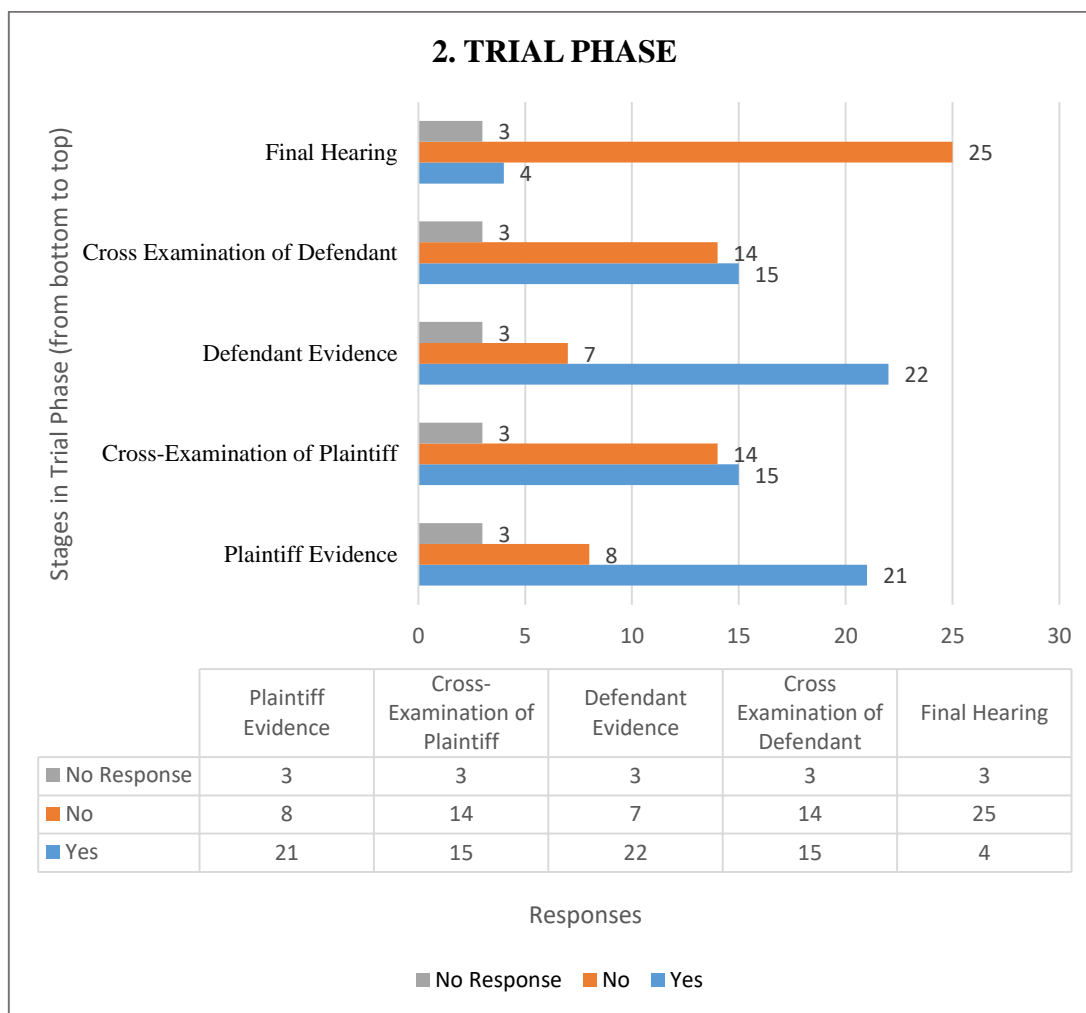
in few districts like Ashoknagar, Guna, and Indore the average time varies from 8 months to 1 year. Issue of service and summon involves major bottlenecks and creates a lot of problem in the trial, thereby increasing the time-frame of a family dispute matter.

Appearance of Defendant: Out of the total responses, 18 judges were of the opinion that appearance of defendant causes delay in the family dispute matters. From the above chart it is evident that the average time taken for this stage is 1 to 3 months which is also a stage leading to slower trial process. Few districts like Khandwa and Ujjain mentioned that they take approximately 6 months to 1 year to conclude this stage.

Filing of Written Statement: 18 judges were of the opinion that delayed filing of written statement is also contributing to delay in the institution phase. The average time taken for filing of written statement is around 2 to 3 months as indicated through their responses.

Replication and Rejoinder: This stage is applicable only in some Family Courts of Madhya Pradesh. However, responses indicate that the stage does not majorly contribute to delay.

Framing of Issue: 24 out of 32 responses mentioned that framing of issues does not consume much time of the court. It was reflected from their responses that the stage takes 1 to 5 days for framing of issues. However, judges of few districts including Bhopal, Guna, Mandsaur and Neemuch stated that longer time is required for framing of issues.



(Chart No. 4)

Average Time	Plaintiff Evidence	Cross-Examination of Plaintiff	Defendant Evidence	Cross Examination of Defendant	Final Hearing (Argument)
Seoni	3 hours	6 hours	3 hours	6 hours	30 mins
Chhindwara	2-4 months	1-3 months	1-3 months	1-2 months	15 days
Rajgarh	4 hours	8 hours	3 hours	6 hours	45 minutes
Rewa	6 months	1 month	6 months	1 month	15 days
Jabalpur	7- 8 months	7-8 months	4 months	4 months	10-15 days
Morena	2 months	Same days	2 months	Same day	1 day
Dewas	2 months	2 months	2 months	2 months	15 days
Mandsaur	3 months	No response	3 months	No Response	15 days

Datia	3 months	3 months	4 months	4 months	6 months
Sagar	3-4 months	1-2 months	1-2 months	1-2 months	1-2 months
Satna	2-3 hours	4-5 hours	1-2 hours	3-4 hours	1-2 hours
Tikamgarh	1-2 months	Did not specify	1-2 months	Did not specify	8-15 days
Burhanpur	15 days	15 days	15 days	15 days	3 days
Bhind	6 months	Did not specify	3 months	Did not specify	15 days
Hoshangabad	1-2 months	Same day	2-3 months	Same day	7-15 days
Bhopal	2 hours	2 hours	1 hour	1 hour	1 hour
Katni	6 months- 1 year	About 6 months	6 months- 1 year	6 months	10-15 days
Shivpuri	1-2 months	1-2 months	1-2 months	1-2 months	15 days
Panna	2-3 hours	4-5 hours	1-2 hours	3-4 hours	1 - 2 hours
Chhatarpur	3 months	Same days	3-4 months	Same day	15 days
Sidhi	1-3 months	Did not specify	1-3 months	Did not specify	1 week
Indore	6 months	6 months	6 months	6 months	15 days
Dhindori	No Response	No Response	No Response	No Response	No Response
Betul	1 month	1 month	2 months	2 month	No Response
Shahdol	1-6 months	1-3 months	1-3 months	1-3 months	15-30 days
Ratlam	2 months	4 months	2 months	4 months	15 days
Gwalior	Did not specify	Did not specify	Did not specify	Did not specify	Did not specify
Guna	6-8 months	6-8 months	6-8 months	6-8 months	6-8 months
Ashoknagar	6-8 months	6-8 months	6-8 months	6-8 months	6-8 months
Ujjain	3-6 months	Same day	1-3 months	Same day	1 week
Neemuch	1-3 months	1-2 months	1-2 months	1 month	1-7 days
Khandwa	6 months	6 months	6 months	6 months	15 days

(Table No. 8)

Trial Phase

The trial phase has been divided into five stages for the purpose of study;

Plaintiff Evidence: Out of 32 responses, 21 judges were of the opinion that this stage consumes sufficient time during trial and majorly contributes to delay in family matters. The average time taken for the completion of plaintiff's evidence is somewhere between 3 to 6 months as inferred from responses in *Table no. 8*. The judges of few districts including Burhanpur, Seoni, Shivpuri, and Tikamgarh stated that lesser time is required in comparison to other districts. Judges of Family Court in the districts of Ashoknagar, Guna, and Jabalpur stated in their responses that more than 6 months are taken to conclude this stage of trial.

Form the above chart it is clear that this stage is taking abundant time to conclude and considerably contributes to delay. There is no uniformity of time frame follow at the stage of plaintiff's evidence. Some Family Court judges take more time while others require a lesser time. Therefore, steps should be taken to reduce time taken at the stage of plaintiff's evidence.

On analysis it is seen that there is a huge difference in responses indicated in *Table no. 8* which indicates that the evidence of the plaintiff can be completed within 2 to 3 hours. However, if the evidence is completed in such short duration, then there would not have been the problem of delay in this stage.

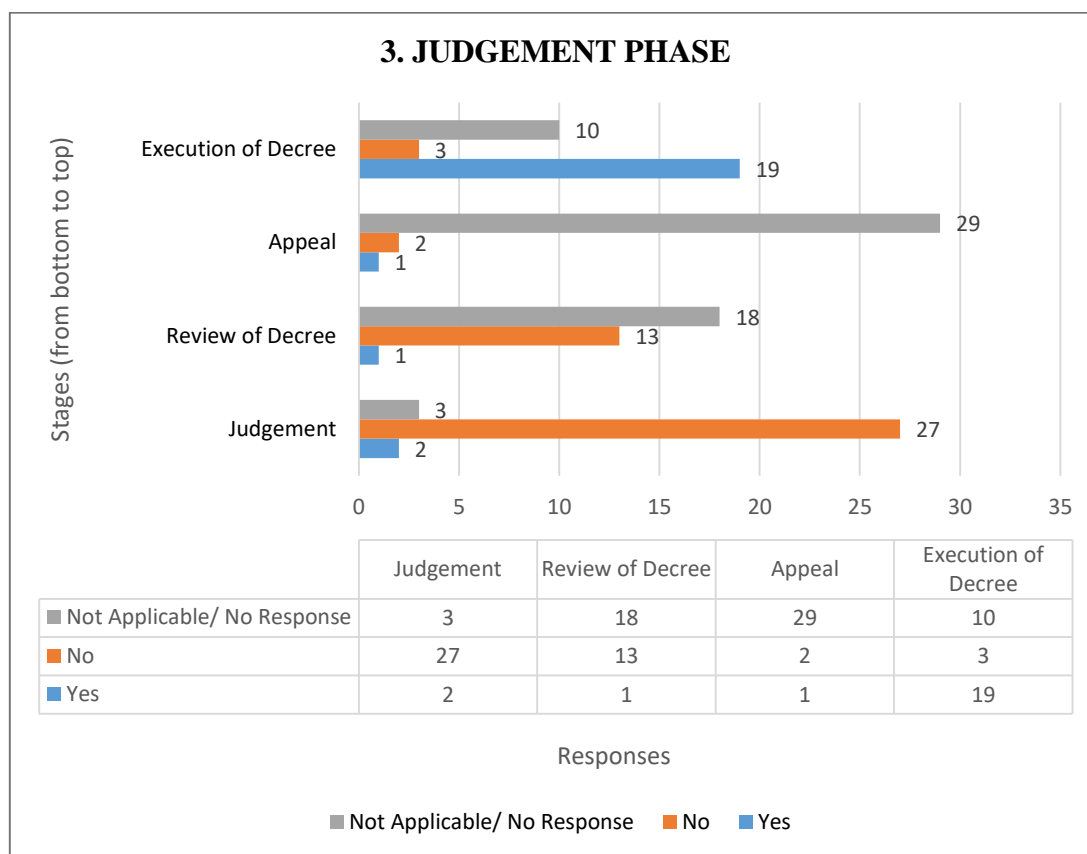
Cross-Examination of Plaintiff: Mixed responses were received with regard to delay and time taken at the stage of cross-examination of plaintiff. 15 judges were of the opinion that this stage is contributing to delay while 14 judges were of the opinion that the stage of cross-examination of plaintiff does not cause delay. It is apparent from the responses that average time taken for cross-examination of plaintiff is somewhere between 2 to 4 months on an average. Judges from districts of Ashoknagar, Guna, Indore, Katni, and Khandwa stated that approximately 4 to 6 months are taken for completing cross-examination depending on the complexity of a case.

Defendant Evidence: The responses of 22 judges indicates that this stage also consumes a lot of time and tends to contribute to delay in family dispute matters. On the basis of responses, it was analyzed that average time taken for the present stage is somewhere between 2 to 4 months. There are few districts like Ashoknagar, Guna, Indore, Katni, Khandwa, and Rajgarh where it is found that 6 months may be required to conclude this stage of trial. There are few Family Courts of Chhatarpur,

Hoshangabad, Seoni, and Satna which try to conclude evidence of the defendant within the same day which is different from other responses and our findings.

Cross-Examination of Defendant: Similar responses with regard to the stage of cross-examination of defendant were received. 15 judges were of the opinion that this stage is contributing to delay while 14 judges were of the opinion that the stage of cross-examination of defendant does not cause much delay. Further, the responses indicate that average time taken for defendant's cross-examination is somewhere between 2 to 4 months. Some districts mentioned that more than 4 months are required for the said stage.

Final Hearing (Arguments): 25 judges out of 32 stated in their responses that this stage does not contribute to delay in Family Courts. The maximum time required to conclude the final hearing is around 15 days. In a few districts like Ashoknagar, Datia, Guna, and Sagar mentioned that the final hearing may take around 1 to 2 months to be concluded. From the above chart, it is shown that this stage is not contributing to any delay.



(Chart No. 5)

District	Judgment	Review of Decree	Appeal	Execution of Decree
Seoni	2 hours	No Response	No Response	No Response
Chhindwara	3 days	No Response	No Response	No Response
Rajgarh	3-4 hours	NA	NA	Did not specify
Rewa	3 days	No Response	No Response	1 year
Jabalpur	5-8 days	No Response	No Response	1 year
Morena	2 days	2 days	No Response	6 months
Dewas	1 week	NA	NA	No response
Mandsaur	3 days	No Response	No Response	No Response
Datia	6 months	No Response	No Response	No Response
Sagar	Did not specify	Did not specify	No Response	5-6 months
Satna	2-3 hours	30 mins	NA	5-6 months
Tikamgarh	15 days	NA	NA	3-6 months
Burhanpur	3 days	3 days	No Response	1 month
Bhind	10 days	No Response	No Response	6 months- 1 year & more
Hoshangabad	No Response	No Response	No Response	1-2 years
Bhopal	2 hours	1 hours	No Response	Minimum 5 years
Katni	No Response	No Response	Dis not specify	No Response
Shivpuri	1-2 days	1-2 days	1-2 years	1-2 years
Panna	2-3 hours	30 mins	No Response	5-6 months
Chhatarpur	5 days	Did not specify	NA	4 months
Sidhi	15 days	3 days	Did not specify	Did not specify
Indore	15 days	Negligible	NA	1-2 years
Dhindori	No Response	No Response	No Response	No Response
Betul	6-8 months	3 days	3 months	After 3 months
Shahdol	1-15 days	1-3 days	1-3 days	1-3 days
Ratlam	7 days	3 days	No Response	6 months
Gwalior	Did not specify	Did not specify	NA	No response
Guna	10-15 days	NA	NA	Did not specify
Ashoknagar	10-15 days	NA	NA	Did not specify
Ujjain	1 week	No Response	No Response	No Response
Neemuch	1-5 days	1-3 months	No Response	6-12 months
Khandwa	15 days	No Response	NA	1-2 years

(Table No. 9)

Judgment Phase

Judgment: Out of 32 responses, 27 judges were of the opinion that the pronouncement of judgment does not require much time and therefore this stage is not responsible to cause any delay in family matters. It is inferred from the responses that average time taken for the pronouncement of judgment is somewhere between 5 to 8 days. Responses categorically indicates that judgement stage requires maximum 15 days to be concluded and does not increase life cycle of a family matter. However, two responses still indicates otherwise, that 6 months are required to complete judgement as it appears in the *Table 9* above.

Review of Decree & Appeal: This stage is not applicable to Principal Judge of Family Court. However, 13 responses indicate that review of decree does not require much time and does not contribute to delay.

Execution of Decree: Out of 32 judges, 19 were of the opinion that execution of a decree is taking substantial time and are responsible for causing major delay as it involves institutional gaps. It is clear from the responses that average time taken for the execution varies from 8 months to 1 year. Judges of many districts like Hoshangabad, Indore, Jabalpur, Khandwa, Rewa, and Shivpuri stated in their responses that it takes more than one year for the execution. On an analysis it was found that execution of decree amounts to major bottleneck in a life cycle of family dispute case.

From the above analysis, it can be summarized as to which stage is causing delay in the family dispute matters in (*Table no. 10* below).

Institution Stage		
1.	Institutional of Suit	Causing No Delay
2.	Issue of Service and Summon	Causing High Delay
3.	Appearance of defendant	Causing High Delay
4.	Filing of written statement	Causing High Delay
5.	Replication and Rejoinder	Causing No Delay
6.	Framing of Issue	Causing No Delay
Trial Stage		
1.	Plaintiff Evidence	Causing High Delay
2.	Cross-Examination of plaintiff and defendant	Causing High Delay
3.	Defendant Evidence	Causing High Delay
4.	Final Hearing	Causing No Delay

Judgment Phase		
1.	Judgment	Causing No Delay
2.	Execution of Decree	Causing High Delay

(Table No. 10)

Serial No.	Phases	Stages	Existing time consumed in each stage (approx.)	Proposed time for each stage
1	Institution Phase	Institution of Suit	3 days	2 days
		Issue & Service of Summons	180 days	60 days
		Appearance of defendant	120 days	60 days
		Filing of written statement	80 days	30 days
		Framing of Issues	30 days	15 days
2	Trial Phase	Plaintiff Evidence	150 days	60 days
		Cross-Examination of Plaintiff	60 days	30 days
		Defendant Evidence	100 days	60 days
		Cross Examination of Defendant	30 days	30 days
		Final Hearing	20 days	20 days
3	Judgment Phase	Judgment	15 days	15 days
		Execution of Decree	240 days	90 days
Total			Approximately 1028 Days (2 year 8 Months)	Approximately 472 Days

(Table No. 11)

Form the above observation, it is clear that approximately 1028 days (2 years and 8 months approx.) are normally taken to dispose of one family dispute. Unfortunately if the dispute is of complex nature or if it is contested, the life span of family dispute will further increase. The situation is alarming because on one hand cases are taking considerably more time in disposal, while on the other hand institution of new cases is consistently increasing in a much faster way.

Special focus should be given to the stage which leads to delay such as; Issue & Service of Summons, Appearance of Defendant, Filing of Written Statement, Plaintiff Evidence, Cross-Examination of Plaintiff, Defendant Evidence and Cross Examination of Defendant. The need is to limit adjournments or grant shorter adjournments considering the present situation.

From *Table 7* it can be seen that institution of suit could be completed within a day or even in some hours, while framing of issues can be completed in a day as responded by some judges. Similarly during trial phase, evidence of both parties could be completed within a day each, along with cross-examination requiring few hours or adding another day as inferred from the responses received from presiding judges of Family Courts. But in the present situation of pendency, it is evident that the said suggested duration is not followed in reality in all Family Courts owing to different and complex nature of cases in each court. Proposing a stricter time-frame may not be apt at the moment and therefore the research team after analyzing the responses proposes a longer time-frame for completion of family dispute matter in *Table 11* which could be made achievable.

If the dispute is consented and not contested then steps should be taken to resolve the dispute in a speedy manner through alternate means of dispute resolution. Since consented cases normally does not require any technical or rigorous trial so it can easily be disposed of in a shorter span of time.

Institution of Cases from 2015-2019: (*Chart Nos. 6, 7, 8, 9, and 10*)

This part of analysis deals with the institution of cases in Family Courts of various districts from 2015 till 2019 to understand how courts are dealing with the backlog of cases and gives an overall statistics pertaining to the institution of cases for the past 5 years. Simultaneously a reference was also made to cases, which were disposed-off for past 2 years (2017 and 2018) so as to compare the rate of disposal of cases, which is essential to find out the gap between institution and disposal.

The pendency of cases has increased significantly from the last two decades and Family Courts are no exception. Between 2006 and now, there has been an overall increase of 22% (64 lakh cases) in the pendency of cases across all courts including Family Courts¹¹.

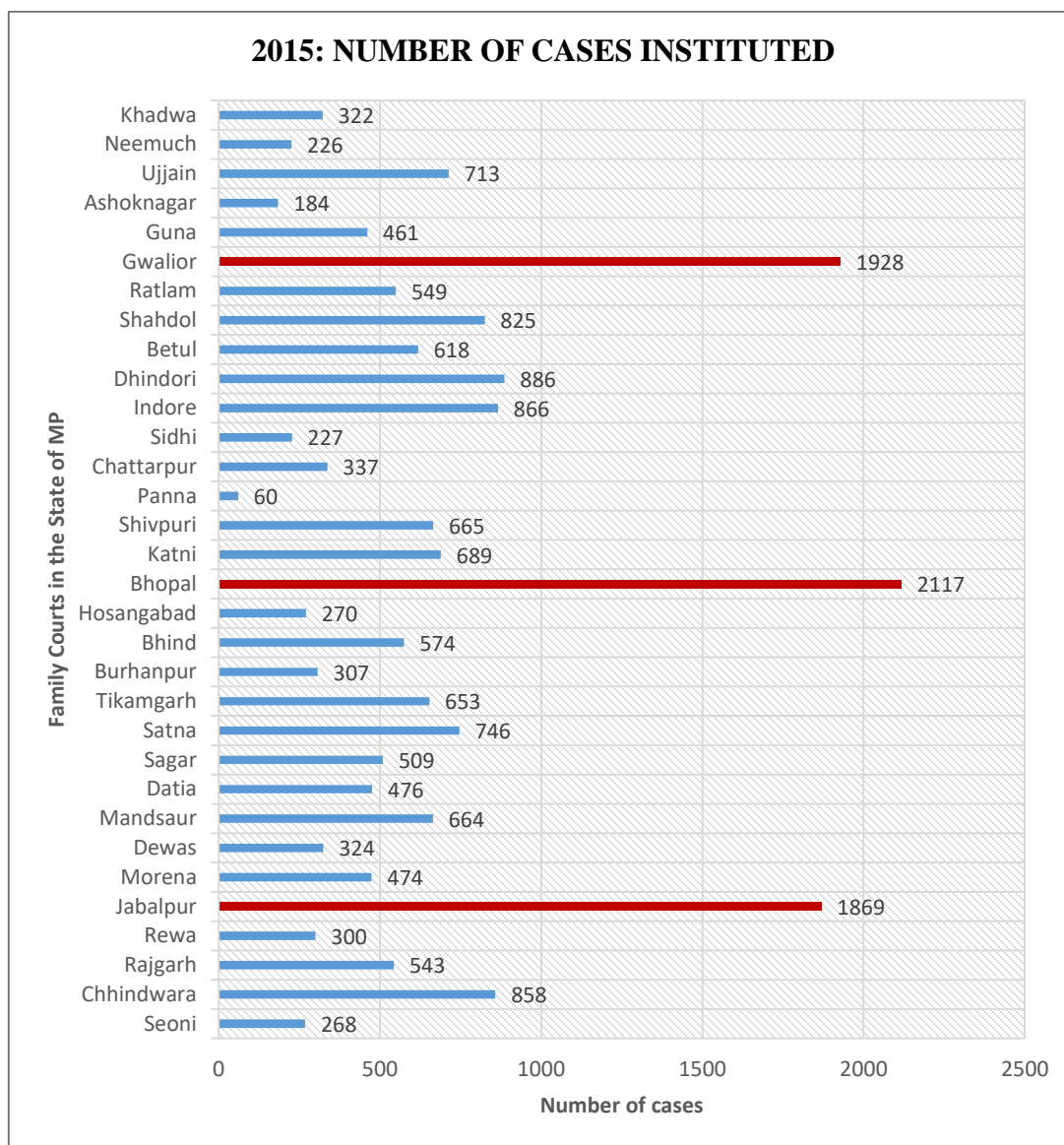
¹¹ Sources: Court News, 2006, Supreme Court of India; National Data Judicial Grid accessed on August 7, 2019; PRS.

The institution of new cases is increasing with growing family disputes covering every aspect of legal battle. The slow disposal of family cases accrues to the existing pendency and simultaneously the difference between institution and disposal is creating a bottleneck causing backlog in Family Courts across the state of Madhya Pradesh.

As per the data collected from the NJDG it was observed that around 40,000 cases were pending in Family Courts of Madhya Pradesh as on February 2019. Out of which 22,539 cases were pending between 0 to 1 year, 9,666 cases were pending for 1 to 3 years, 2,360 cases were pending between 3 to 5 years, 436 cases were pending for more than 5 years and 80 cases were pending for more than 10 years approximately.

It was also observed that Family Courts in districts of Bhopal, Chhindwara, Gwalior, Indore, Jabalpur, Katni, Satna, and Ujjain are facing problems of high pendency compared to Family Courts in other districts. The charts given below gives a clear view with regard to the institution of new cases and disposal rate.

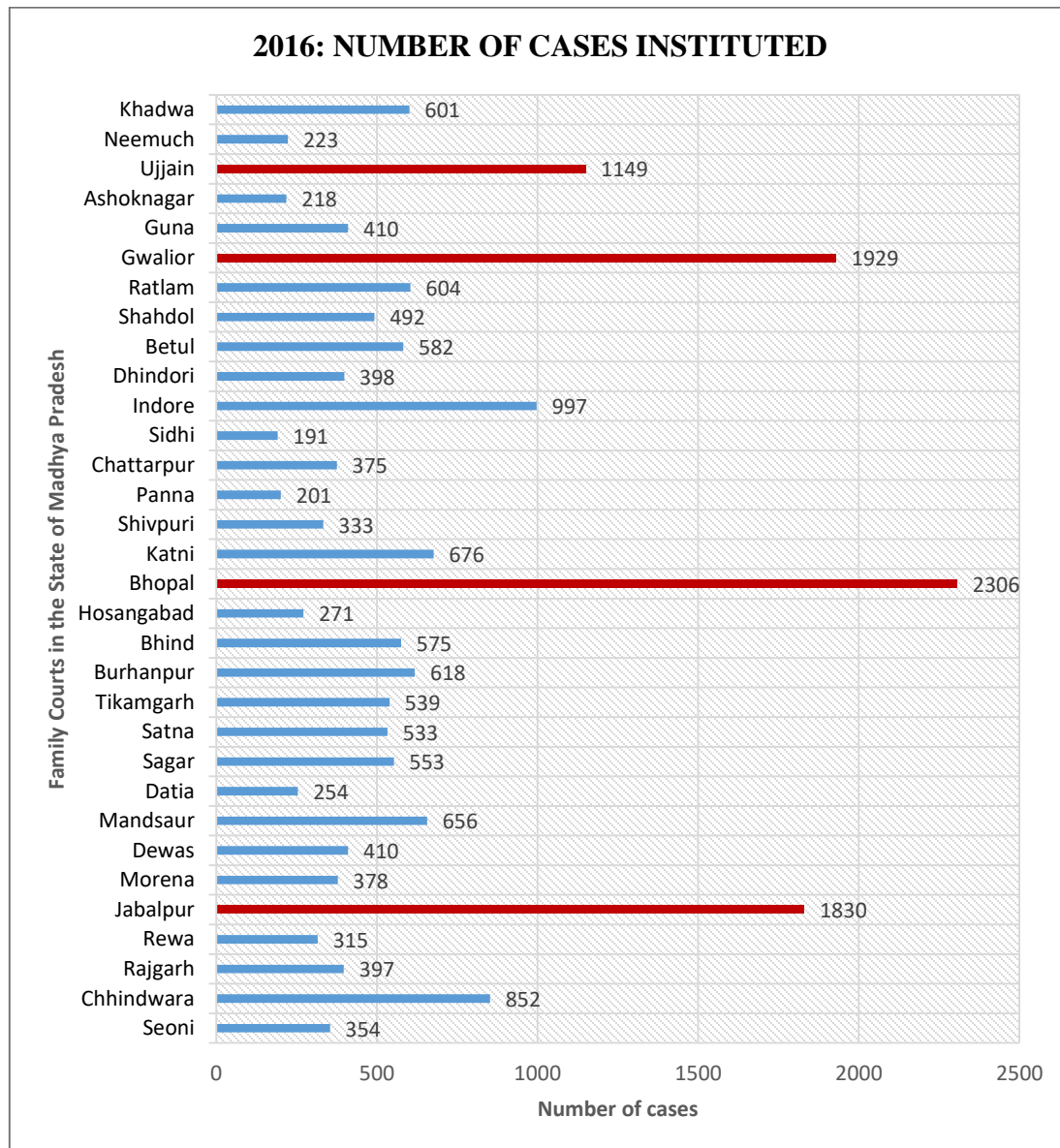
Note: Some of the figures indicated in Chart Nos. 6, 7, 8, 9, and 10 below are approximate number of cases instituted which are calculated on an average basis for some Family Courts, based on responses received.



(Chart No. 6)

Chart No. 6: The Family Court judges were asked to provide data regarding number of cases instituted in 2015. From the above chart, it is clear that a total of 20,508 new cases were instituted in 2015. It can be seen that large number of cases are instituted in Family Courts of Bhopal i.e. 2117 cases, followed by Family Court of Gwalior and Jabalpur with over 1928 and 1869 cases being instituted respectively. Further, Family Court in the districts of Betul, Bhind, Chhindwara, Dindori, Indore, Katni, Mandsaur, Rajgarh, Ratlam, Sagar, Satna, Shahdol, Shivpuri, Tikamgarh and Ujjain also has

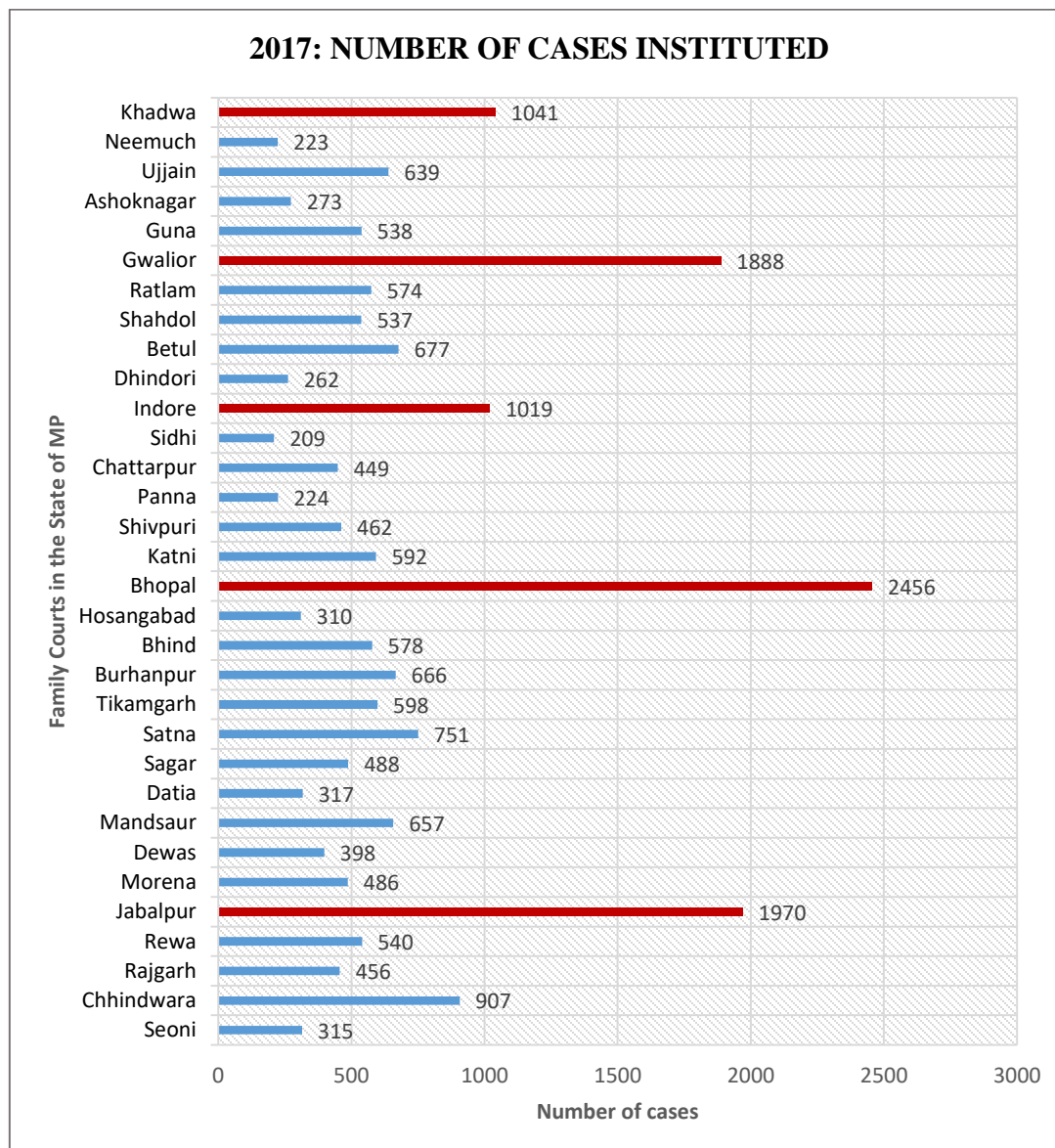
institution of cases within the range of 500-1000 cases which reflects the increasing number of litigation in the family dispute matters.



(Chart No. 7)

Chart No. 7: Similarly in the year 2016, a total of 20,220 cases were instituted. Family Court in the districts of Bhopal, Gwalior and Jabalpur have maximum institution of cases i.e. 2306, 1929 and 1830 respectively, falling in the range of more than 1000 cases. On other hand the Family Court of Ujjain shows significant increase in the rate of the institution of cases from 713 in 2015 to 1149 cases instituted in 2016. It evident

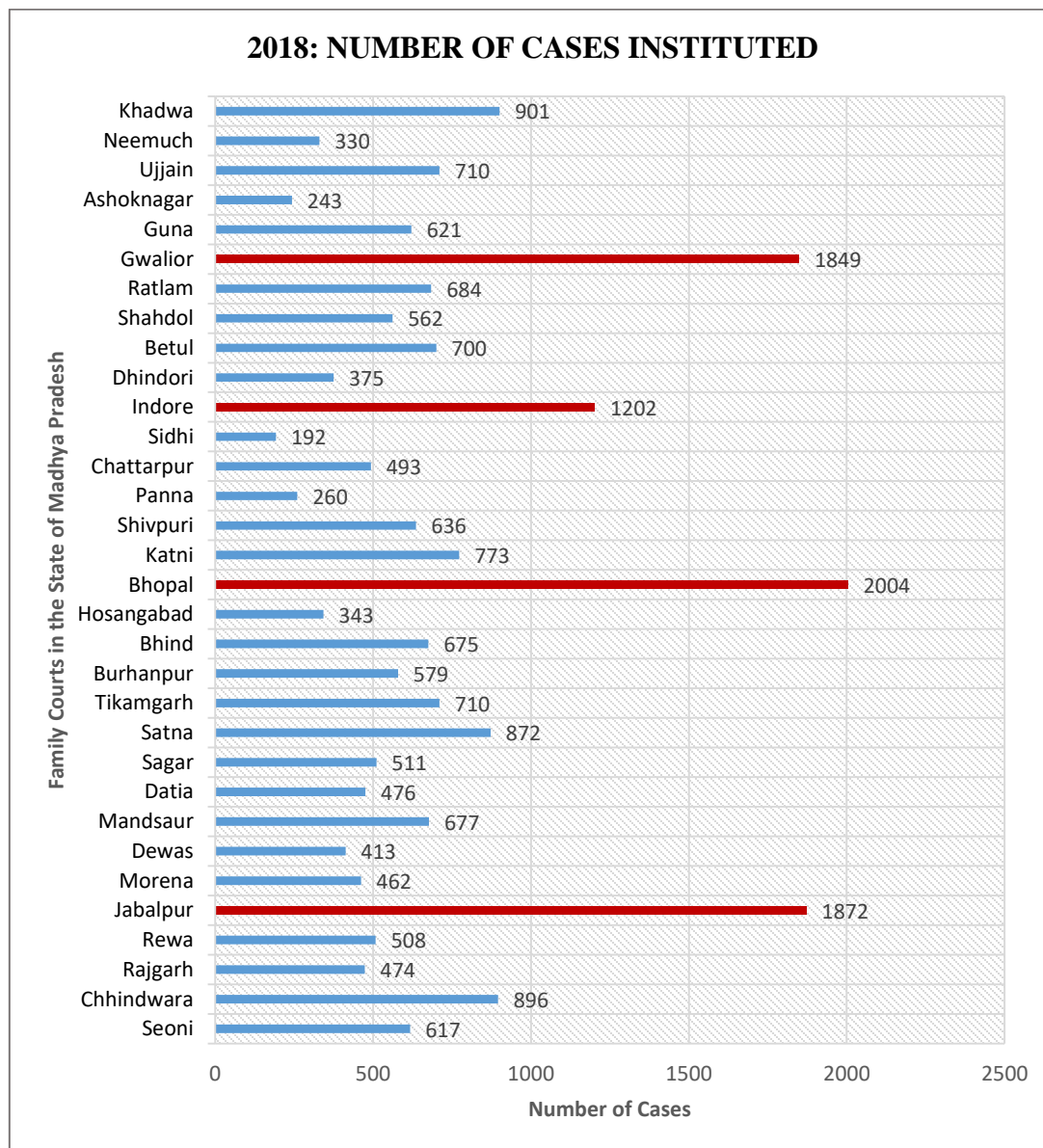
that around 12 districts comes within the range of 500-1000 cases being instituted in a year.



(Chart No. 8)

Chart No. 8: During 2017, a total of 21,500 cases were instituted. The district wise institution of cases in Family Courts of Bhopal is 2456 followed by Gwalior which is 1888 cases and Jabalpur with 1970 cases instituted in 2017. It can be seen that during 2017, Ujjain had lesser number of cases being instituted as compared to 2016 whereas

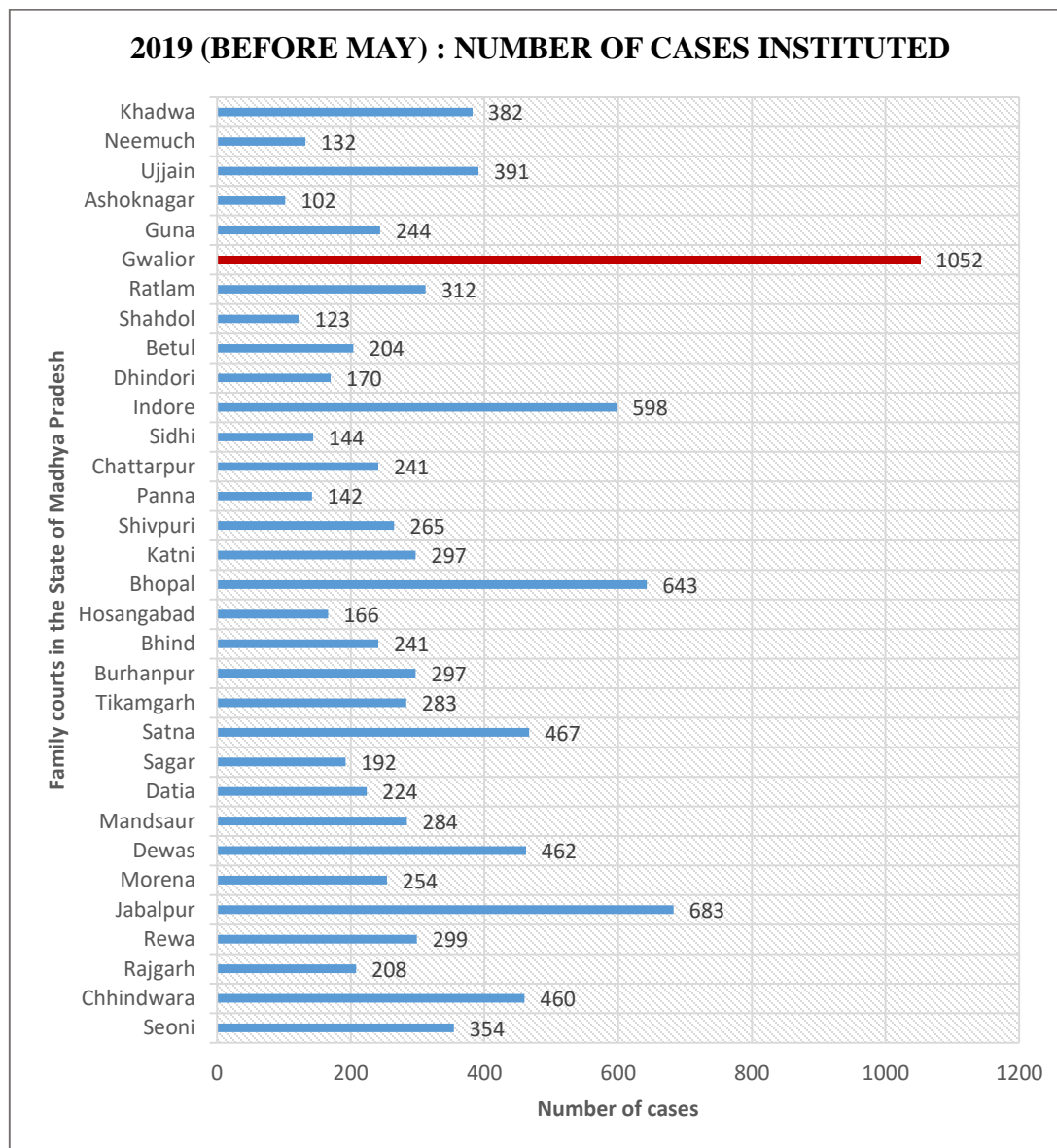
there has been a significant increase in institution of cases in the Family Court of Khandwa from 601 cases in 2016 to 1041 cases instituted in 2017.



(Chart No. 9)

Chart No. 9: A total of 22,620 cases were instituted in 2018. It can be seen from the previous charts that Family Courts of Bhopal, Gwalior and Jabalpur have approximately over 2000 cases being instituted each year. One of the reason for the increasing number of institution in these districts is large population and bigger

districts as compared to other districts. Family Court of Indore shows a slight increase in cases instituted in 2018 as compared to previous years.



(Chart No. 10)

Chart No. 10: The data pertaining to institution of cases for 2019 is either before or till the month of May since the research was ongoing for the said duration. The chart gives a similar picture of institution as compared to the last 4 years.

The above charts pertaining to institution of cases from the year 2015 till 2018 and 2019 (till May) indicates that there is a continuous increase in number of cases being

filed in Family Courts each year. The figures are ever increasing and shows the changing nature of accessibility to Family Courts for multiplicity of family dispute.

Table No. 12: The number of cases disposed of by Family Courts of Madhya Pradesh in 2017 and 2018.

Districts	2017	2018
Seoni		99
Chhindwara	329	184
Rajgarh		701
Rewa	539	427
Jabalpur	480	24
Morena	1153	1098
Dewas	363	453
Mandsaur	528	641
Datia		250
Sagar	568	520
Satna	626	595
Tikamgarh		683
Burhanpur	199	
Bhind	382	593
Hosangabad	225	146
Bhopal	2314	2121
Katni	625	436
Shivpuri		359
Panna	211	208
Chattarpur		479
Sidhi	240	161
Indore	974	1132
Dhindori	375	170
Betul	648	645
Shahdol		562
Ratlam	503	456
Gwalior	1586	1878
Guna	562	464
Ashoknagar	302	188
Ujjain	704	333
Neemuch	273	232
Khadwa		1110
Sum	14709	17348

(Table No. 12)

The above chart indicates that the number of cases disposed off for 2017 and 2018. In 2017, approx. 14,709 cases were disposed off while approx. 17348 cases were disposed off in 2018 by various Family Courts of Madhya Pradesh.

Note: Combined data for 2017 and 2018 was provided by the Family Court of Khandwa, Chhatarpur, Rajgarh, Shivpuri, Seoni, and Shahdol which has been considered in 2018 for the purpose of analysis in the present study. The response from the Family Court of Dhindori mentioned 540 cases for 2017-2018, which has been divided in 2017 and 2018 approximately adding to 545. Therefore, these numbers for said districts are indicative and not an exact figure due to limitation of availability of exact data.

Institution and Disposal: Analysis based on data received through Questionnaire							
Serial No		2017	2018	Average Institution per year	Average Rate of Disposal	No. of cases pending >1 yr. on 31.10.2019	No. of Judges
1	Institution	21,500	22,260	21,880	16,046	34,902	32
2	Disposal	14,709	17,384				

(Table No. 13)

As per the above *Table no. 13*, an average 20,000 new cases are instituted every year. It is imperative for the study to identify the number of fresh cases filed *vis-a-vis* the number of cases disposed to highlight the gap leading to pendency. Since the rate of institution is showing an increasing trend with regard to family disputes and will probably escalate in the coming years. If the rate of disposal is higher to the rate of institution, then there will be a substantial reduction in backlog of cases.

Table No. 14: Average number of cases instituted *versus* cases disposed by Family Courts in Madhya Pradesh (for 32 districts), provide an approximate number of cases remaining to be disposed off, and thereby reflecting an approximate number of cases pending.

Serial No.	Institution of new cases: (average)	Existing pendency as per NJDG (approx.)	Total	Average Disposal (approx.)	Remaining
1	20,000	40,000	60,000	15,000	45,000

(Table No. 14)

Considering the above situation, a possible and well-formulated strategy is required to deal with the present situation of pendency. The research team proposes few suggestions at the end of study to address the current situation of crisis by providing methodologies to deal with the increasing caseload.

Table Nos. 15, 16 & 17: Category wise filing in Family Courts – The research team had sought responses pertaining to number of cases filed in last three years under various categories of civil and criminal matters. It is observed from the following tables that maximum number of cases instituted relates to maintenance under Sec. 125 of the CrPC amounting to 39% approximately. Further, it could be seen from the responses that Sec. 125 cases are filed in high numbers in the Family Court of Gwalior followed by Burhanpur and Jabalpur. Approximately 24% cases are filed under Sec. 13 and around 15-16% of cases are filed under Sec. 9 of the Hindu Marriage Act. It can also be seen that over past three years, number of cases filed under each category has been increasing continuously. Under the head ‘any other’ responses indicate that cases relating to execution and recovery proceedings under Sec. 125(3) of the CrPC are also instituted in substantial numbers. Cases relating to miscellaneous jurisdiction (MJC) and cases involving the Guardian & Wards Act are also filed in Family Courts.

2015-16							
Districts	Maintenan ce U/S 125 CrPC	Divorce Simpliciter	Divorce w/r Judicial separation and Restituion	Judicial Separation	Restitution of Conjugal Rights	Custody of Child	Any Other
Chhindwara	272	182	2	13	114	24	245
Rajgarh	128	9	32	1	16	3	0
Rewa	89	0	109	0	0	3	17
Jabalpur	428	705	115	116	230	44	329
Morena	154	118	0	0	63	14	104
Dewas	88	0	188	0	0	8	3
Mandsaur	227	85	0	10	68	12	0
Datia	117	131	0	0	0	63	3
Sagar	184	146	0	0	110	0	40
Panna & Satna	225	127	0	4	194	23	32
Tikamgarh	210	29	35	2	78	5	180
Burhanpur	499	48	0	0	45	0	6
Bhind	309	51	0	0	62	13	11
*Hosangabad	93	91	0	0	53	4	27
Katni	263	0	268	0	0	0	41
Shivpuri	324	200	50	59	43	20	0
Chattarpur	100	107	0	0	94	12	65
Sidhi	51	44	3	0	30	0	99
Dhindori	150	45	3	0	32	4	32
Betul	210	123	0	1	76	6	2
Shahdol & Anuppur	314	21	72	5	53	9	18
Ratlam	282	173	42	3	154	30	296
Gwalior	528	514	0	8	326	34	293
*Guna	107	159	0	0	81	3	10
Ashoknagar	68	52	3	0	37	4	36
*Ujjain	226	347	0	0	176	35	0
Neemuch	109	63	0	0	38	3	10
Khadwa	64	2	1	0	6	1	0
Sum	5819	3572	923	222	2179	377	1899
% Total	38.82%	23.83%	6.16%	1.48%	14.54%	2.51%	12.67%

(Table No. 15)

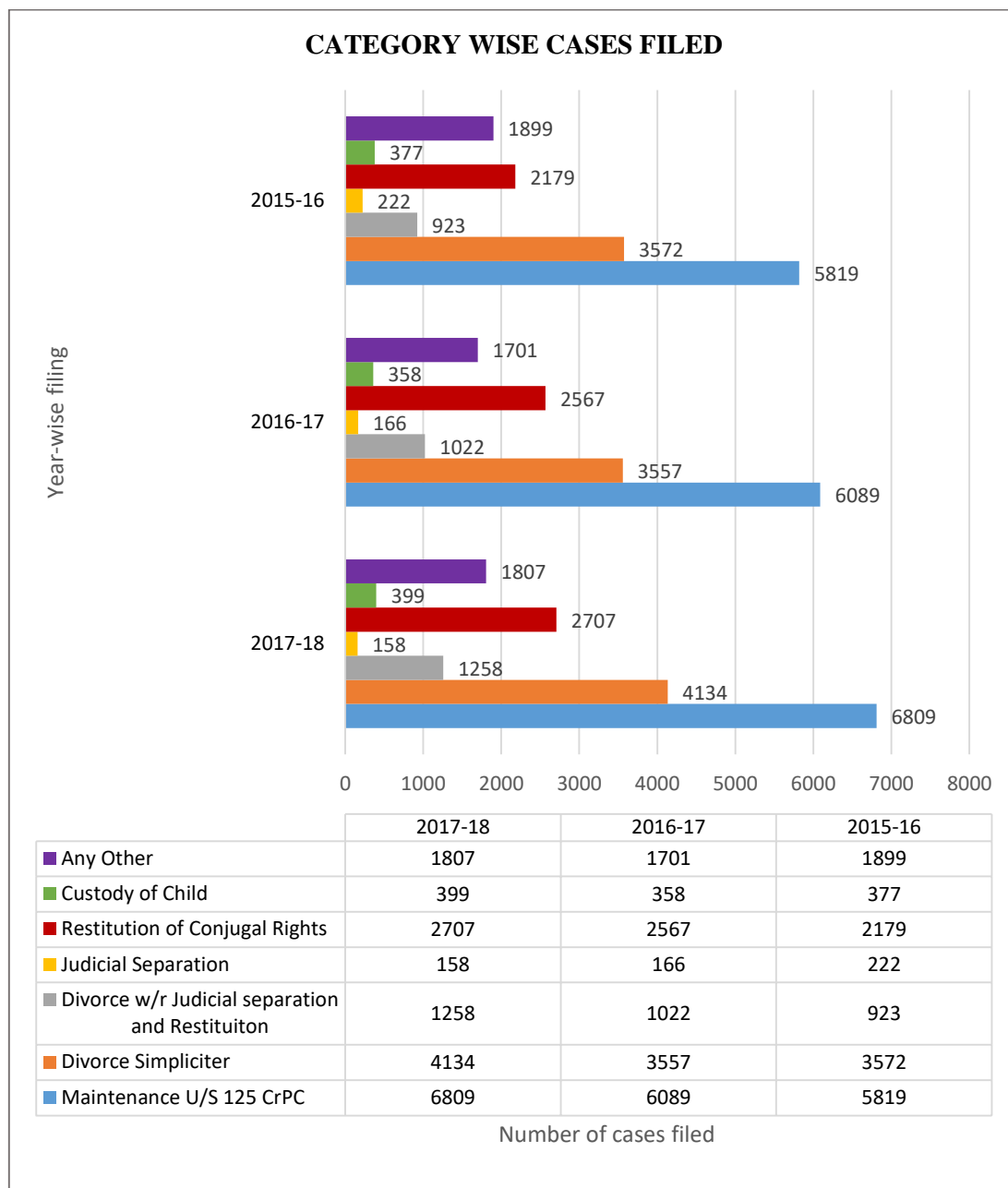
2016-17							
Districts	Maintenan ce U/S 125 CrPC	Divorce Simpliciter	Divorce w/r Judicial separation and Restituion	Judicial Separation	Restitution of Conjugal Rights	Custody of Child	Any Other
Chhindwara	263	202	3	7	106	33	293
Rajgarh	162	12	38	2	20	3	0
Rewa	79	0	133	0	0	9	12
Jabalpur	471	750	82	84	180	37	170
Morena	113	144	4	0	78	8	49
Dewas	117	0	204	0	0	13	17
Mandsaur	187	98	0	4	72	27	0
Datia	221	265	0	0	0	19	3
Sagar	220	155	0	0	116	0	54
Panna & Satna	327	153	0	6	274	75	6
Tikamgarh	228	43	39	3	69	3	213
Burhanpur	529	49	0	0	55	0	8
Bhind	251	135	0	0	113	18	31
*Hosangabad	71	117	0	0	50	5	54
Katni	349	0	313	0	0	0	16
Shivpuri	140	60	60	43	53	9	0
Chattarpur	93	67	0	2	81	4	84
Sidhi	50	52	4	0	26	0	59
Dhindori	120	29	2	0	23	2	68
Betul	127	114	0	1	95	7	8
Shahdol & Anuppur	388	17	46	2	49	7	28
Ratlam	307	162	39	4	138	24	340
Gwalior	537	367	0	8	640	26	122
*Guna	161	167	0	0	101	0	5
Ashoknagar	75	66	6	0	46	8	47
*Ujjain	205	232	0	0	96	15	0
Neemuch	105	63	0	0	37	4	14
Khadwa	202	38	49	0	49	2	0
Sum	6098	3557	1022	166	2567	358	1701
% Total	39.42%	22.99%	6.61%	1.07%	16.59%	2.31%	11.00%

(Table No. 16)

2017-18							
Districts	Mainten ce U/S 125 CrPC	Divorce Simpliciter	Divorce w/r Judicial separation and Restituiton	Judicial Separation	Restitution of Conjugal Rights	Custody of Child	Any Other
Chhindwara	267	258	2	4	138	36	191
Rajgarh	166	9	42	2	41	3	0
Rewa	131	0	187	0	0	22	28
Jabalpur	504	788	55	50	241	34	246
Morena	151	131	2	0	62	8	93
Dewas	193	0	250	0	0	7	18
Mandsaur	221	89	0	3	70	14	0
Datia	309	311	0	0	0	27	11
Sagar	205	122	0	0	83	0	47
Panna & Satna	342	197	0	11	372	31	41
Tikamgarh	236	49	39	2	68	11	305
Burhanpur	448	57	0	0	53	0	6
Bhind	277	122	0	0	131	14	12
*Hosangabad	90	113	0	0	53	11	50
Katni	361	0	383	0	0	0	29
Shivpuri	243	60	60	63	63	17	0
Chattarpur	154	98	0	4	108	15	112
Sidhi	57	65	3	0	28	0	56
Dhindori	49	39	5	0	50	6	91
Betul	248	86	2	2	83	5	10
Shahdol & Anuppur	363	29	77	6	50	12	25
Ratlam	377	158	41	3	127	32	342
Gwalior	507	706	0	8	458	48	31
*Guna	183	194	2	0	108	1	10
Ashoknagar	72	58	4	0	43	4	40
*Ujjain	171	226	0	0	118	7	0
Neemuch	174	86	0	0	46	11	13
Khadwa	310	83	104	0	113	23	0
Sum	6809	4134	1258	158	2707	399	1807
% Total	39.42%	23.93%	7.28%	0.91%	15.67%	2.31%	10.46%

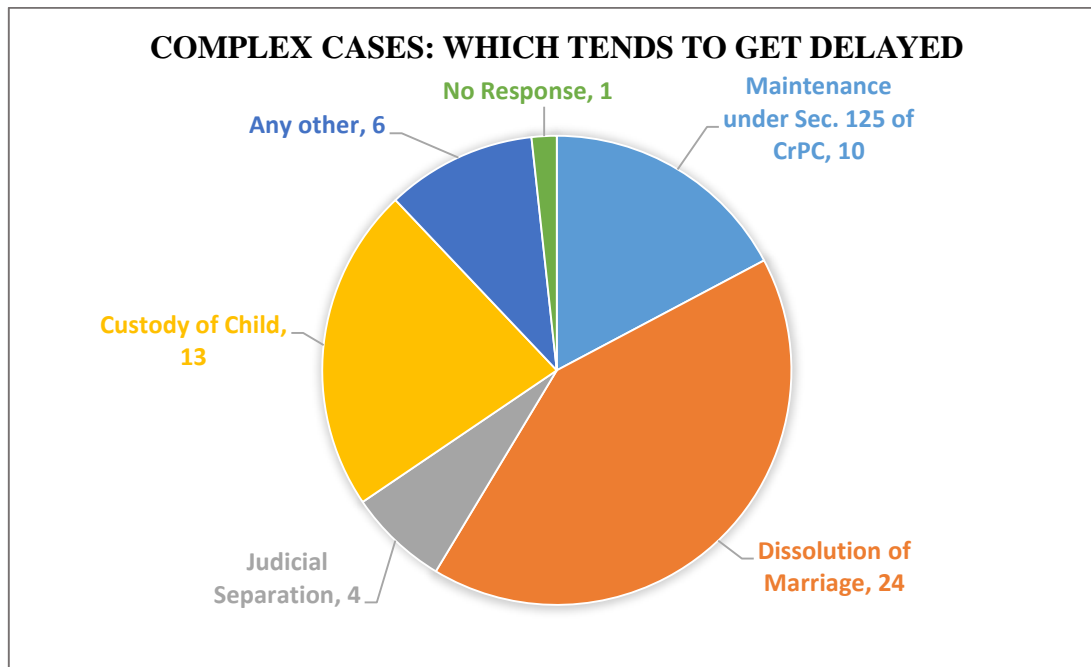
(Table No. 17)

Chart No. 11: The chart represents consolidated data relating to number of cases filed under various categories for the years 2015-2016, 2016-2017, and 2017-2018 to give a comparative picture. Tables 15, 16 and 17 have been collated and analyzed in the chart below.



(Chart No. 11)

Chart No. 12: Please state the type of family cases which are complex in nature and often tends to get delayed.



(Chart No. 12)

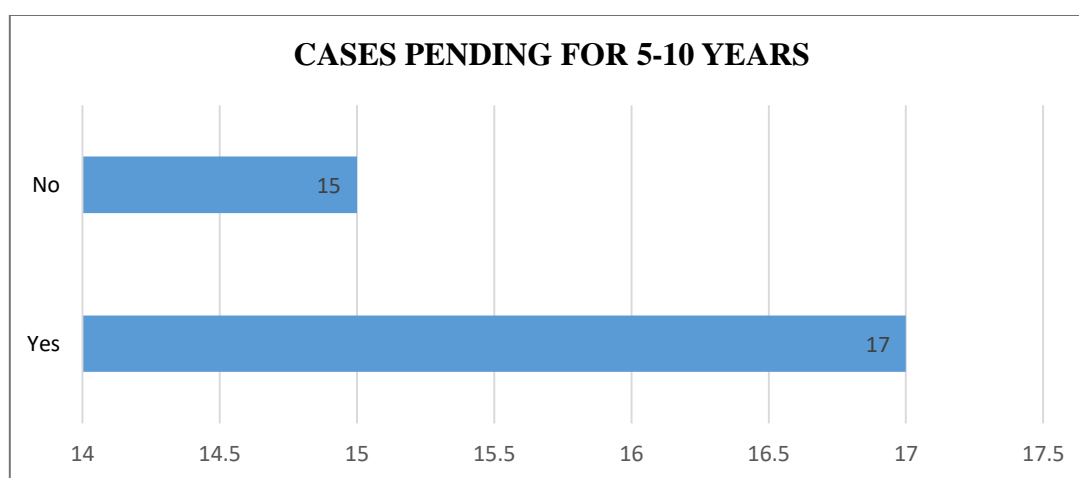
Judges of Family Courts were asked to state the type of cases which are complex in nature and which often tends to get delayed due to its complexity. In the category of civil cases, 24 responses indicated that cases relating to dissolution of marriage are most complex in nature relating to the Hindu Marriage Act or the Dissolution of Muslim Marriage Act 1939, followed by cases relating to custody of child and judicial separation. 10 responses highlighted that maintenance cases under Sec. 125 of the CrPC falling under the category of criminal cases are also complex in nature and often tends to get delayed due to multiple issues involved.

Under the heading ‘Any other’ in the above *Chart 12*, the responses point out two more categories of cases which are sometimes complex and leads to delay: (1). Cases of Sec. 9 under the Hindu Marriage Act pertaining to restitution of conjugal rights and, (2). Recovery of maintenance under Sec. 125 (3) of the CrPC. It was mentioned by one of the judge that child custody cases are most complex as it involves multiple issues relating to welfare of the child.

While analyzing the district wise pendency in each category of cases, the research team found out that under the category of civil cases there is pendency in cases relating

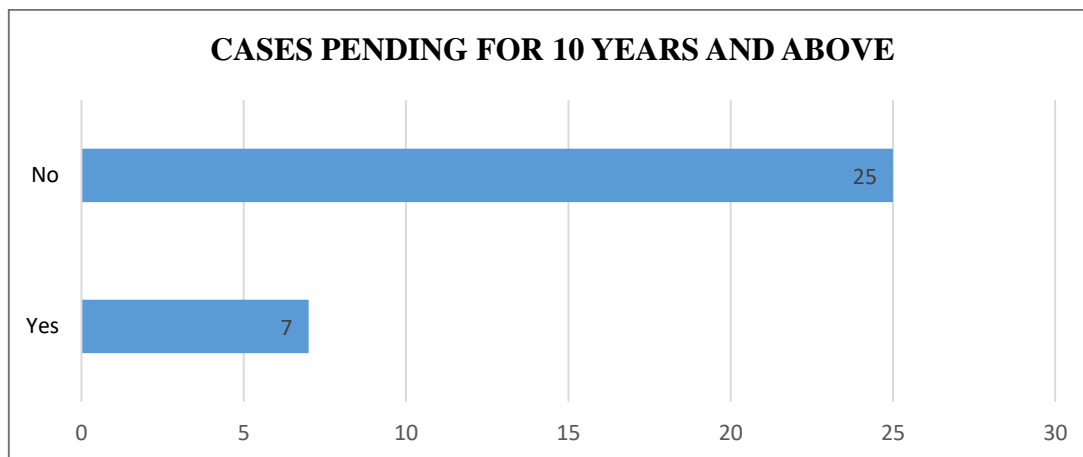
to Sec. 13 and Sec. 9 of the Hindu Marriage Act, while under the category of criminal cases Sec. 125 & 123 (3) of the CrPC cases have maximum pendency. Therefore on the basis of an analysis of data relating to pendency and the nature of complexity of a case, it can be seen that these particular category of cases are complex in nature with multiple issues involved, causing bottlenecks leading to delay.

Chart No. 13 and 14: The Family Court judges were asked to state whether cases are pending for 5 to 10 years and 10 years and above in their respective courts to correspond with the data collected in this regard from the NJDG.



(Chart No. 13)

From the above *Chart 13*, it can be seen that Family Courts in 17 districts have cases pending between 5 to 10 years, which include Family Court of Ashoknagar, Bhopal, Burhanpur, Dhindori, Guna, Gwalior, Hoshangabad, Jabalpur, Katni, Khandwa, Morena, Neemuch, Rewa, Sagar, Seoni, Shahdol, and Sidhi. However, the Family Court of Betul, Bhind, Chhatarpur, Chhindwara, Datia, Dewas, Indore, Mandsaur, Panna, Rajgarh, Ratlam, Satna, Shivpuri, Tikamgarh, and Ujjain responded that no case is pending in their court for 5 to 10 years.

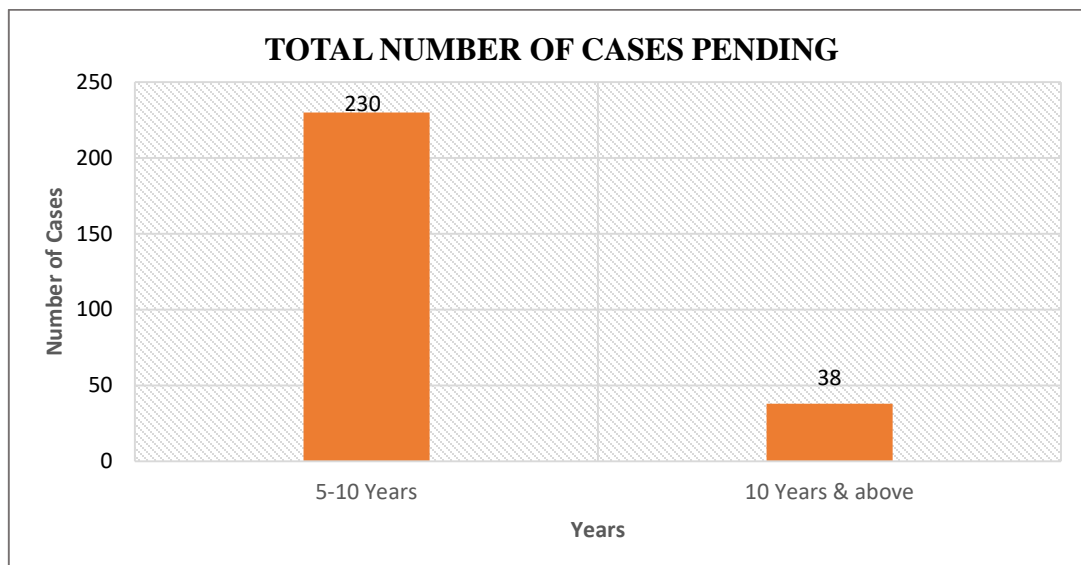


(Chart No. 14)

As indicated in *Chart 14*, there are seven Family Courts in the district of Bhopal, Chhindwara, Dhindori, Gwalior, Rewa, Sagar, and Sidhi, where cases are pending for more than 10 years.

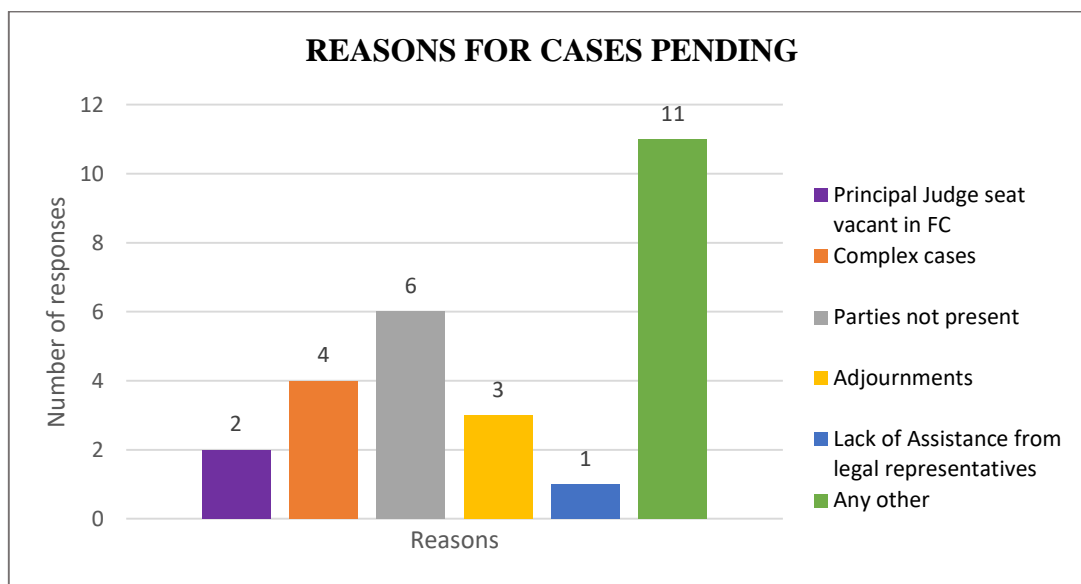
Chart No. 15: Further, the judges were asked about the number of cases actually pending for more than 5 and 10 years. It is imperative to identify the exact number of cases pending before the Family Court of Madhya Pradesh. The *Chart 15* below represents that 230 cases i.e. 85.8% cases are pending in between 5 to 10 years and 38 cases i.e. 14.2% cases are pending for 10 years or more.

However, it is important to highlight that as per the NJDG, approximately 436 cases are pending which are more than 5 years old and around 79 cases are pending which are older than 10 years or above.



(Chart No. 15)

Chart No. 16: It is evident from above charts that cases are pending in Family Courts for 5 years and more, and therefore it is pertinent to find out reasons due to which cases are pending in these special courts for longer period. A question was asked to the judges presiding over Family Courts as to what are the reasons for pendency which are represented in the Chart below.



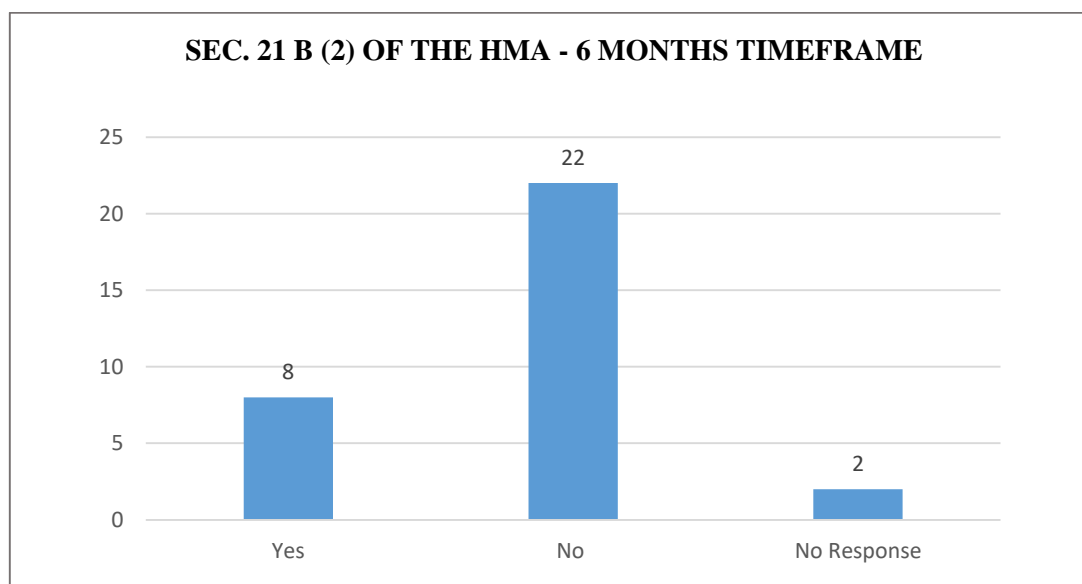
(Chart No. 16)

From the responses in the above chart, bottlenecks were identified causing delay as:

1. two responses indicated that cases get delayed because the Family Court of Principal Judge is vacant;
2. four responses highlighted that complex nature of cases leads to delay in proceedings;
3. six responses mentioned about unavailability of parties during trial;
4. Three responses indicated that frequent and unrequired adjournments leads to delay; and
5. one response stated that the lack of legal assistance also a challenge in speedy disposal.

Further, under the head '*Any other*', cases are pending for 5 years and above due to non-payment of maintenance amount under Sec. 125(3) of the CrPC as indicated through responses. It was also observed that non-applicants are not present in such type of recovery cases and no property is attached. It was also indicated that most of the cases pending for 5 to 10 years or above are matters stayed by the High Court which are reflected as backlog cases. During the field study, it was observed that there are cases stayed for more than 7 to 8 years by the High Court.

Chart No. 17: A stipulated time-period is mentioned under Sec. 21 B (2) of the Hindu Marriage Act 1955 for expeditious disposal of family dispute cases. The judges were asked if they are able to conclude the trial within six months from the date of service of notice as stipulated under Sec. 21 of the Hindu Marriage Act.



(Chart No. 17)

The Hindu Marriage Act, 1955, under Sec. 21 B (2), provides for a timeframe to dispose off family matters in a timely manner within six months. The said section is a special provision relating to trial and disposal of petitions, which states that:

- 1) The trial of a petition under this Act, shall so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion unless the court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.*
- 2) Every petition under this Act shall be triad as expeditiously as possible and endeavor shall be made to conclude the trail within six months from date of service of notice of the petition on the respondent.*
- 3) Every appeal under this Act shall be heard as expeditiously as possible, and endeavor shall be made to conclude the hearing within three months from the date of service of notice of appeal on the respondent.*

The Presiding judges of the Family Court were asked about possibility of disposing a family dispute matter within the stipulated time-frame of six months. It is clear from the above *Chart 17* that, 22 out of 32 responses (68 %) indicate that it is difficult to dispose of the matter in the stipulated time due to various reasons as stated below and only 8 responses stated that they are able to conclude the matter within the time mentioned in the section.

Reasons suggested in the responses received for non-disposal of matter within stipulated time-frame are:

- Family Courts in some districts have high pendency of 1000 or more cases which makes it difficult for presiding judges of these courts to complete the case within the stipulated 6 months.
- Lengthy cross-examination & multiplicity of witnesses
- Frequent adjournments sought by both parties and their advocates for filing reply. Delay in giving evidence by parties and filing of interim applications results in delays in trial.
- Prior settlement is one of the main object of the Act. But, settlement efforts like mediation and reconciliation proceedings takes approximately 3 months. Also, in between proceedings parties seeking reconciliation makes it difficult to adhere to time-frame.

- Procedural complexity and non-cooperation of parties is also one of the reasons of delay in concluding the trial.
- Intention of one party to harass another also leads to delay in continuous proceedings.
- One judge is being designated as Principal Judge of Family Court for more than one district's Family Court which requires simultaneously working in linked courts or two separate courts.
- Absence of full time Family Court in some districts.
- Many a time non-applicants uses delay tactics to delay the trial.
- Frequent transfer of Family Court judges makes it difficult for a judge to complete trial within 6 months due to lack of training in dealing with the nature of family cases.
- It was also stated that only *ex-parte* cases are generally decided within the given timeframe.

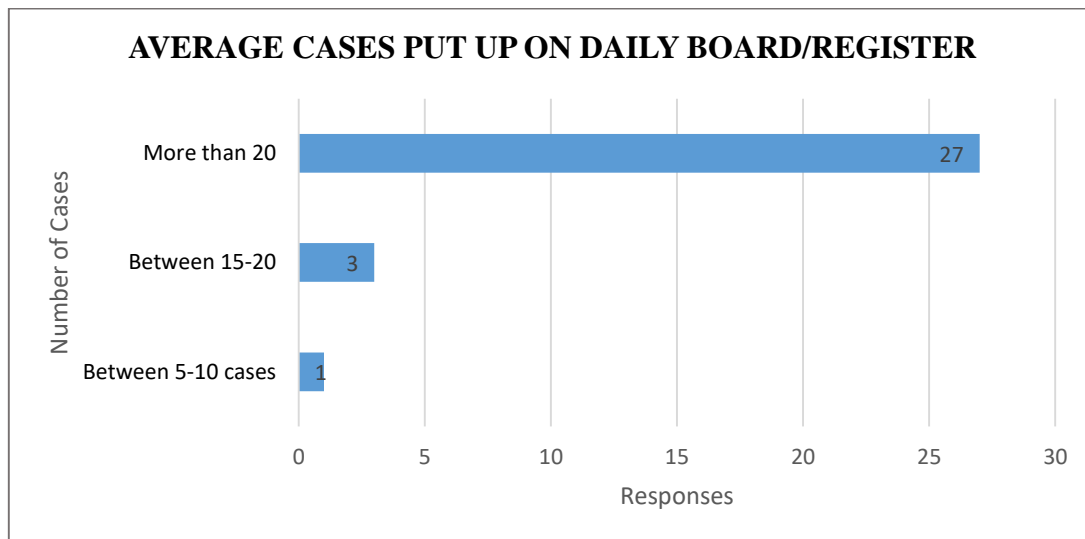
Legal Representation in Family Matters

Sec. 13 of the Act provides that parties to a suit in a proceeding shall not be entitled to legal representation as a right. The object of the legislators was not to completely restrict the rights of parties. Instead the proviso to the section empowers court to seek assistance of a legal practitioner as *amicus curiae*. Responses were sought from the Principal Judge of Family Courts whether legal representatives are appointed by parties in their family dispute in their respective courts. It was pertinent to find out that all 32 responses unanimously indicated that parties appoint legal representative in almost every case filed before a Family Court in Madhya Pradesh. However, the response from the Family Court of Bhopal commented that there are a few rare cases, where parties have self-represented their matter.

The whole object of the Act to speedy trial and accessibility of these courts to litigants under Sec. 13 of the Act is vitiated by cases being represented by legal representatives as regular civil or criminal suit. During the study, it was found that due to complex procedures involved in family matters from its institution till disposal and lack of knowledge of litigants makes it essential for parties to seek legal representative.

Court and Case Management

Chart No. 18: How many cases on an average are put up on the daily board in Family Court?



(Chart No. 18)

The above chart shows that on an average more than 20 cases are put up on daily board/register of the Family Court. It was observed during the field visit that in some districts number of cases put up in daily register is more than 100 and, Family Court of Indore maintains separate registers for criminal and civil cases which enlists more than 80 cases per day. Few responses indicated that only 5-20 cases are put up in daily register.

It could be seen that there is high frequency of cases in some districts which often amounts to heavy workload for Family Court judges in these districts leading to pendency. Due to the intricate nature of family dispute, sometime arguments by parties and evidence takes up a long time involving multiple issues which causes a lot of pressure on the presiding judge of the Family Court to maintain the disposal rate and at the same time address each case at length.

Chart No. 19: It was pertinent to find out whether there is an assigned time line for concluding the oral hearing in Family Courts and if time is assigned then whether the judges of Family Courts are able to follow the assigned time. During the study, it was observed that substantial amount of time is consumed by both parties during the trial phase. Considering this background, the below *Charts 19 & 19.1* represent responses

received from Family Court judges in the districts of Madhya Pradesh. Out of 32 Judges, 34% of responses mentioned that a stipulated time is assigned for concluding oral hearing, whereas 65% of responses stated otherwise.

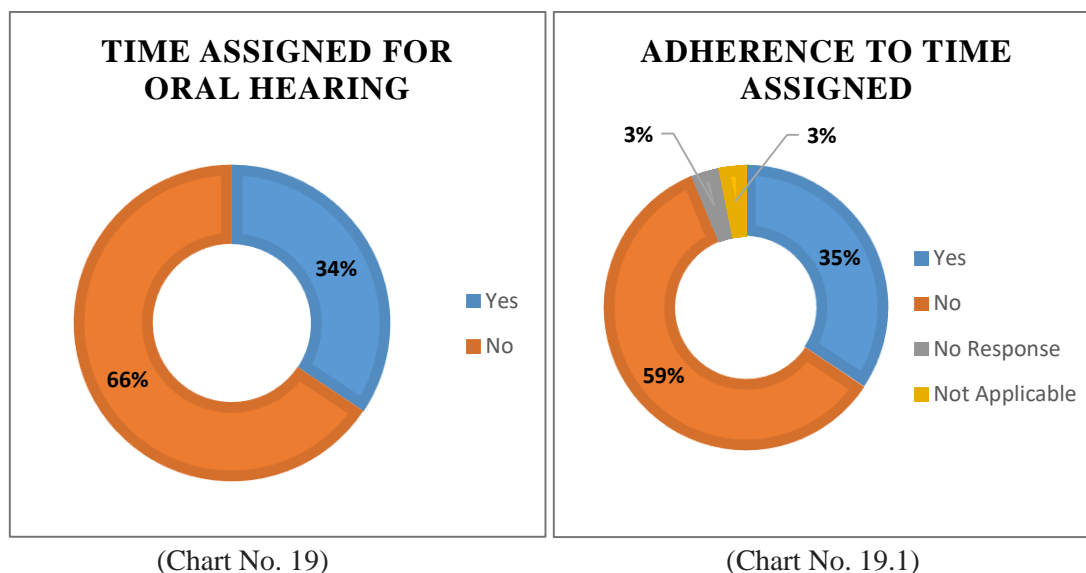
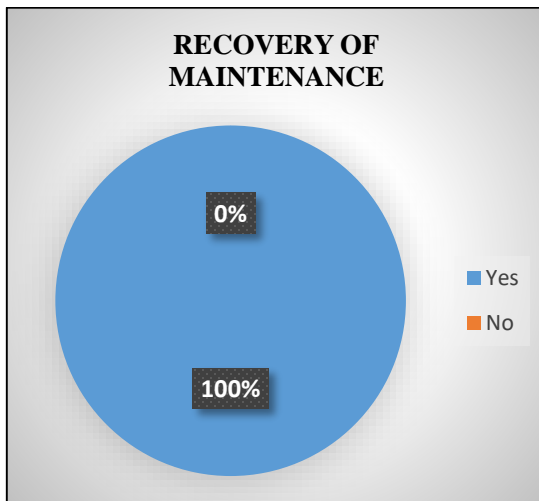


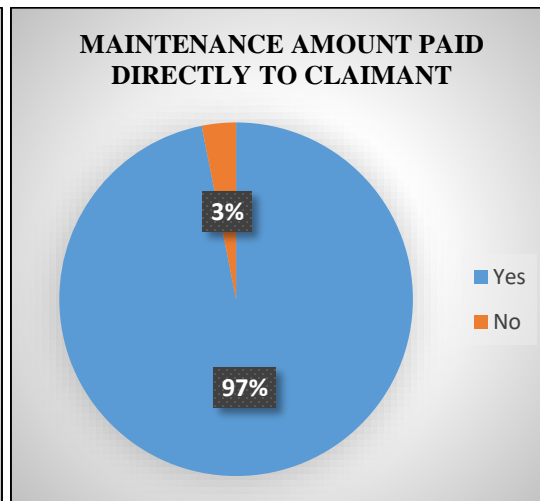
Chart No. 19.1: Further, the research team tried to find out that if there is an assigned time line for oral hearing, whether judges of Family Courts are able to follow the said stipulated time for oral hearing. The responses indicated that time assigned is followed by 35% of judges out of total responses received. However 59% of judges indicated that oral hearing exceeds the assigned time.

It was observed by the research team that time which is being consumed by parties for oral hearing can be reduced substantially, if, stipulated time frames are followed in Family Court proceedings.

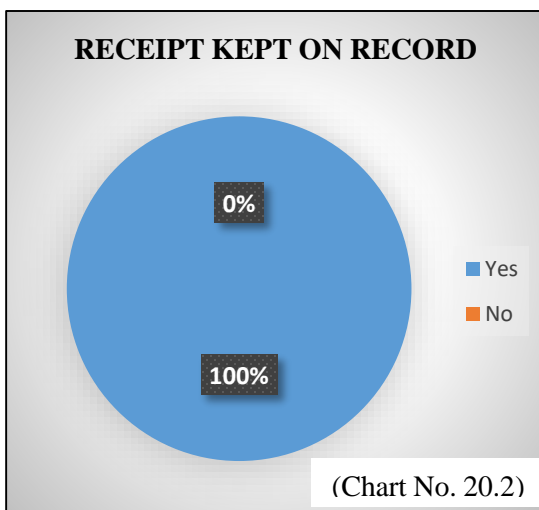
Chart No. 20: Are the cases for recovery of maintenance allowance regularly taken up and effective steps are taken to release the amount of maintenance due:



(Chart No. 20)



(Chart No. 20.1)

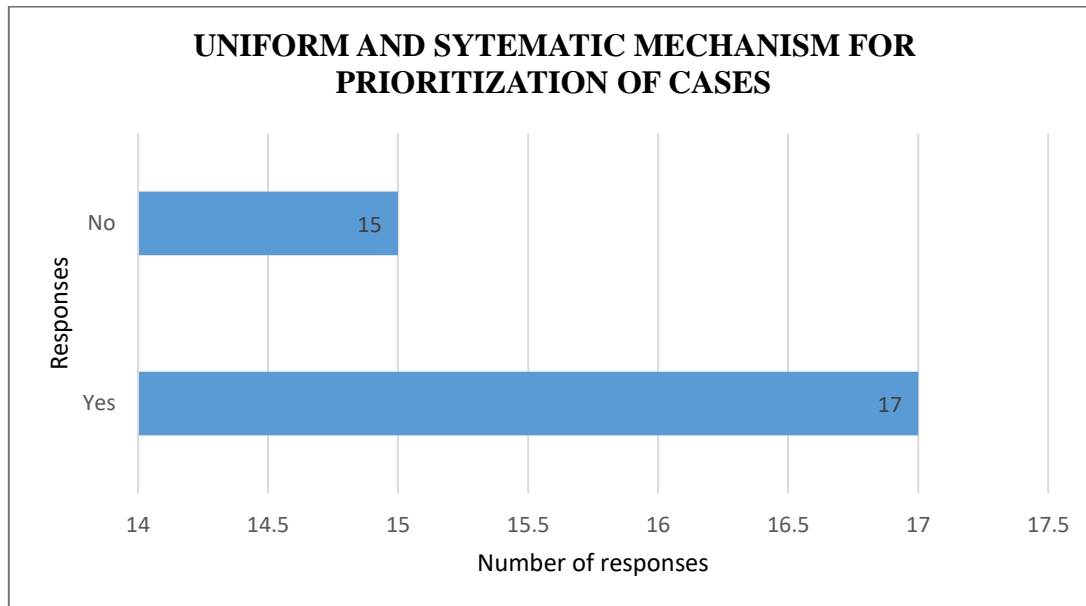


(Chart No. 20.2)

During the study it was observed that maintenance cases under Sec. 125 of the CrPC have high pendency as compared to other categories of family cases. The recovery and execution proceedings are also pending under the said provision. Therefore, Family Court judges were asked whether the recovery of maintenance proceedings are regularly taken up and whether effective steps have been taken to release the amount of maintenance to the parties involved.

From *Charts 20, 20.1 & 20.2*, it can be seen that the recovery of maintenance proceedings are regularly taken up and 97% of the responses received indicated that the amount of maintenance is paid directly to the claimant. Further, the responses also indicated that proper receipt of maintenance allowance is kept on record in Family Courts (as in *Chart No. 20.2*).

Chart No 21: Whether a uniform and systematic mechanism for prioritization of cases has been worked out in your Family Court:



(Chart No. 21)

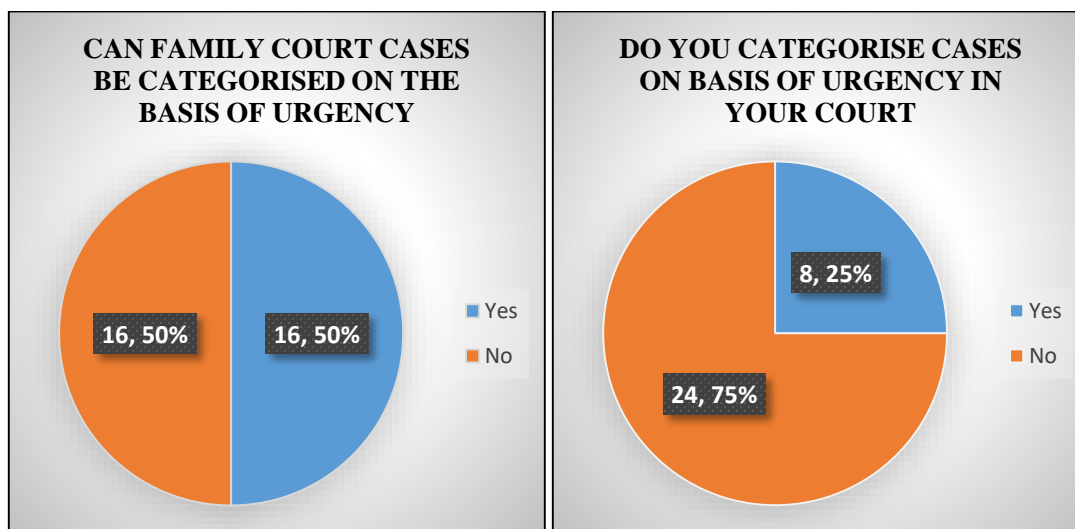
After studying the purpose of establishing Family Courts, it was clear that speedy trial is the essence for setting up these special courts. Effective case and court management is an essential tool to reduce pendency in courts, thereby optimizing the efficiency of courts. Therefore, judges were asked to mention whether any systematic and uniform mechanism for prioritization of cases is followed in their respective Family Court which may include cases relating to senior citizens, children, property disputes, and divorce cases involving women victim of violence. Since these cases are complex in nature and relates to issues pertaining to welfare of child, and age as a critical factor which may be considered for taking up such matters on priority.

It could be seen from the above *Chart 21*, 17 responses from Family Court of Betul, Bhind, Bhopal, Burhanpur, Chhatarpur, Dhindori, Gwalior, Indore, Morena, Neemuch, Ratlam, Rewa, Sagar Seoni, Shahdol, Tikamgarh, and Ujjain stated that they have worked out a systematic mechanism for prioritization of cases in their respective Family Courts which help them to address cases requiring urgent hearing due to its nature without causing delay through case management or docket management. Whereas 15 responses stated otherwise, they felt that every family case is of equal priority.

Out of 17 responses, some judges also mentioned cases which could be prioritized such as cases involving senior-citizens, young and small children over other cases.

Chart No. 22 & 22.1: On similar lines as previous charts, Family Court judges were asked to give their opinion on case management in family matters where cases could be categorized on the basis of urgency. It can be seen in the charts below that 50% of judges were of the opinion that family dispute cases could be categorized based on urgency. Family Courts of 8 districts including Betul, Burhanpur, Chhatarpur, Chhindwara, Dhindori, Hoshangabad, Indore, and Rewa, stated that they categorize cases on the basis of urgency in their courts. Judges further highlighted cases which could be dealt with as most urgent such as:

- 1) cases relating to adoption of child;
- 2) child custody cases; and
- 3) maintenance cases involving senior citizens and children

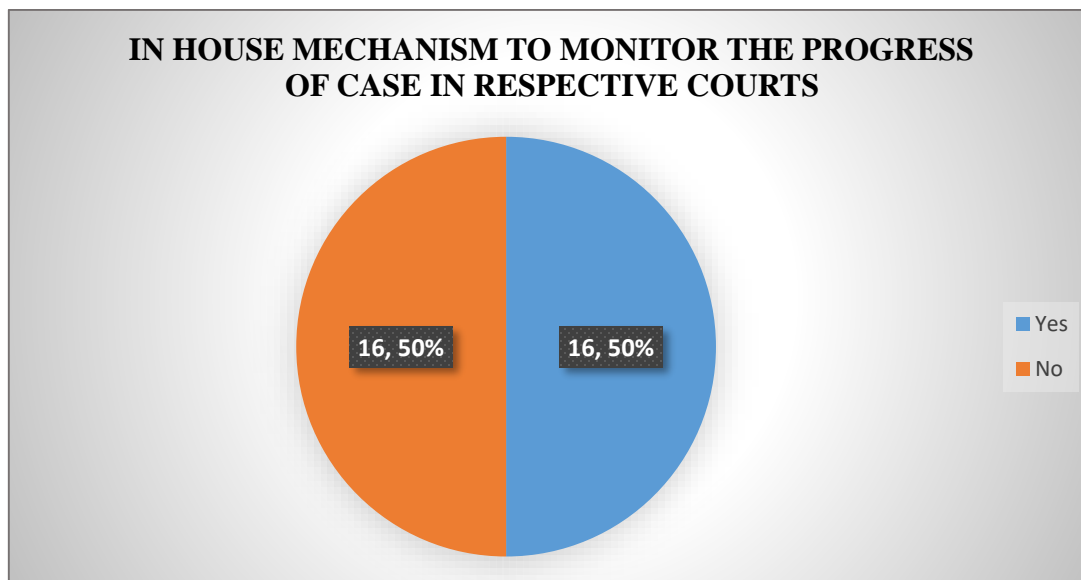


(Chart No. 22)

(Chart No. 22.1)

Further, based on the responses received, other cases that could be categorized as urgent included mutual divorce cases, cases relating to restitution of conjugal rights and cases where application of interim maintenance is pending. However, some responses stated otherwise as indicated in *Chart 22 & 22.1* that in Family Court all matters stand in equal footing and most family matters are equally urgent in nature.

The research team on the basis of analysis and field visit opines that better case management techniques could be adopted in Family Courts whereby the cases mentioned above could be given priority as they involve social issues.



(Chart No. 23)

Chart No. 23: It was felt essential that each Family Court should have an in-house mechanism to monitor the status and progress of its cases within their respective courts. This mechanism could help to keep a check and monitor bottlenecks to reduce delay. Such in-house mechanism will further facilitate to identify the stage which consumes time due to its complexity and could be addressed as required. The responses received on the question whether Family Courts have adopted such mechanism, 16 judges out of total responses received (50%) mentioned that they have a mechanism in their courts to monitor progress of each case regularly. The other 16 district does not have a specific in-house mechanism to check progress of cases within their courts.

Family Courts judges also highlighted some best practices followed by them in their courts which could be adopted by other district's Family Courts to keep track of each case within their court itself such as:

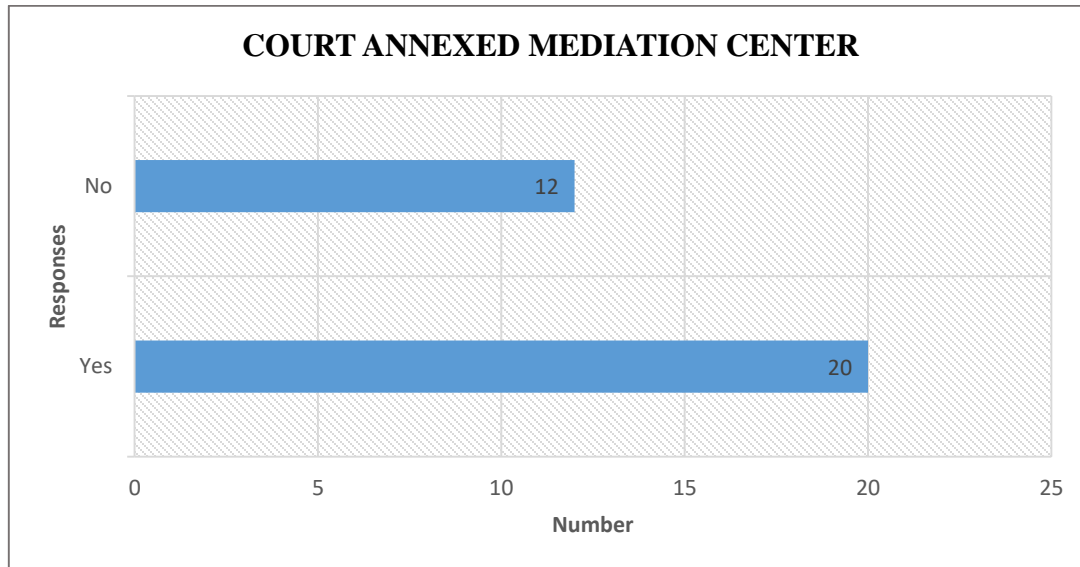
1. Monitoring cases monthly and conducting regular inspection of files;
2. The Principal Judge could monitor the progress of each case as mentioned by the Family Court of Gwalior;
3. Family Court in the districts of Bhind, Burhanpur and Ujjain uses Case Information System (CIS) and does minute monitoring of cases to check the progress of each case;

4. In the Family Court of Rewa, and Sagar Principal Judges monitor 5 to 10 and 3 to 5 years old cases every month respectively. The Presiding Judge discusses with parties and their advocates to identify reason of dispute and ways to settle it quickly;
5. The Principal Judge of Ratlam Family Court suggested that case files should be marked with different colors on the basis of priority. Further, the reader should be directed to place priority cases on the docket;
6. In the Family Court of Chhatarpur, the reader institutes the matter on same day of filing, discusses issues with the party, records the reasons and informs the opposite party at the earliest. Once both parties are present, the Principal Judge suggest parties to discuss the matter amicably and arrive at settlement; and
7. The Principal Judge of Tikamgarh Family Court stated that he tries to ensure that only those number of files are put up for a day which can be dealt with by him personally excluding any mechanical operation of such files by clerical staff. This acquaints the judge with the progress of each case in his court and also ensures that no unreasonable adjournments are granted without thorough examination of circumstances. Also the cases are prioritized according to time progress ratio.

Some of the above suggestions and best practices provided by Family Court judges on an in-house mechanism to check the progress of cases could be adopted by other districts to have better court and case management. It was also highlighted that the High Court controls all Family Courts and gives direction from time to time and take monthly statement of cases.

Alternative Dispute Resolution (ADR) Mechanism

During the Conference on ‘National Initiative to Reduce Pendency and Delay in Judicial System’, one of the core areas focused on was effective implementation of ADR techniques and how far it has been effective to address pendency in courts



(Chart No. 24)

Chart No. 24: To find out the efficacy of ADR mechanism in Family Courts of Madhya Pradesh, the research team collected responses on whether there are mediation centers annexed to Family Courts. The responses in the above *Chart 24* indicates that out of 32 total responses received, 20 Family Courts in various districts of Madhya Pradesh have mediation centers annexed to their court, which includes Family Court of Ashoknagar, Bhind, Bhopal, Chhatarpur, Datia, Dhindori, Guna, Gwalior, Indore, Jabalpur, Katni, Khandwa, Mandsaur, Morena, Rajgarh, Ratlam, Rewa Shahdol, Tikamgarh, and Ujjain.

However, there are still 12 districts including Chhindwara, Seoni, Dewas, Shivpuri, Panna, Neemuch, Satna, Burhanpur, Hoshangabad, Sagar, Sidhi and Betul where the Family Court does not have a court annexed mediation center.

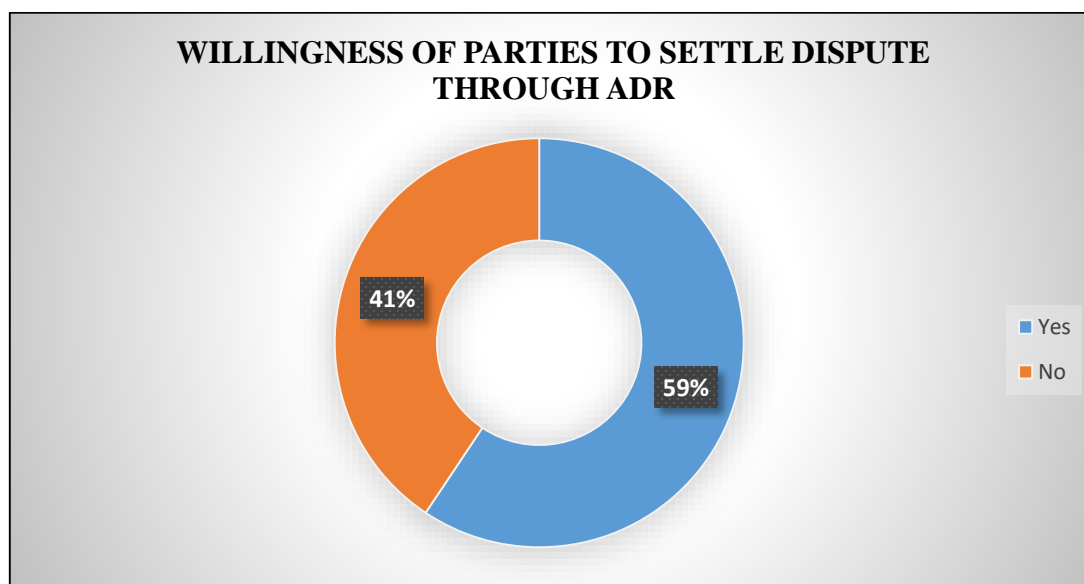
Further, it was also gathered from responses that judges presiding in these Family Courts try to encourage parties to resolve their disputes by resorting to ADR techniques by guiding them through mediation technique themselves. The Principal Judges mentioned that they refer cases for mediation and make genuine efforts to encourage parties to settle disputes beyond court.

Mediation centers attached to Family Courts are constituted so as to conduct the mediation in family disputes. The mediator attached to the mediation center would preferably be an advocate who would be well trained in the field of mediation. The role of the mediator is to bring down the emotions of the litigating spouses and

neutralize them and place them on the pan of equity. Thereafter, the discussion would go on in a joint session followed by a private session which is also termed as ‘*Caucus*’.

The process of mediation is purely voluntary. Litigating spouses should be explained with the importance of mediation. Once the reference is made, mediation would go on for a maximum of 60 days which is extendable till 90 days. When the parties arrive at a settlement, the mediator sends the report to the Court along with the memorandum of understanding entered by the parties. Thus, the case concludes amicably by virtue of the inquisitorial process without adversarial adjudication.

Chart No. 25: Whether parties are willing to settle their family dispute matters through mediation or conciliation instead regular proceedings in Family Courts.

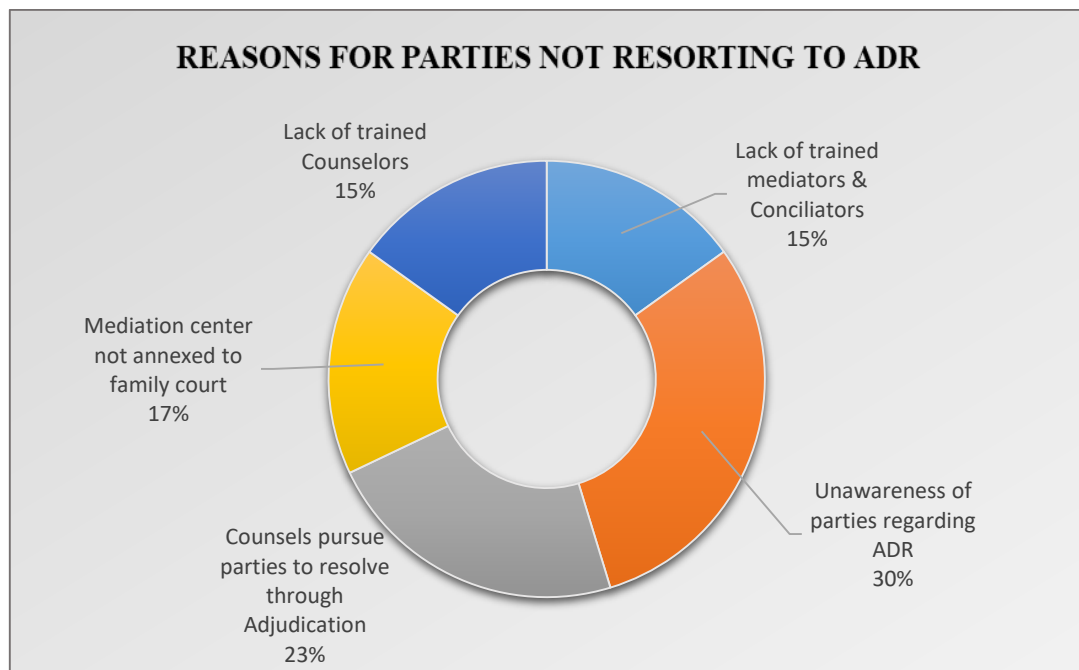


(Chart No. 25)

To identify the prospects of mediation & conciliation techniques in family disputes matter the research tried to find out to the extent to which parties are willing to settle their matter through ADR techniques instead of adjudication by court. It was commendable to note that 19 judges i.e. around 59% out of total responses indicated that parties are willing to settle their disputes through mediation and conciliation techniques which is represented in the above *Chart 25*, and 13 judges (41%) of the responses mentioned that parties are not so willing to explore mediation techniques in their family matters.

It is pertinent to note that these ADR techniques have been successful to a great extent to settle disputes in family matters and thereby reducing the burden of court as gathered from the responses of Principal Judges of Family Courts. As per the data provided in some districts like Jabalpur, more than 80% and in Rajgarh 50% of family cases are resolved through mediation

Chart No. 26: It was observed that in many districts ADR techniques is still not resorted to by the parties. The research team suggested few options to Principal Judges of Family Courts, which could be possible reasons for unwillingness of parties to resolve their dispute by mediation which includes; (a) lack of trained mediators and conciliators, (b) unawareness of parties regarding ADR, (c) counsel pursue parties to resort to adjudication, (d) mediation centers not annexed to Family Courts, and (e) lack of trained counselors.



(Chart No. 26)

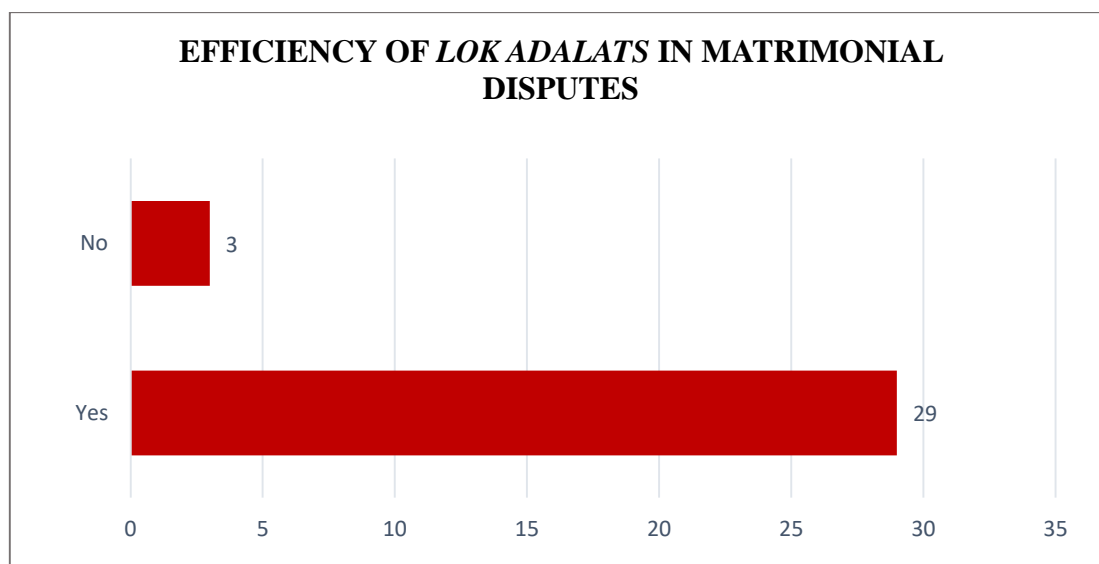
The judges were asked to give their response on why parties are not willing to resolve their matter through mediation or conciliation technique from the suggested options. It can be seen from the above *Chart 26* that one of the main challenge in adoption of the ADR is unawareness of parties regarding alternative means of dispute resolution as indicated by 16 judges (30%). Further, 12 responses (23%) indicates that counsels pursue parties to resolve the matter through adjudication instead of mediation followed

by 17% responses indicating that mediation center are not being annexed to Family Court and 15% stated that due to lack of trained mediators and counsellors, ADR techniques are not fully resorted to by parties. One of the response also pointed out that many a times there are trained mediators but they do not make sincere efforts to resolve a family matter in time.

A lot of efforts are required in the area of ADR specifically with regard to Family Courts since the disputes are of such nature that they can be effectively resolved by an outside court settlement instead of regular adjudication except in some cases. If Family Courts have well established infrastructure with a court annexed mediation center including trained mediators and conciliators, then these ADR techniques will be very effective in reducing the pendency in Family Courts. Also some responses suggested that courts must have kiosks setup to spread awareness regarding these techniques to parties and its advantages.

With regard to counselling, it was observed that in Family Courts of some districts it has been very efficient to bring parties to resolve their issues amicably outside court. Counselling has been very successfully in family matters as mentioned by judges of Family Court and observed during the field study. However, just like ADR there is lack of trained counselors in Family Courts which makes these services ineffective.

Chart No. 27: Whether *Lok Adalats* are efficiently functioning for marital disputes in your district:



(Chart No. 27)

Lok Adalat is one of the ADR mechanisms, it is a forum where cases pending in the court or at pre-litigation stage are settled amicably. Under the Legal Services Authorities Act, 1987 the award made by *Lok Adalat* is deemed to be a decree of a civil court and is final and binding on all parties and no appeal against such an award lies before any court of law. If the parties are not satisfied with the award of the *Lok Adalat*, though there is no provision for an appeal against such an award, but they are free to initiate litigation by approaching the court of appropriate jurisdiction by filing a case following the required procedure in exercise of their right to litigate.

There is no court fee payable when a matter is filed in a *Lok Adalat*. If a matter pending in the court of law is referred to the *Lok Adalat* and is settled subsequently, the court fee originally paid in the court is also refunded back to the parties. The members of *Lok Adalat* plays the role of statutory conciliators only and do not have any judicial role; therefore, they can only persuade the parties to come to a conclusion for settling the dispute outside the court in the *Lok Adalat* and shall not pressurize or coerce any of the parties to compromise or settle cases or matters either directly or indirectly. The *Lok Adalat* shall not decide the matter so referred at its own instance, instead the same would be decided on the basis of the compromise or settlement between the parties. The members shall assist the parties in an independent and impartial manner in their attempt to reach amicable settlement of their dispute.

Family dispute matters are matters most suited for settlement through alternative means like *Lok Adalats* which have been suitable in settling these disputes outside court. The above *Chart 27* indicates that out of 32 responses, *Lok Adalat* is efficiently functioning in 29 districts for matrimonial disputes. However, in 3 districts including Ratlam, Satna and Sidhi, it is not efficiently functioning due to lack of interest of parties to appear on a particular day to attend *Lok Adalat*. The data provided by the Family Court of Jabalpur highlights that, 12 cases were decided in 2016 through *Lok Adalats* which increased to 74 cases in 2017, 90 in 2018 and around 39 cases till April-May 2019. It can be seen that efficiency of *Lok Adalats* have been rapidly increasing in matrimonial disputes.

Challenges in functioning of Lok Adalat in family disputes: It was stated that almost all family dispute cases right from institution and even before litigation the judge gives the opportunity to resolve the dispute through reconciliation, mediation and counseling. Therefore, nothing remains to refer the matter for *Lok Adalat*. This is a very valid argument that in some districts where proper counselling facility is available in the Family Court for the parties in dispute and also they have undergone mediation

process, then referring the matter again to *Lok Adalat* will unnecessarily cause delay in disposing the matter through adjudication unless the parties are really interested in settlement by such means.

It is felt that instead of adopting all types of ADR mechanisms in a single case, only one and incase the parties shows that there is a scope for amicable and the possibility of out of court settlement, depending on the nature of each case either of the alternative ways to settle dispute must be adopted.

Reasons for Delay

Major problems causing delay while adjudicating family matter and reasons for pendency as suggested by Family Court judges. Some of the reason provided may overlap with those specified earlier.

- Long duration of institution phase
- Considerable time taken is by execution and recovery of maintenance proceedings.
- Representation of parties by advocates in Family Courts due to their professional interests do not proceed fast.
- Non-cooperation or absence of parties during proceeding and counselling sessions.
- The main object of the Act is amicable settlement of disputes. Therefore, sufficient time is given to arrive at settlement between parties.
- Time consumed by the statutorily stipulated conciliation procedures/ Time sought by parties during trial proceedings sighting possibility of compromise.
- Lack of sufficient number of courts as compared to the number of filings/institution.
- Working of a judge at different districts as link Family Court is significant cause of delay in some districts. Lack of facilities in linked court.
- Insufficient numbers and untrained staff: Staff provided by district court are generally incompetent and Inter-transfer of staff without consulting Principal Judge of Family Court.
- Evidence delayed by parties
- Interim order of maintenance: under Sec 125 (1) and Sec. 24 of the Hindu Marriage Act. In case of grant of interim maintenance wife or beneficiary does not want to proceed the case.

- Agency for service of summons is inefficient: Incompetence of Police officers to execute summons and recovery warrant on time. Non service of process especially maintenance recovery warrant.
- Avoidance of service of notice by the party concerned - Opponents (especially husband) to evade their liability tries to delay the service of notice.
- Lack of training and knowledge dealing with family matters amongst the Family Court judges and lawyers.
- According to Family Court Act and Rules various social welfare institutions like NGOs, organizations and social workers must be associated. However lack of such associations with the Family Court also leads to delay addressing in family dispute matters.
- Financial constraints among the parties often leads to delay in resolving the matter even if they want to.
- Seeking frequent adjournments

Table No. 18: It can be seen that the cases are mostly pending under Sec. 125 of the CrPC and therefore opinion of the Family Court judges were sought on the reasons for delay in such case and provide possible solutions to address these bottlenecks as indicated in the figure below:

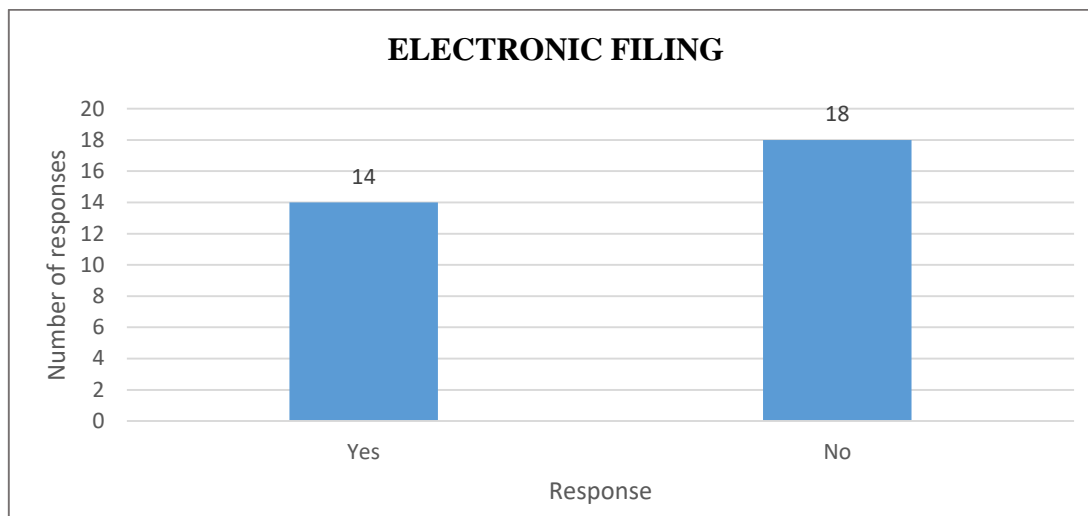
Sr. No.	Reasons for delay in cases of Sec. 125 of the CrPC	Suggestions
1.	Recovery under section 125 (3) is a time consuming process.	<ul style="list-style-type: none"> • Recovery officer be appointed not below the rank of inspector. • No adjournment be given to file written statement and evidence and if at all required then short adjournments may be given. • Less time be given for reply of application and evidence be taken by affidavit and through video conferencing and in brief.
2.	Non-execution of warrant by the Police	
3.	Principal Judge sends letters to higher police authorities for finding out the status of service of summon but does not get any response.	
4.	Matters relating to Sec. 125(3) of the CrPC are mostly pending due to non-payment of maintenance.	

5.	Financial constraint or incapacity to maintain or pay the amount of maintenance on part of the husband and many a times the husband pays the amount by selling the ancestral property.	<ul style="list-style-type: none"> • Recovery cases under Sec.125 (3) of the CrPC be specified year wise separated. • Transfer of jurisdiction of Sec 125 of the CrPC cases to Magistrate's court.
6.	Non-submission of documents regarding income of parties.	<ul style="list-style-type: none"> • If the cases are more than 500 additional judges be appointed.
7.	After grant of interim maintenance, applicant advocate tries to prolong cases.	<ul style="list-style-type: none"> • No multiple witness be allowed unless otherwise required.
8.	The cases filed for recovery of maintenance amount are also covered under this provision and they generally constitute the major part of pendency under this category. Unwillingness of the party to honor the order of payment & very apathetic and non-responsive approach by execution authority are major cause of delay in disposal of these cases. Moreover, there is definitely a limitation period prescribed for application filed for recovery but once it is filed, it remains pending on board unless the whole of the arrears are paid till date. This happens only rarely therefore, the application for recovery stays pending for numerous years.	<ul style="list-style-type: none"> • Serious efforts be made by presiding judge to get to compromise between parties. • Maximum cases be referred for mediation and <i>Lok Adalat</i> and trained mediator and conciliator be appointed in Family Courts.

(Table No. 18)

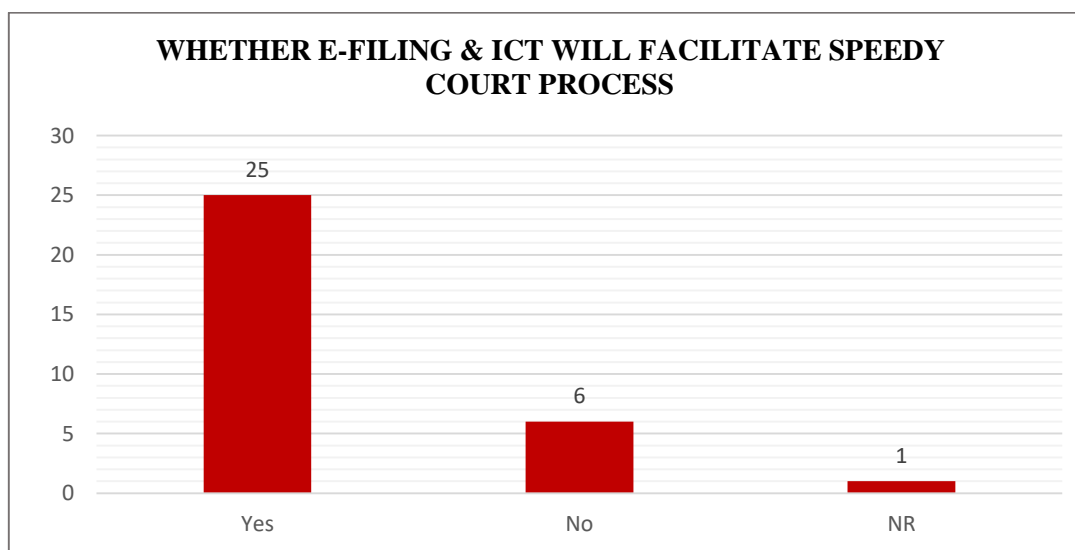
Part IV: Information and Communication Technology (ICT) in Family Courts

Chart No 28: It is important to note that Mr. Justice Madan B. Lokur as a part of e-committee of the Supreme Court of India, stated that the vision and goals of ICT are to better manage caseload, reduce pendency and streamline the disposal of cases through technology such as e-filing, e-summons, e-payment and video conferencing which should be used extensively to facilitate litigant friendly courts.



(Chart No. 28)

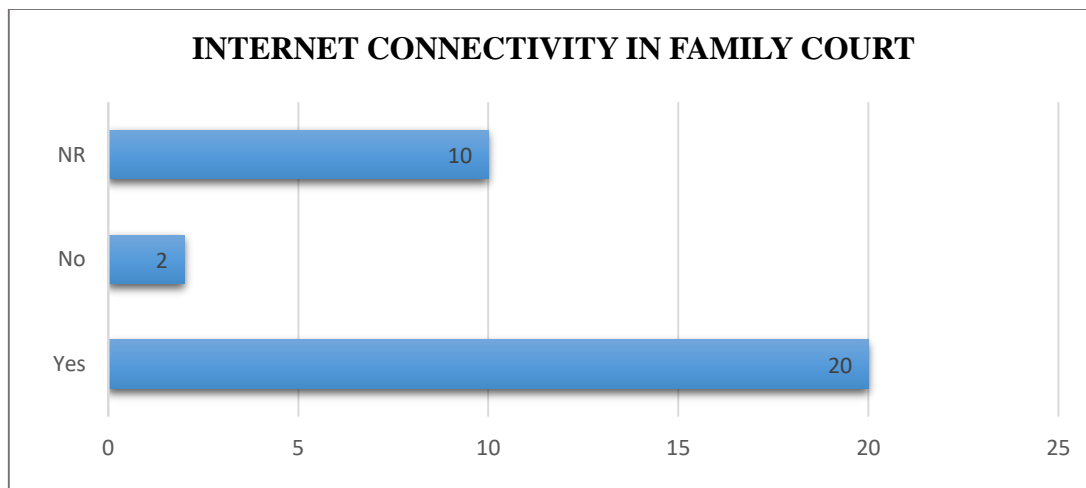
It is evident that adopting technology and new methodologies will certainly help to reduce or eliminate the tedious task of manual filing. Considering this aspect a question was asked to all the judges presiding over Family Courts of Madhya Pradesh that, whether the electronic filing is available in their Family Court or not. According to responses received, only 14 Family Courts are found currently using the electronic filing, while the remaining districts of Betul, Bhind, Burhanpur, Chhatarpur, Gwalior, Indore, Jabalpur, Katni, Mandsaur, Morena, Panna, Rajgarh, Ratlam, Sagar, Satna, Sidhi, Tikamgarh and Ujjain do not have electronic filing system in their Family Courts.



(Chart No. 29)

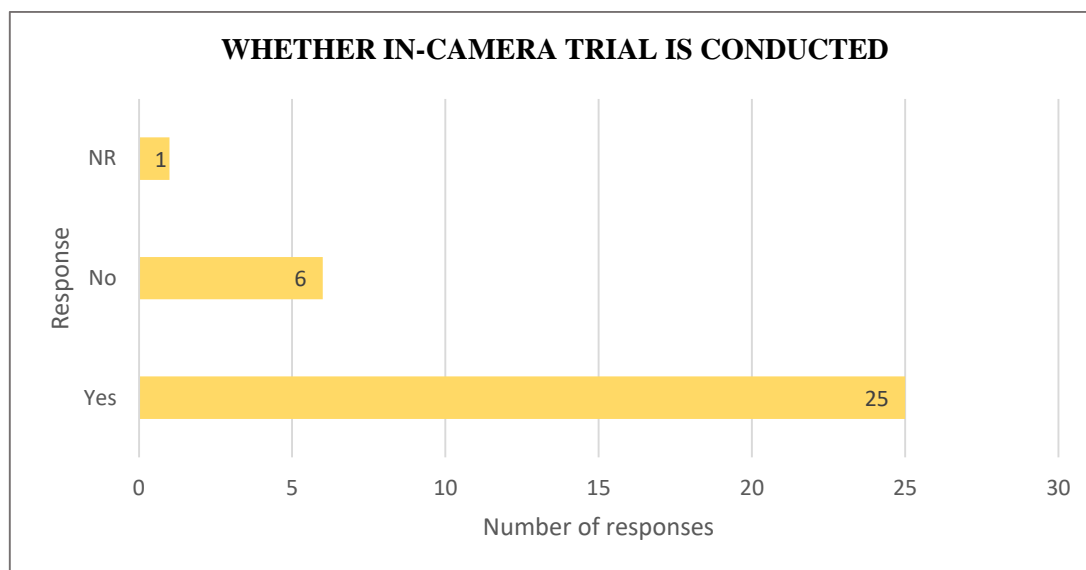
Chart No 29: The e- Committee of the Supreme Court of India has designed and set-up the e-filing system at different levels of judiciary, which enables electronic filing of legal paper (termed as ‘e-filing’). It is also evident that e-transaction is increasing very rapidly. In 2018, e-transactions were around 84,57,91,377 compared to 2017 which were 42,27,55,238. Therefore, Family Court judges were asked to state their opinion on whether e-filing and ICT will facilitate speedy court process or not. 25 responses indicated that that e-filing in Family Courts will improve the existing system of manual filing and will further speed up the overall process of case filing. However, 6 Family Court judges responded that e-filing will not be effective for fastening court process.

Chart No. 30: Research team tried to find out whether all Family Courts under the jurisdiction of the Madhya Pradesh High Court are equipped with computer or laptops as a part of e-court project. From the responses received, it was gathered that all 32 Family Courts have been provided with computer and laptops.



(Chart No. 30)

Internet connectivity is an essential part of daily working and judiciary is no exception. Considering the valuable amount of work done by e-committee for providing hardware and all the essential equipment such as laptops, desktop to all districts, a question was asked to judges presiding over the Family Court whether proper internet connectivity is available in their court or not? Through responses, it was observed that 20 districts have proper internet connectivity, whereas 2 districts including Indore and Sidhi do not have internet connectivity in their Family Courts and 10 districts did not provide any response.

Chart No. 31: *In-camera* trial under Sec. 11 of the Act.

(Chart No. 31)

Chhatarpur, Datia, Gwalior, Indore, Jabalpur, and Mandasaur have not yet conducted an *in-camera* trial in any family disputes matter.

In-camera proceeding is usually conducted in the cases of matrimonial disputes including judicial separation, divorce proceedings, impotency and more such cases. In October 2017, while hearing a transfer petition, the Supreme Court the case *Santhini vs. Vijaya Venketesh*¹² ruled that matrimonial disputes may have to be conducted *in camera*. The Court opined that the decision to conduct *in-camera* proceedings should be left to the Family Courts. Not drawing a hard and fast rule, the court further said that reasons to conduct an *in-camera* proceeding can depend on case-to-case analysis.

In-camera proceedings are those proceedings held before a judge in private either in Court or in his chamber, and the press or other parties not connected with the case are not allowed to be present at the time of the hearing. *In-camera* proceedings are generally held to protect the privacy of parties in a case involving sensitive issues stated as above.

There is a fallacy in the hypothesis that an *in-camera* trial is inconsistent with the usage of video conferencing techniques. A trial *in-camera* postulates the exclusion of the public from the courtroom and allows for restraints on public reporting. Video

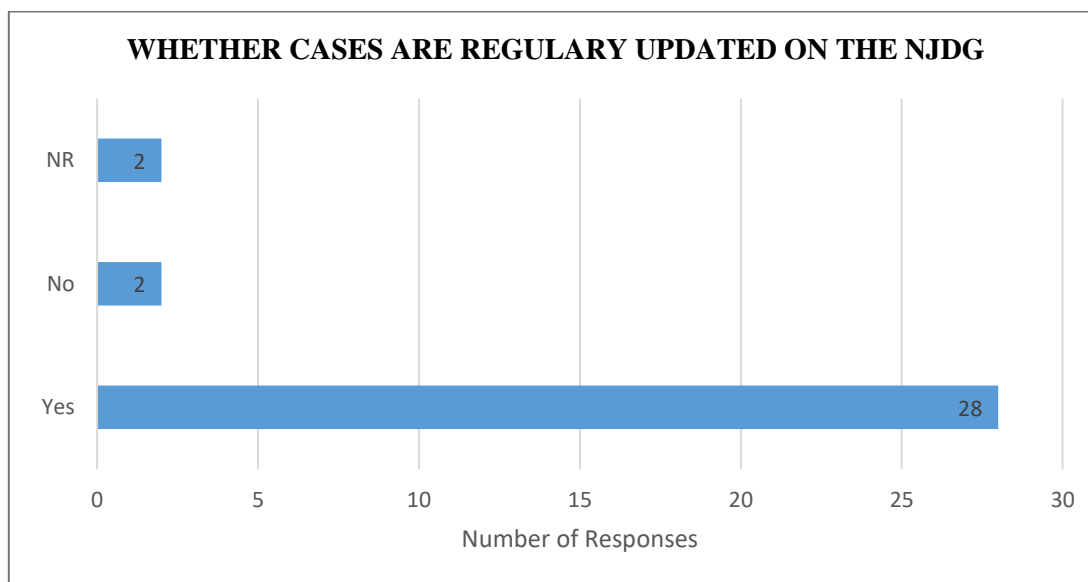
¹² Transfer Petition (Civil) No.1278 Of 2016

conferencing does not have to be recorded nor it is accessible to the press or to the public. The proper adoption of video conferencing does not negate the postulates of an *in-camera* trial even if such a trial is required by the court or by one of the parties under Sec. 11.

Many a times there are cases involving issue relating to privacy or dignity of a party since the family disputes are of intricate nature involving the private sphere of a family. Therefore depending on nature of a case, *in-camera* trial may be a necessity than the regular rule of an open court hearing whereby the parties seem to be more comfortable to point out the problems and complexities relevant to the issue at hand. With this approach, the research team tried to find out as to how many courts have such facility and whether courts have conducted *in-camera* trial or not to speed up trial of cases of such nature.

It could be seen from the Chart above, that 25 districts have conducted *in-camera* trial and have the facility available which is significant but, there are still districts like Chhatarpur, Datia, Gwalior, Indore, Jabalpur and Mandsaur who have not conducted an *in-camera* trial due to lack of infrastructure or related facilities in a family case

Chart No. 32: Whether Family Court cases are regularly updated on the National Judicial Data Grid:

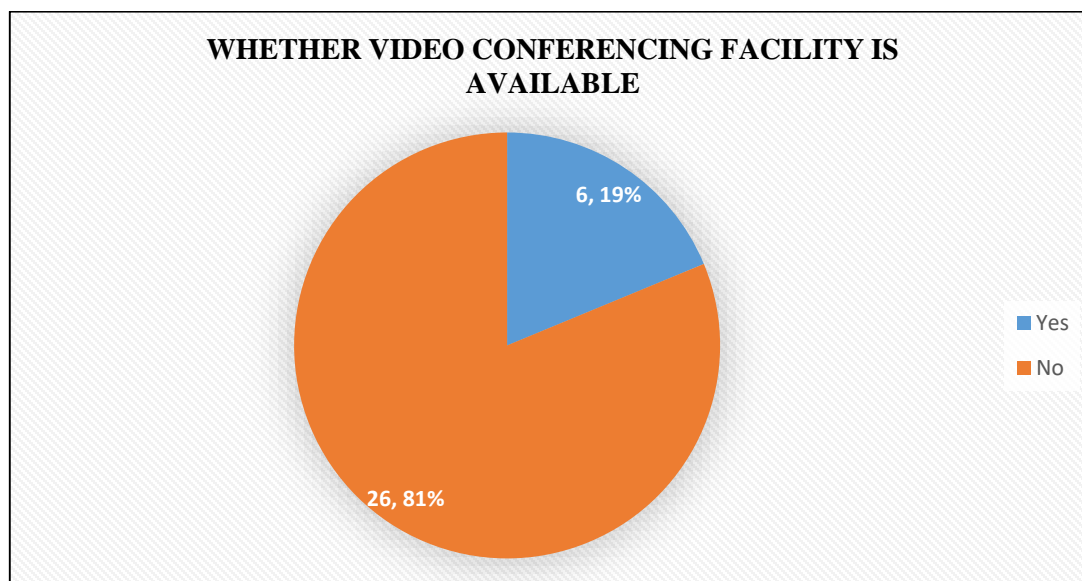


(Chart No 32)

The NJDG is a part of the on-going e-Courts Integrated Mission Mode Project. It works as a tool to identify, manage and reduce pendency of cases. It also helps to provide timely inputs for making policy decisions to reduce delay and arrears in the judicial system, facilitate better monitoring of court performance and systemic bottlenecks, and facilitates better resource management. The NJDG covers all categories of cases including those relating to Family Courts.

Therefore, a question was asked to all judges presiding over the Family Court whether case data are regularly updated on NJDG. Except in the Family Court of Gwalior and Indore all other responses indicate that cases are systematically updated on the NJDG.

Chart No. 33: Availability of video conferencing facility in Family Courts of Madhya Pradesh:



(Chart No. 33)

The Indian judicial system has been very proactive in embracing the use of technology with an integrated mission mode projects like e-courts and e-governance; the video conferencing facility is one of the most advantageous outcome of this technological age that has enabled audio and visual communication between two or more persons at different locations. This facility in courts has the ability to reduce the workload of investigators and judges providing a cost-effective solution for witnesses who are required to travel down from another city to attend court proceedings. The fact of the matter is that most court systems are already dealing with the burden of heavy backlogs of cases and delays due to procedural lacunae or other reasons and Family Courts also

face these challenges. Any means that can speed up the process is a boon to the entire judicial setup.

Various landmark judgements of the Supreme Court have highlighted the importance and need for speedy setup of the video conferencing facility in each court of the country.

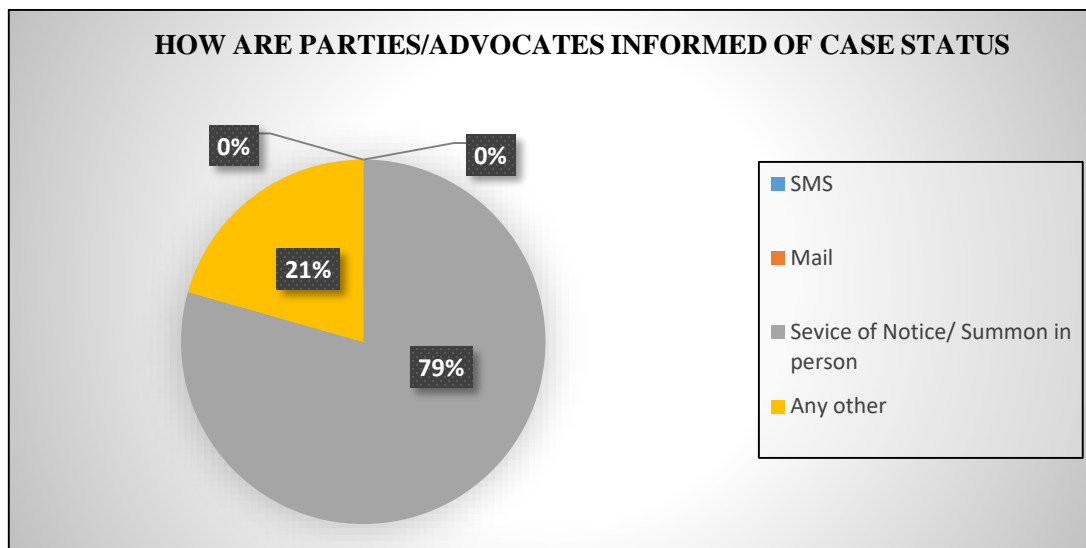
With regard to Family Courts of Madhya Pradesh, the courts are flooded with petitions where the parties reside in different cities, different states or even different countries and it is very difficult to have both the parties present. Specifically in family dispute cases often having regard to the convenience of the wife, the transfer of case to another jurisdiction is allowed. However, in the process the litigants have to travel to the court and spend on litigation. This situation often causes great hardship to the litigants and this process is one of the major causes of delay in matrimonial matters which are meant to be dealt with expeditiously. As pointed out in the case of *Krishna Veni Nigam v. Harsh Nagam*¹³, a large number of transfer petitions are being filed in Family Court of Madhya Pradesh and similar is the situation with other districts also.

Therefore, video conferencing facility in each Family Court of MP will be a boon to reduce the number of adjournments and will help to reduce the delay in matrimonial disputes by speeding up the entire process.

With this brief background, the research team tried to find out the number of districts in the state having video conferencing facility in their Family Courts. It could be seen from the above *Chart 33* that only 19% of the total districts which include Bhind, Bhopal, Jabalpur, Rewa, Sagar, and Ujjain are equipped with video conference facility. The remaining 26 districts (81%) do not have such facility available in their Family Courts.

On the question whether any judge in any family dispute matter has used video conferencing facility, it was found that none of the Family Court has till date used video conferencing facility in any family dispute matter as gathered from the responses received.

¹³ Transfer Petition (Civil), (2017) 4 SCC 150

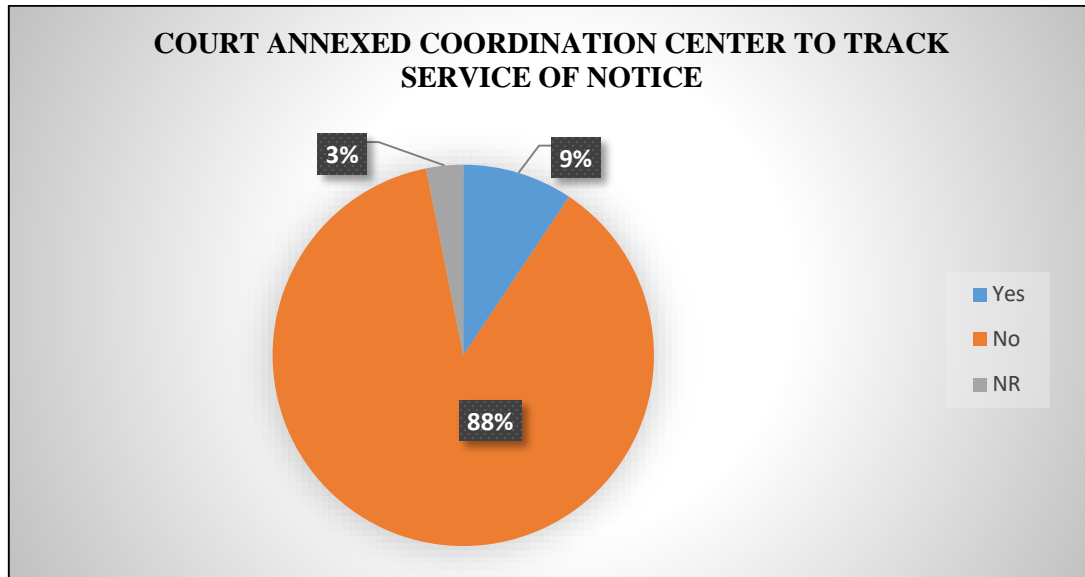
Chart No. 34: How parties are informed about their case status:

(Chart No. 34)

To identify some of the procedural lacunas which may be a reason for delay in family matters, the research team tried to find out how parties in a dispute or their advocates are informed of their case status. Four means were pointed out through which the parties or advocates could be informed, which include SMS, e-mail, service of notice and summon in person and any other. 79% of the responses indicated that service of notice/summons in person is the mechanism adopted by them. 21% responses indicated the other means of informing parties through Case Information System.

It was pertinent to note that in an era of technology and judiciary moving towards court set up the quicker and better options of communication like SMS or email are not at all being used for the purpose.

Chart No. 35: *Coordination center annexed to your court to track the service of notice:* Summons in most cases are not served timely due to shortage of manpower or lack of training officials and more often due to the challenging task of dealing with people who avoid service of process. To address existing bottlenecks and introduce reforms in rules and procedures relating to process service, important legislative changes have been introduced.



(Chart No. 35)

Referring the case of *Arjan Singh v. Hazara Singh*¹⁴, it was held that court should not proceed to hear a suit *ex-parte*, until it is proved to its satisfaction that summons has been duly served strictly in the manner provided in the High Court Rules and orders. The requirement of personal service has its roots in the fundamental rule of natural justice which demands that proceeding effecting parties rights should not continue in their absence without prior notice to them within reasonable time to present their case. Those whose interests may be directly affected by an order are entitled under the law to adequate opportunity to be heard.

The research team tried to find out whether a coordination center is annexed in court to track the service of notice. It was observed from the responses that out of 32 Family Courts around 28 districts do not have any mechanism to track the status of service of notice/summon. It is important to note that only 3 districts including Datia, Rajgarh, and Rewa are currently using such mechanism. From the above analysis, it is found that service of notice/summons takes considerable time during the institution phase. Therefore, it is imperative to speed up the process of summons by adopting other means.

Therefore, it is submitted that electronic mode of service of notice should be incorporated in the existing rules of Family Court to help judges to expeditiously disposed of the matter.

¹⁴(1980)1 SCC 613

Infrastructure in Family Courts of Madhya Pradesh

Table No. 19: The below infrastructure report is based on the responses provided by Family Court judges of different districts of Madhya Pradesh:

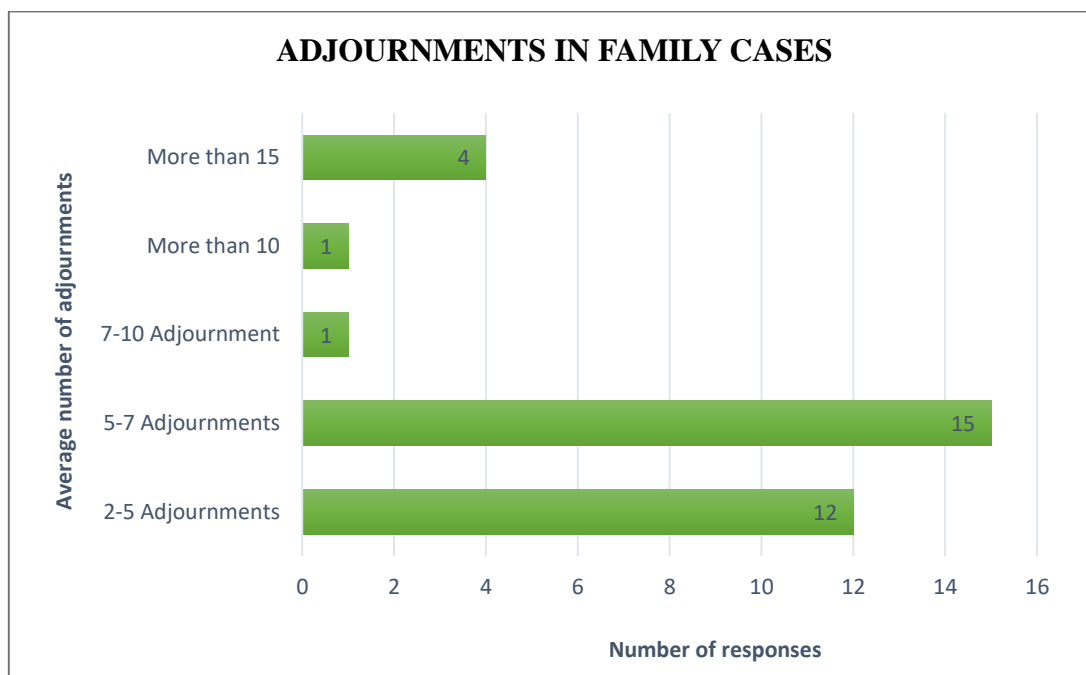
Infrastructure Report					
Not sufficient space for counseling & Mediation	Chhatarpur	Neemuch	Rajgarh	Sagar	-
Sufficient Infrastructure	Bhind	Gwalior	Hoshangabad	Jabalpur, Shahdol	Shivpuri, Tikamgarh
No space for e-filing, office and storage	Neemuch	Rajgarh	Seoni	-	-
No Separate building for Family Court	Bhopal, Betul	Burhanpur, Chhindwara	Dhindori, Katni	Neemuch, Morena	Sidhi
Family Court does not have mediation or counseling center	Burhanpur	Chhindwara	Katni	Rewa	Sidhi Seoni
Lack of video conferencing facility	Dewas	Mandsaur	Panna	Sidhi	Satna
Insufficient infrastructure	Chhindwara	Mandsaur	Ratlam	Seoni	-
No proper chamber for Principal Judge	Ratlam	Sidhi	-	-	-
No proper air condition for court room	Ashoknagar	Guna	Mandsaur	-	-
Lack of administrative setup	Bhopal	Chhindwara	Guna	-	-
Courtroom does not have sufficient space	Seoni	-	-	-	-
No waiting room for parties & children	Chhindwara	-	-	-	-

No display board & CCTV camera	Mandsaur	-	-	-	-
No response	Datia	Indore	-	-	-

(Table No. 19)

Part V: Adjournment

Chart No. 36: *On an average number of adjournments required in a family dispute matter:* It is represented in the Chart below that out of 32 responses, 15 responses indicated that on an average 5-7 adjournments are required in a family dispute matter. Four responses highlighted more than 15 adjournments, while 1 response each indicated that 7 to 10 or more adjournments are required and 12 judges mentioned that approximately 2 to 5 adjournments are required in family matter. It is to be noted that granting adjournment depends on complexity and need of individual case, and therefore responses provided are indicative for drawing an analysis for the purpose of study.



(Chart No. 36)

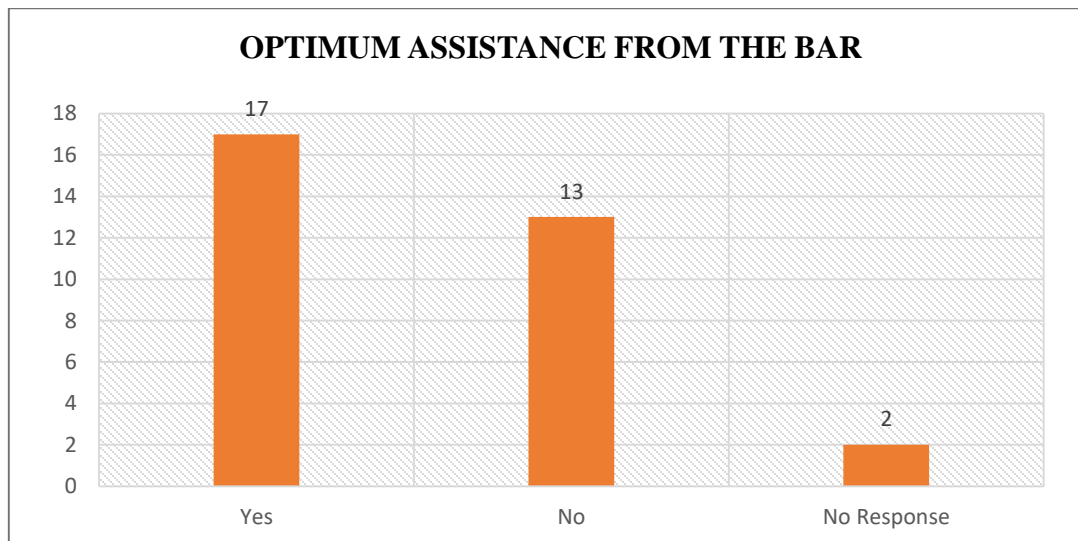
It is important to note that Sec. 9 of the Act prescribes that Family Court must make an effort for prior settlement by rendering assistance and persuading parties to resolve their dispute in respect of the subject matter of the proceeding. If in any suit or

proceeding at any stage it appears to the Family Court that there is a reasonable opportunity of settlement between the parties, it may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect such a settlement. But it is worth remembering that the grant of adjournment should not become the regular practice in family trial otherwise the whole purpose of Act will be vitiated.

The Malimath Committee suggested that adjournments should not be used as a tool for delaying justice by courts. Today adjournments are granted on grounds which clearly defeat the provisions of law and purpose of justice.

Part VI: Optimum Assistance from Bar

Chart No. 37: Whether the Family Court judges receive optimum assistance from the bar:



(Chart No. 37)

Sec. 13 of the Act provides that parties must be present in person and legal representation shall not be a matter of right to parties in matters of Family Court and the court can only appoint a lawyer as *amicus curiae*. All 32 responses indicated that almost every matter is represented by advocates in Family Courts and only in 1 to 2 cases in the Family Court of Bhopal are represented by parties themselves.

Since the role of advocates is so prominent in dispute brought before Family Courts, the research team tried to find out whether optimum assistance is received from the bar. 17 responses indicated that they receive optimum assistance from the bar, whereas 13 responses indicated negatively stating various reasons mentioned below. However,

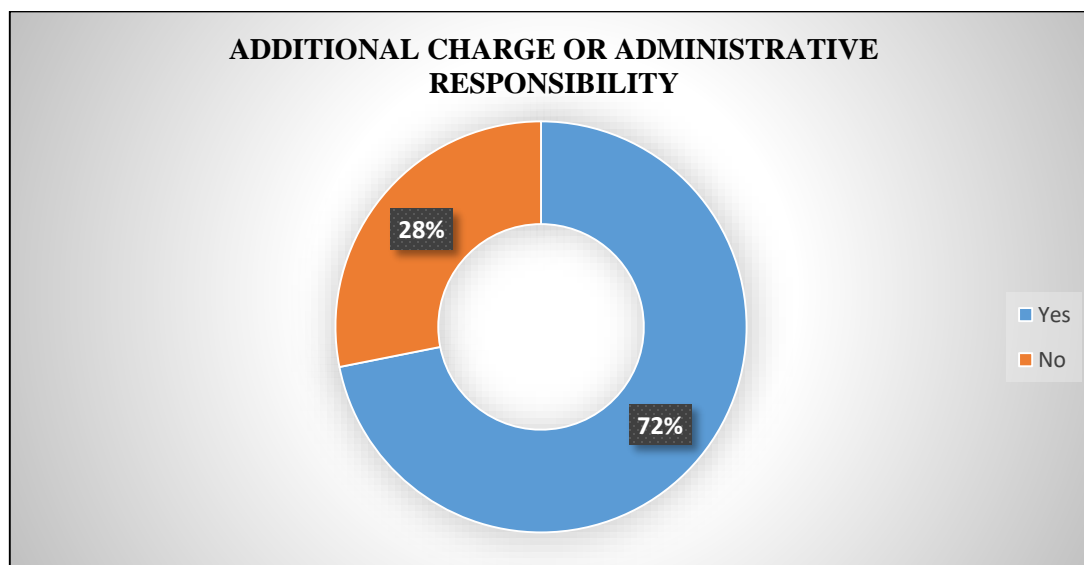
during the field study it was observed that the level of assistance from the bar to Family Courts is sub-optimum and one of the reason for delay in family matters is the involvement of advocates in these matters.

Following challenges are faced by Family Court judges from bar as pointed out in their responses:

- lengthy pleadings and cross-examination;
- advocates appear late which often leads to delay in evidence in a case;
- many a times advocates misguide parties and put hurdles during trial due to self-interest;
- advocates create pressure tactics to take more adjournments. If not granted, they try to send false complaint against the Presiding Judge of Family Court;
- often counsels tend to ignore family disputes when they are simultaneously engaged in other civil and criminal matters and give more priority to bail and session's matters; and
- advocates along with parties are interested in obtaining interim maintenance after which they try to delay the case.

Part VII: Additional Responsibility and Suggestions by Family Court Judges

Chart No. 38: Whether any administrative charge or additional responsibility have been assigned to Principal Judges of Family Courts in different districts of Madhya Pradesh:



(Chart No.38)

23 responses indicated that judges have been assigned additional responsibility along with presiding as a Family Court judge. Judges of 9 districts mentioned that they are not assigned any other additional or administrative charge.

Adequate Staff and Distribution of work in Family Courts

On the question of availability of adequate staff in Family Courts and even distribution of work, it was gathered from responses that adequate staff is an essential requirement for efficient functioning of any court. Well trained and sufficient staff can assist the Principal Judge in better case and court management. Apart from staff resource, management is also important so that each resource is utilized to its optimum.

24 judges mentioned that they have adequate number of staff in their Family Courts, whereas 8 judges of the Family Courts of Ashoknagar, Burhanpur, Dhindori Guna, Neemuch, Rajgarh, Sagar, and Ujjain mentioned that they do not have sufficient number of staff. It is pertinent to note that districts which have mentioned that they have adequate staff pointed out that even though the staff is adequate in numbers but they are not trained and inefficient to meet the quality. It was also observed from the responses that Family Courts do not have autonomy in selecting or designating their staff since it is a prerogative of the District Court. Therefore, often staff is attached to the District Court along with other courts. A concern was expressed relating to the need for alternate staff in place of regular staff to avoid disturbing regular functioning of court when regular staff is on leave. There are a few districts like Rajgarh and Tikamgarh which stated that they have adequate number of staff and also the distribution of work is proper.

Suggestions by Family Court Judges

To improve the efficiency of Family Courts and to address the reasons of delay, the following for consideration are provided by family court judges through their responses:

1. Separate mediation center for Family Courts are required,
2. *Advocates* should not be allowed to appear in courtroom (except for examination, cross-examination of witnesses)/ strict restriction of advocate/ legal representatives should not be allowed to conduct trial in any stage. They may draft the petitions/ applications /plaints etc. but should not be allowed in the court working/proceedings,
3. A panel of advocates must be constituted by the District Judge in consultation with the Principal Judge of Family Court to be permitted to appear in Family Court matters,

4. Improve the strength of Family Courts. This will also resolve linking of two or more courts,
5. *Staff & Infrastructure*: All facilities like DW, steno, and computers etc. should be provided to all Family Courts. There should be direct appointment of staff by State Government or High Court without interference of district establishment,

In every Family Court, small chambers/rooms must be established for the parties (husband & wife) to sit together and discuss issues between them for stipulated time, which could help in settling the dispute beyond court,

6. One or more constable should be appointed in all police stations in service of attachment, arrest warrant in maintenance and recovery cases or there should be a separate police unit present only for court's disposal at all times who could be made answerable to the court,
7. *To improve service of summons*: Principal Judge should have powers to take actions against the defaulter person/employee,
8. *Delay to evade liability by husband*: Principal Judge should be provided powers for taking stringent actions against the defaulter at first instance by attachment of property/salary/confinement to jail,
9. Set-up mechanism to compel parties for compliance of court orders,
10. *Interim Maintenance*: Provisions for interim maintenance should not be liberal. Instead of granting interim maintenance, provisions for strict speedy trial should be there,
11. Parties are not present in person which is necessary in family dispute matters. Only lawyers are present in the court, and
12. Trained mediators and counselors must be appointed in each Family Court.

Suggestions received from Family Court judges on Procedural amendments to reduce delay:

1. Presence of parties on every mentioned date be made mandatory,
2. Notice and summons be served by electronic media like email & WhatsApp,
3. Judges conducting settlement proceedings should be avoided and for that preceding case be referred to counselors and mediators before registration in the court,
4. A few sessions with a marriage counselor and a fitness certificate by a certified psychologist be made as mandatory pre-requisite before commencement of trial,

5. Principal Judge could take appropriate interest in settling the family dispute for which they be spared of the unit system. Since every individual judge has their own way of settling the dispute, freedom of conducting trial in one's own way in family matters be given to the Principal Judge of Family Court,
6. Filing be at the office of District Legal Services Authority (DLSA) along with all the necessary documents and evidence,
7. There should be provisions for per-trial conciliation procedure at DLSA,
8. After failure of conciliation, DLSA may, along with all the documents, reply of opponent and conciliation report, and refer the case to Family Court for registration and further proceedings with directions to both the parties to appear before the Family Court on a particular date,
9. Family Court should start proceedings from the stage of framing of issues,
10. Fixed period be granted to the parties for submitting their evidence on affidavit. Copy of evidence statement should be provided three days prior to the date fixed for cross examination,
11. Principal Judge should not be involved in conciliation proceedings. It should be out of court. In case of probability of compromise during the trial, Principal Judge may redirect or again refer the case to DLSA for reconciliation,
12. Evidence be taken in the form of affidavit and opposite party be not allowed to cross-examine the other,
13. Sec 498 A of the Indian Penal Code causes hurdle during counselling process. It should be made compoundable,
14. It is seen that in almost every family matter, each party seeks the help of advocate and why it should not be so when the future of family and its member is at high stake in these matters. However, law prescribes that without the permission of court, a lawyer cannot represent the party in family matter. It is definitely a cumbersome procedure as it causes hardship to the party and results in delay of the case. This provision also makes the presence of party compulsory for filing the petition or for registering appearance after receipt of notice while any other civil or quasi civil nature petition can be filed through an advocate authorized by the party. On many occasions, it is difficult to ensure the presence of party and this eventually results in delayed institution, and
15. It is mandatory in law that parties should be asked to reconcile their disputes but they most often avoid this process by willfully remaining absent and it takes many adjournments to conclude the proceedings of reconciliation. There must be compulsive measures provided in law itself to ensure their presence for reconciliatory process and speedy conclusion.

CHAPTER-FOUR

OBSERVATIONS DURING FIELD STUDY

During the course of research, the team undertook field visit to Family Courts of Bhopal, Gwalior, Indore and Katni. Since the nature of working in almost all Family Courts in the state of Madhya Pradesh is similar. Due to limitation of time and resources the research team identified these four districts with high number of cases being instituted each year as compared to other districts. These Family Courts have wide range of litigation pertaining to family matters and have substantial number of pending cases out of the total pendency in Family Courts of Madhya Pradesh

The field visit included an overall study of the functioning of respective Family Courts which was done through following measures:

1. observation of court proceedings in each of the four Family Courts;
2. informal interview with Principal Judge of each Family Court along with Additional Family Court Judges wherever available;
3. study of case files including cases pending for long;
4. interview with the mediator and counsellors and observation of counselling and mediation session; and,
5. inspection of the infrastructure.

1. Court Proceedings in four Family Courts

- During court proceedings, the research team observed filing of case, arguments between parties, dispensation of evidence and proceedings in Family Courts at various stages to identify differences in functioning of Family Courts than regular civil or criminal courts. However, it was observed in all four districts that Family Courts have similar complex procedures as followed in other civil and criminal courts.
- The research team tried to understand the pattern of cases coming before Family Court and identified the involvement of parties and their advocates during trial and how presiding judge with innovative methods of dispute resolution try to resolve a family dispute. It was gathered that advocates represent almost every case filed in a Family Court and there are hardly any case self-represented by parties. There is non-appearance of parties in person as against the provision of the Act and leading to normal practice by advocates and parties in seeking regular adjournments.

- Many cases are those where the parties reside in different cities and therefore are unable to appear in person on a particular date. Due to lack of video conferencing facility, the Principal Judge is not able to follow firm timelines and carry on continuous trial in such cases.
- A courtroom meant for resolving and providing justice in complex family matters operates in zero privacy. Just next to the bench of presiding judge the reader and Johari functions where advocates are crowding to file their case and to find out dates for next hearing, and penalties etc. While parties are present in person and deposing statement, the entire crowd of advocates and other parties present in the courtroom create non-conducive environment for parties to openly discuss issues with the presiding judge. It was observed that specifically women were not comfortable to openly put their case before a judge due to intricate nature of issues involved in these cases.

2. Interview with Principal Judges and Additional Family Court Judges

The research team inquired from Principal Judges of these Family Courts on following aspects including, reasons for delay in resolving family matters, involvement and assistance received from advocates, type of cases which are filed, the extent to which mediation and counselling is effective and willingness of parties to adhere, improvements in existing infrastructure and their opinion on improving Family Courts. On these points, following information and suggestion were provided by Principal Judges of these Family Courts:

1. Lack of awareness among parties about Family Courts, procedure to be followed, mediations and counselling services available etc.
2. Parties are willing to resolve their disputes by resorting to mediation techniques and most of the cases could be resolved through mediation and counselling services. However, there are very few trained mediators and counsellors attached with these Family Courts as compared to the number of cases filed.
3. Service of summons is another area where a lot of time is consumed and the judges face challenges with agency involved in service of summons as pointed out by Principal Judges. One of the principal Judge mentioned that if there is delay in service of summons then immediate notice be issued to the concerned authority.

4. It was suggested that Family Court cases under Sec. 13B of the Hindu Marriage Act must be sent for counselling.
5. The courtroom happens to start from 12:00 noon or 12:30 PM. Before this time advocates are not present in Family Courts and they are occupied in other civil or criminal cases in District or Session's Court.
6. The Principal Judge of Gwalior Family Court suggested that life span of a complex family case should be approximately one and half to two years, whereas non-complex case from seven months to one year after the service of summons.
7. Imposing fines for delaying evidence has been effective in Gwalior Family Court.

It is pertinent to highlight that in the Bhopal Family Court, regular awareness camps are organized and there is a pre-litigation cell for parties to resolve matter through alternative means before coming to court as pointed out. Similar camps may be organized by other district Family Courts.

3. Study of Case Files

The research team undertook a study of case files including cases pending for two years or above wherever the case files were made available. Since the study was conducted on working days of Family Courts the team inspected case files only where they were easily available without disturbing the functioning of the court or the available staff. On an analysis of case files, it was observed that regular adjournments, non-appearance of parties, service of summons and stay by High Court are common causes of delayed proceedings in family matter.

The cases studied to find out reasons for delay are collated and represented in below tables. The name and number of these cases have been removed in order to maintain the confidentiality of records.

Study of case files

Case 1	
Case No.	MCR. No --
Section Involved	Sec. 125, CrPC
Date of Institution	15.01.2018
Date of Admission	02.2018
Written Statement by Opp. Party	Filed within 8 Months

Interim Maintenance Application disposed on	10.07.2018 (took 6 months)
Evidence started	31.10.2018
Status	Pending till today at the stage of evidence
Reason for delay	<ul style="list-style-type: none"> - Applicant delayed production of evidence - Continuous adjournments which were stopped later
Case 2	
Case No.	RCS --
Section Involved	Sec. 9, Hindi Marriage Act
Represented by	Advocate
Date of Institution	24.11.2010
Date of hearing	17.01.2011
Stayed by High Court	26.04.2011
Transfer Petition	Stayed (Case transferred from Bhopal to Jabalpur)
Status	Pending in High Court
Reason for delay	Case for divorce was filed and then it was stayed by High Court and since then it is pending.
Case 3	
Case No.	RCS ---
Section Involved	Sec. 9, Hindi Marriage Act
Date of Institution	8.10.2012
Stayed by High Court	24.01.2013
Status	Pending
Reason for delay	<ul style="list-style-type: none"> - Parties stopped appearing, several notices were sent. - Stay continuing till date
Case 4	
Case No.	RCS ---
Party Filing the case	Husband
Section Involved	Sec. 13A (Dissolution of Marriage), Hindi Marriage Act
Date of Institution	27.02.2009
Opposite Party Appeared on	14.05.2009 (Appeared self)
Interim Maintenance Application	Allowed by Family Court
Proceedings stayed by HC	29.02.2012

Status	Pending
Reason for delay	<ul style="list-style-type: none"> - Stay by High Court - Multiple Adjournments - Non-appearance of parties (for 5-6 years) - Transfer Petition from Bhopal Family Court to Chattarpur
Case 5	
Case No.	MCR C.NO.--
Section Involved	Sec 125, CrPC
Date of Institution	20.07.2015
Appearance of Opposite Party	29.10.2015
Interim Maintenance Application filed	13.05.2016
Non Appearance of Opp. Party	19.08.2016 Matter thereafter continued <i>Ex Parte</i>
Application to set aside <i>Ex-Parte</i> hearing (Filed by Opp. Party)	24.04.2017
Application to set aside <i>Ex Parte</i> hearing	Rejected on 1.05.2017 Thereafter, Opposite Party moved to High Court to set aside the order passed by Family Court Judges
Petition Allowed by High Court	13.03.2019
Status	Pending at the stage of evidence Last Hearing: 24.06.2019
Reason for delay	Non-appearance of opposite party
Case 6	
Case No.	MCR No. --
Section Involved	Sec. 125, CrPC
Date of Institution	18.05.2015
Written Statement by Opp. Party	6.01.2017
Evidence started	20.07.2018
Status	Pending
Reason for delay	<ul style="list-style-type: none"> • Service of summon • Case was adjourned on more than 10 dates consecutively after the evidence started
Reasons for delay	<ul style="list-style-type: none"> - Adjournment due to compromise between parties - New parameters filed to which the opposite party wanted to file reply - Applications to adjourn were made by parties

Case 7	
Case No.	MCR No. --
Section Involved	Sec. 125, CrPC
Date of Institution	20.03.2018
Appearance of opposite party	16.05.2018
Interim Maintenance Application allowed	13.07.2018
Evidence started	13.10.2018
Status	Pending Evidence not concluded till date
Reason for delay	Adjournment: Adjourned on 5 dates
Case 8	
Case No.	RCS --
Section Involved	Sec. 13 & 14, Hindu Marriage Act
Filing Party	Filed by husband
Date of Institution	15.06.2015
Appearance of Opposite Party	24.12.2015
Written Statement filed by Opposite Party	13.03.2017
Status	Pending
Reason for delay	- Service of Summon - Stay by High Court
Case 10	
Section Involved	Sec. 9, Hindi Marriage Act
Date of Institution	19/08/2011
Appearance of Opposite Party	28/09/2011 (sent for counselling)
Case sent to Court	21/10/2011
Written Statement filed on	01/11/2011
Number of Adjournments taken	Adjourned on 24/11/2011, 17/2/2012 and subsequently more than 10 times
Evidence start date	-
Evidence Conclude date	-
Status	Pending
Reason for delay	- Absence of Presiding Judge - Seat Vacant - Non-appearance of parties
Case 11	
Section Involved	Sec. 13, Hindi Marriage Act
Date of Institution	08/05/2014
Appearance of Opposite Party	20/06/2014

Written Statement filed on	19/06/2015
Evidence start date	26/02/2016
Evidence Conclude date	Ongoing
Status	Pending
Reason for delay	Multiple Adjournments since 2016 till 2019 <ul style="list-style-type: none"> - Non-appearance of opposite Party - New document presented - Party seeking adjournment
Case 12	
Party Filing the case	Wife
Section Involved	Sec. 125, CrPC
Date of Institution	19/05/2014
Appearance of Opposite Party	18/07/2014
Interim Maintenance Application filed date	19/05/2014
Interim Maintenance Application grant date	20/03/2015
Number of Adjournments taken	More than 10
Evidence start date	27/09/17
Cross Examination	10/12/2018
Status	Pending at the stage of cross-examination
Reasons for delay	Adjournment due to scope for Mutual Agreement and conciliation proceedings
Case 13	
Party Filing the case	Wife
Section Involved	Sec. 125, CrPC
Date of Institution	01/07/2016
Appearance of Opposite Party	26/08/2016
Interim Maintenance Application filed date	01/07/2016
Interim Maintenance Application grant date	15/03/2018
Number of Adjournments taken by	More than 10
Evidence start date	08/05/2019
Status	Pending at the stage of cross-examination
Reasons for delay	Mutual agreement between parties
Case 14	
Party Filing the case	Wife
Section Involved	Sec. 13 (a), Hindi Marriage Act
Date of Institution	10/01/2017

Appearance of Opposite Party	03/11/2017
Number of Adjournments taken by	More than 10
Evidence start date	17/01/2019
Evidence Conclude date	Ongoing
Status	Pending at the stage of cross-examination
Reasons for delay	Service of Summons (Tried four times)
Case 15	
Party Filing the case	Wife
Section Involved	Sec. 9 and 13, Hindi Marriage Act
Date of Institution	05/01/2016
Appearance of Opposite Party	16/03/2016
Evidence start date	Not started
Status	Pending
Reasons for delay	No specific reason for delay
Case 16	
Party Filing the case	Husband
Section Involved	Sec. 13 (a), Hindu Marriage Act
Date of Institution	06/08/2014
Appearance of Opposite Party	07/10/2014
Evidence start date	23/08/2018
Status	Cross-examination
Reasons for delay	Pending at the stage of cross-examination
Case 17	
Party Filing the case	Husband
Section Involved	Sec. 9, Hindu Marriage Act
Date of Institution	07/03/2014
Appearance of Opposite Party	17/06/2014
Evidence start date	06/08/2019
Status	Pending at cross-examination
Reasons for delay	Case was sent for Counselling Time taken for reply
Case 18	
Party Filing the case	Husband
Section Involved	Sec. 13 (a), Hindu Marriage Act
Date of Institution	06/03/2014
Appearance of Opposite Party	09/04/2018
Evidence start date	Not started
Status	Pending
Reasons for delay	Service of Summons

Case 19	
Party Filing the case	Husband
Section Involved	Sec. 13 (a) of HMA
Date of Institution	14/07/2014
Appearance of Opp. Party	04/09/2014
Interim Maintenance Application grant date	12/04/2018
Evidence start date	07/05/2019
Status	Pending at the stage of cross-examination
Reasons for delay	No specific reason for delay
Case 20	
Party Filing the case	Wife
Section Involved	Sec. 13 and 14, Hindu Marriage Act
Date of Institution	10/03/2014
Appearance of Opposite Party	Non-appearance till 24/04/2019
Notice to Opposite Party	03/08/2017
Written Statement filed on	-
Evidence start date	-
Evidence Conclude date	-
Status	Pending
Reason for delay	- Service of Summons (not received) - Non-appearance of opposite party

4. Interview with the mediators and counsellors and observation of counselling and mediation sessions

The research team conducted informal interview with mediators and counsellors in respective Family Courts. The team further observed mediation and counselling sessions during the visit. It was observed that mediation and counselling sessions are functioning with bare minimum infrastructure, where both mediators and counsellors sit together in least available spaces and try to bring parties to a settlement. Further, it was noticed that one party was being counseled and the other party was undergoing mediation right adjacent in the same room/place. Neither could they put forth their issues, nor could they openly discuss their problems among themselves or with mediator/counsellor.

Nevertheless, mediation and counselling appears to be very effective in family matters. If there is a separate chamber/room for mediation and for counselling, the outcome of these measures will be far more effective than what it is at present. However, it is pertinent to point out that in the Family Court of Bhopal the Principal Judge has made

separate rooms for conducting mediation and counselling sessions with trained counsellor and mediator in service for family matters.

In the Family Court of Indore, the space available for mediation and counselling was inadequate but, still judges presiding over these Family Courts encouraged parties to undergo these measures and subsequently parties were willing to resolve their matter through alternate means.

The Family Court of Gwalior had similar situation with regard to infrastructure for Alternative Dispute Resolution, however the mediation and counselling sessions were effective since the Principal Judge and additional judges took efforts to suggest parties to resolve their dispute amicably.

In the Family Court of Katni, there is no annexed mediation center.

The mediators and counsellors provided following information:

- Lack of sufficient space to conduct these sessions.
- Bare minimum allowance or remuneration provided to counsellor and mediator. In one of the Family Court, it was pointed that the remuneration was approx. 300 INR per sitting for counsellor and for successful mediation – 3000 INR per case, whereas failed mediation 1000 INR per case.
- In some districts, there is high case load and large number of cases put up for mediation and counselling whereas in other districts there are barely any case.
- There is no place for children while the parties are engaged in counselling and or mediation sessions.

5. Inspection of Infrastructure

During the field study, none of the judges mentioned any specific requirement pertaining to infrastructure, but the research team observed that Family Courts of Madhya Pradesh are in dire need of infrastructure improvements. In an era where we talk of e-courts and paperless courts, these courts are far behind with no proper courtrooms, and with bare minimum staff and facilities, flooded with advocates and their parties. These courts lack server rooms, video conferencing facility, and space for maintaining records etc.

In Bhopal and Katni, the Family Courts are functioning within the District Court building and there is no separate infrastructure for Family Court. In the District of Indore and Gwalior, the Family Courts are functioning in separate complex in old and

dilapidated buildings. Specifically in Indore, there are three courtrooms but out of these three, one courtroom of Additional Judges has bare space for parties and advocate to stand inside. Except in the Family Court of Bhopal, there was no separate filing area in other Family Courts visited and it was done in the courtroom of the presiding judge. In Gwalior Family Court, the complex has sufficient space; however, there is a need to renovate the available infrastructure. Video conferencing equipments are available but not installed due to lack of space and insufficient infrastructure.

None of these courts have proper waiting area for parties and children. These courts face issues pertaining to sanction of funds and do not have financial autonomy to carry on infrastructural improvements within their scope.

To summarize the observation of field study, it is not the judge who is inefficient or lacks the capacity rather it is due to institutional gaps that they are not able to function to their optimum. They operate very effectively with limited infrastructure, staff and other resources. Parties feel uncomfortable to speak or give evidence in a court full of advocates and other parties in distress, however the presiding judge still manage to adduce evidence in such non-conducive environment to hear family matters. The presiding judges of the Family Courts of the districts visited functions to the best of their abilities.

CHAPTER FIVE

A STUDY OF FAMILY COURT IN DIFFERENT JURISDICTIONS

The purpose of comparative study is to identify similarities in Family Courts operating in different jurisdictions in order to highlight best practices which could be effectively implemented for better dispensation of justice considering the complex nature of family disputes. Since the purpose of Family Courts in all jurisdictions is identical and oriented towards welfare of child and support to family in distress through ADR techniques, a detailed analysis of procedure and practice adopted in different jurisdiction is prerequisite before suggesting or adopting any practice within the Family Courts in India. The research team identified the Family Courts of Australia, New Zealand, Singapore, United Kingdom, and United States for the purpose of comparative study.

1. Singapore

The Family Justice Courts were established pursuant to the Family Justice Act, passed by the Parliament in Singapore on 4 August 2014. The Family Justice Act was enacted based on the recommendations of the Committee for Family Justice formed in 2013 to review how Singapore's family justice system may be reformed to address the needs of youth and families in distress.¹⁵ Family Justice Courts brings together all family-related work under a specialized body of courts. In addition, the Family Justice Courts provide assistance in all family specific services, enhance processes and identify relevant training programmes to develop family-specific skills in judges, lawyers and other family practitioners.

The Family Justice Courts is the collective name for a body of courts which comprise the Family Division of the High Court, the Family Courts and the Youth Courts. These Courts are administered by the Presiding Judge of the Family Justice Courts.¹⁶ The Family Justice Courts hear the full suite of family-related cases including divorce, family violence, adoption and guardianship and youth court cases.

¹⁵ Family Courts Justice Singapore, familyjusticecourts.gov.sg/who-we-are/overview (Accessed on: 09/09/2019)

¹⁶ J Eekelaar & M.Mclean, *Family Justice: The Work of Family Judges in Uncertain Times* (Oxford: Hart Publishing 2013), 8.

Area	References to legislation	Acting in Person	Time Taken
Adoption	Adoption of Children Act (Cap 4) Family Justice Act (Act 27 of 2014) Family Justice Rules (2014) Family Justice Courts Practice Directions	Yes	The majority of adoption applications does not take more than six months to complete. However, for a few cases, the duration may be longer depending on the completeness of the documents submitted, the complexity of the case and whether there is anyone objecting to the application.
Divorce	Women's Charter Family Justice Act Family Justice Rules Family Justice Courts Practice Directions	Yes	If divorce is uncontested, proceedings may take at least 4 months to conclude. If divorce is contested, proceedings may take at least 18 months to conclude.
Maintenance	Women's Charter (Cap. 353) Maintenance Orders (Reciprocal Enforcement) Act (Cap. 169) Administration of Muslim Law Act (Cap. 3)	Yes	

(Table No. 20)

Statistics pertaining to the application filed under different category from 2015-2018:

Number of cases handled by the Family Justice Courts Singapore ¹⁷				
Year	Maintenance	Family Violence	Divorce Writs	Adoption
2018	4,712	2,699	5,974	429
2017	4,976	2,935	6,093	414
2016	5,395	2,811	6,303	404
2015	5,607	2,885	5,921	332
Total	20,690	11,330	24,291	1,579

(Table No. 21)

¹⁷ Family Justice Courts, <https://www.familyjusticecourts.gov.sg/who-we-are/statistics> (Accessed on: 11/09/2019 [Statistics are accurate as of January 2019])

In Family Court of Singapore there is proper timeline for each of the steps followed by judges presiding over the court. This type of demarcation facilitates timely disposal of cases through the Family Justice Courts.¹⁸ These Courts target compliance with the timelines in at least 80% of the cases, as prescribed in the Courts Charter below.

Type of Proceedings	Timeline
Service of Summon of Family Violence Case (with Expedited Order)	Within 1 day of filing date
Service of Summon of Family Violence Case (without Expedited Order)	Within 3 days of filing date
First Mediation/Mention (whichever is earlier) of Family Maintenance Cases	Within 3 weeks of filing date
First Hearing of Family Violence Case	Within 4 weeks of last mention
First Hearing of Maintenance Case	Within 4 weeks of last mention
First Hearing of Uncontested Divorce Case	Within 4 weeks of date of set down
Delivery of Judgment	Within 4 weeks of conclusion of hearing or tendering of written submissions after the hearing, whichever is later

(Table No. 22)

(A) Learnings from Singapore

The Family Justice Courts has been constituted to help parties resolve family disputes, as far as possible, in a less acrimonious way through the use of counselling and mediation provided by judges, staff family mediators, court family specialists and volunteer specialists at the Family Dispute Resolution division of the Family Justice Courts. All cases coming before the courts are managed pro-actively by judges from the start and where necessary, the Courts can direct to parties undergo counselling and mediation to try and reach amicable resolution of their disputes instead of proceeding with adjudication.¹⁹ There is mandatory counselling and mediation for cases in which parties have at least one child below 21 years of age.

¹⁸ Family Court Justice, familyjusticecourts.gov.sg (last Accessed: 09/09/2019)

¹⁹ WK Leong, *Elements of Family Law in Singapore* (LexisNexis, 2007), 892. Prior to that, there were calls for a unified family court to be established. See S Lim, KS Ong and C Mohan, "Setting up a

Parties who have disagreements on parenting arrangements as well as other family related issues, will have to attend a FDR conference with their lawyers, if any. A judge and a court family specialist will meet with all parties. The judge and court family specialist will clarify the issues and set the agenda for mediation and counselling, as well as narrow any differences that both parties may have. The Judge will then fix a mediation or co-mediation session. At the end of the FDR conference, the parties will meet with the Court Family Specialist for counselling.²⁰

(i) Confidentiality

All information and matters discussed during the FDR conferences, counselling, mediation or co-mediation are confidential. Should a case go for a hearing, anything said or any document provided in confidence during these sessions cannot be used as evidence. A different Judge will hear the case.²¹

(ii) Length of session(s)

The length of the session(s) will vary depending on the requirements of the case. The majority of cases would be completed in three (3) sessions or less. Single or limited issues might take less time. Exceptionally complex or sensitive cases might take longer and will be specially managed.²²

The number of sessions depends on several factors:

- readiness of the parties and their lawyers
- commitment to the process
- level of conflict and trust between the parties
- complexity of issues and the status of legal proceedings
- need for empowerment of the parties in order to establish a more level playing field

Unified Family Court in Singapore”, 1985 6 *Singapore Law Review* 22, and S. Quah “The Family Court: A Sociologist’s Perspective on Enlightened Collaboration between Law and Social Sciences”, 1993 *Singapore Journal of Legal Studies* 16.

²⁰Family Courts Justice Singapore, <https://www.familyjusticecourts.gov.sg/what-we-do/mediation-counselling/mediation>, (Accessed on: 09/09/2019)

²¹ *Ibid*.

²² *Id*.

2. Australia

The Family Courts of Australia (FCoA) commenced operations on 5 January 1976. It consists of a Chief Justice, a Deputy Chief Justice and other judges. The Family Court is a superior court of record established by the Australian Parliament in 1975 under Chapter 3 of its Constitution to assist Australians to deal with complex legal family disputes domestically and internationally in accordance with rule of law and procedural fairness. These may include²³:

Parenting cases – Cases involving a child welfare agency and/or allegations of sexual abuse or serious physical abuse of a child (Magellan cases), family violence and/or mental health issues with other complexities, multiple parties, complex cases where orders sought having the effect of preventing a parent from communicating with or spending time with a child, multiple expert witnesses, complex questions of law and/or special jurisdictional issues, international child abduction under the Hague Convention, special medical procedures and international relocation.

Financial cases – Cases involving multiple parties, valuation of complex interests in trusts or corporate structures, including minority interests, multiple expert witnesses, complex questions of law and/or jurisdictional issues (including accrued jurisdiction) or complex issues concerning superannuation (such as complex valuations of defined benefit superannuation schemes).

The FCoA exercises appellate and trial level jurisdiction. At trial level, the Court deals with the most complex parenting and financial cases. It has a substantial appellate jurisdiction and hears appeals from decisions of single judges of the Court and from the Federal Circuit Court in family law matters.

(A) Strategic Objectives of Family Court

The Court's goal is to deliver excellence in service for children, families and parties through effective judicial and non-judicial processes and high-quality and timely judgments while respecting the needs of separating families.

²³ Available at: <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/>, (Accessed on 25/08/2019)

Being Australia's superior court in family law, the purpose of the court is to²⁴:

- determine cases with the most complex law, facts and parties,
- cover specialized areas in family law, and
- provide national coverage as the appellate court in Family Law matters.

It is important to note that there are some core values of Family Courts of Australia which include innovativeness, impartiality, respectfulness, efficiency and accountability.

Family law is factually and legally complex, emotionally-charged and produces life-altering consequences for families and children. It is the area of law by which most people will come into contact with the justice system²⁵. In the Australian Family Courts, one of the most admired features is the fact that only those who “by reason of training, experience and personality”²⁶ are suited to deal with family law cases are appointed as its judges. Judges working in this area not only require specialist technical knowledge, legal reasoning, fact finding and analytical skills, they also require highly effective communication and inter-personal skills and experience in social dynamics. Judges perform this important work in a difficult, high-pressure environment that carries the risk of physical danger to themselves and their families, as well as the gravity of knowing that their decisions, especially regarding children, could in some instances provoke extreme responses resulting in violence to a child or a party, or in some tragic cases death.²⁷

The Court deals with the most complex and difficult family law cases. Table below shows a summary of original jurisdiction caseload during 2016–2017²⁸:

²⁴ Family Court of Australia, *Annual Report 2017-2018*, Available at: www.familycourt.gov.au/annual-report

²⁵ Justice Abella, ‘The Challenge of Change’, (1998) Speech to the 8th National Family Law Conference, Hobart Tasmania, 25 October 1998, 2-3.

²⁶ Family Law Act 1975 (Cth) Section 22(2)(b) (Australia)

²⁷ “A Matter of Public Importance: Time for a Family Court of Australia”, Discussion paper, July 2018, https://www.nswbar.asn.au/docs/mediareleasedocs/Family_Court_MR2.pdf, (Accessed on: 10/10/2019)

²⁸ Family Court of Australia, *Annual Report 2016:2017*, Available at: http://www.familycourt.gov.au/wps/wcm/connect/7456589e-fc98-409b-8d1c-7b909bd30dcf/2743Family_Court_of_Australia_AnnualReport_2016_17_WEB.pdf?MOD=AJPERES&CVID= (Accessed on: 12/10/2019)

Application/case type	Filed	Finalized	Pending
Final order applications	2748	2742	3180
Application in a case (interim)	3469	3265	1679
Consent orders applications	14,182	13,919	1271
Other applications	342	321	213
Total	20,741	20,247	6343

(Table No. 23)

Statistics pertaining to applications filed and finalized, judgment delivered in Australia's Family Court during the year 2017-2018²⁹ is enumerated below in the table:

Applications/ Case Type	Statistics
Total applications filed	20,436
Financial cases	50% of applications pertaining to financial cases
Applications finalized	93% of cases finalized within 12 months
Consent orders	13,962
Judgements delivered	75% (within 3 months)

(Table No. 24)

(B) Measurable Goals

The Family Courts of Australia maintains three goals to ensure timely completion of cases. Strategies and priorities are designed to support the achievement of these performance goals. In Australia, Annual Performance Statement reports on the success of the plan to achieve timely completion of cases. This will be measured by the following:

- (1) clearance rate of 100 %
- (2) 75% of judgments to be delivered within three months, and
- (3) 75% of cases pending conclusion to be less than 12 months old.

²⁹ *Supra* note 10.

There is an appeal division in the Family Court of Australia. This division deals with appeals from decisions of both Federal and State courts. The members from the appeal division, along with support of the trial division, hear appeals throughout the year specifically arising out of family law matters. To facilitate access to litigants in regional cities and throughout Australia, some appeals are conducted by video link and other electronic means. The court is committed to government's digital continuity policy and is increasingly using electronic documents. As per the practice *Direction 1* of 2017, the transcripts are required to be filed in electronic form.

For an appeal to succeed party must convince the Full Court that the Family Court trial judge or Federal Circuit Court judge made an error. A Notice of Appeal must be filed in the Regional Appeal Registry within 28 days of an order made by a Family Court judge or Federal Circuit Court judge. The appellant must pay a filing fee. Appeals are listed for hearing before the Full Court (three judges of the Family Court). The Chief Justice may however, direct that an appeal from a Federal Circuit Court judge be heard by a single judge.

In Australia, particularly in family law matters appeal does not stop the order which means filing a Notice of Appeal does not automatically affect the orders made by the judicial officer (except where the order is a divorce order). This means that both parties must obey the orders, even if appeal is filed. To stop the operation of the orders until appeal is decided, party must file an application in a case to stay the orders and an affidavit.

(C) Learnings from Australia

1. Highly specialized judges in the dynamics of family law deal with many of the most problematic and challenging cases.
2. Continuously evolving family law system and courts to meet the challenges of social change.
3. *Extensive use of Information Technology to bring positive results:* There is a social media platform of the court under which it operates twitter and YouTube.
 - The Family Courts of Australia twitter account provides followers with timely, relevant and easy to access information about court and family law issues.

- The Family Courts of Australia, YouTube channel is operating since October 2013 with over 11 video available to help litigants prepare for and understand court process. Videos include – *Mediation – What to expect; How to apply for Divorce: Serving Divorce papers; and Court tour.*
- 4. *Electronic signing and sealing of orders for first instance matters:* The courts have changed the way orders are accessed and move to completely digitalize court orders. These changes provide for faster and more secure delivery of court orders, instant access to complete court files and court orders anytime online, no cost to get copies of sealed orders.
- 5. Funding provided to the Family Court to undertake an initiative that provides an opportunity for parties to resolve their legal proceedings or narrow issues while awaiting a final hearing. The result of the project was 48 % matters included in the project were resolved and a further 33 % were partially resolved or otherwise progressed.
- 6. The court sets achievable targets regularly and revise them as required for timely completion of cases.
- 7. Due to the nature of cases filed in the Family Courts it is difficult to set a blanket timeline target for disposing cases because there are numerous variables affecting the parties involved in each case having impact on its progress towards decision. Therefore, the court categorizes 25 % cases as most complex cases and aims to finalize the remaining 75 % cases.
- 8. *Judicial service complaints and feedback and complaints management:* Complaints relating to judicial conduct and complaints relating to registrars of the court.
- 9. *Court User Satisfaction Survey*³⁰: The Family Court of Australia and the Federal Circuit Court conducted a Court User Satisfaction Survey (2015), which included extensive internal assessments on all aspects of court and judicial administration. The courts sought the views of court users and are open to feedback, and at times criticism, with respect to services from public which have made the courts innovative, responsive and willing to embrace change.

³⁰ Court User Satisfaction Survey, 2015, by the Family Court of Australia and Federal Circuit Court. Available at: <http://www.courtexcellence.com/media/Microsites/Files/ICCE/UserSatisfactionSurvey> (Accessed on: 12.10.2019)

The survey showed that majority of the court staff are knowledgeable, respectful and helpful and the litigants are treated fairly and equally in court.

Australia has adopted a revolutionary concept in Family Courts, where families have access not just to the in-court process, but also to a range of additional court annexed services such as counselling, education and mediation, and Family Court case managers or facilitators to provide one stop forum for helping families work through their problems effectively.³¹

Lastly, Australia started their Family Relationship Centers in 2004, which are publicly funded, but privately operated community centers across Australia offering range of services depending upon location and need. Free mediation for limited hours is one of the fundamental service which Family Relationship Centers provides for families who are struggling with issues. These Family Relationship Centers have led to decreased court filings and interactions in court.

3. New Zealand

The Family Court was established in New Zealand on 1 October 1981 in accordance with the Family Courts Act 1980. It was established in response to recommendations made by the 1978 Royal Commission on the Courts. The Royal Commission recommended the implementation of a Family Court system and stated that the primary objective of the Family Court was to provide a suitable forum for the resolution of family disputes:

*The Family Court concept demands that the Family Court should be essentially a conciliation service with court appearances as a last resort, rather than a court with a conciliation service. The emphasis is thus placed on mediation rather than adjudication. In this way, the disputing parties are encouraged to play a large part in resolving their differences under the guidance of trained staff rather than resorting to the wounding experience of litigation, unless such a course is inevitable.*³²

The Family Court has a very broad jurisdiction covering exclusively statutory law. The original idea for the Family Court envisaged a conciliation service that would provide a preliminary opportunity for resolution of a dispute before it entered the court system proper. At the same time as the establishment of the Family Court, new legislation in relation to divorce was also introduced. All matters coming to the Family

³¹ Barbara A. "Babb, Reevaluating Where we Stand: A Comprehensive Survey of America's Family Justice Systems", 46 *Family Court Review* 213 (2008).

³² Report of the Royal Commission on the Courts, para 484.

Court under the Family Proceedings Act 1980 and the Guardianship Act 1968 were to be governed by the procedures set out in the Family Proceedings Act and the Family Proceedings Rules. These provided for counselling and the judge-led mediation conference.³³

Parenting disputes are the main source of litigation in the New Zealand Family Courts. Although 95% of 13,000 cases filed annually are resolved in the “conciliatory arm” of the Court, the remaining 5% require judicial determination.³⁴ The Family Court is a central part of the justice system, and it is vital that reform of the court delivers an effective, accessible and appropriately resourced forum for the resolution of family disputes.

In most of the cases, out-of-court processes are adopted, parenting and counselling through Separation programmes is compulsory before approaching the family court. During the pre-trial phase, Family Dispute Resolution mediators and family lawyers provide legal advice to the disputed couple. It is mandatory that applicant must produce a certificate stating that the parties have attended Family Dispute Resolution or show that it is unsuitable in the present case. The availability of alternatives to litigation is a vital component of effective and efficient dispute resolution. The benefits to the parties, their children and the Family Court are self-evident.³⁵

A significant proportion of disputes over care and guardianship issues have always been amenable to resolution without the need for court proceedings. Effective out-of-court processes need to be easily accessible and available in a timely way to promote the ability of parties to resolve their disputes early, minimising the extent to which children are caught in conflict, and reducing the risk of issues becoming entrenched.³⁶ This was the philosophy behind the establishment of the Family Court in 1981, a philosophy that remains sound today.³⁷

It is important to note at the outset that not all issues raised in parenting disputes are capable of resolution through mediation and other pre-court processes. Access to the

³³ KJ Keith, “New Zealand Family Law and International Law – A Comment with Some Questions,” (2016) 47 *Victoria University of Wellington Law Review*

³⁴ *Ibid*

³⁵ *Id.*

³⁶ New Zealand Law Society, Family Justice Reforms, <https://www.justice.govt.nz/assets/Documents/Publications/Family-Court-rewrite-submission-New-Zealand-Law-Society.pdf> (Accessed on: 27.10.2019)

³⁷ District court of New Zealand, <https://www.districtcourts.govt.nz/reports-publications-and-statistics/annual-reports/> (Accessed on: 09.09.2019)

Family Court should still be available in a timely way, particularly to protect the interests of children, without insurmountable barriers for those who require its assistance. It was observed that only 15.97% of matters proceeded to a judge for determination rest resolved through out-of-court process.

As an alternative, a judge-led mediation conference may appoint, or direct a Registrar to appoint, counsel to assist and to act as a mediator in counsel-led mediation in New Zealand.

The main statutes governing family courts are:

- **Family Court Act 1980:** This establishes the Family Court and provides for its constitution, jurisdiction, powers and procedures.
- **Marriage Act 1955 and Civil Union Act 2004:** These provide for the legal union of couples by marriage or civil union.
- **Family Proceedings Act 1980:** This regulates matrimonial and Family Court proceedings, and provides for paternity, partner maintenance, dissolution and voiding of marriage and civil union.
- **Property (Relationships) Act 1976:** This provides a code for how the property of married, civil union and *de facto* couples (including same sex couples) is to be divided when they separate, or when one of them dies.
- **Child Support Act 1991:** This provides for the assessment, collection and payment of child support, and the collection and payment of partner maintenance (by Inland Revenue). There is provision for the enforcement of overseas orders in New Zealand and of New Zealand orders overseas.
- **Care of Children Act 2004:** This defines and regulates the care and guardianship of children. Sub part 4 of the Act enacts into domestic law, the New Zealand's obligations under the HCCH Convention on the Civil Aspects of International Child Abduction 1980 (Hague Child Abduction Convention).
- **Domestic Violence Act 1995:** This provides for protection from family violence.
- **Status of Children Act 1969:** This provides for the status of children and determines parentage of children born with the aid of assisted reproductive procedures.
- **Adoption Act 1955:** This provides for and regulates the adoption of children.
- **Trans-Tasman Proceedings Act 2010:** This provides for the hearing and enforcement of cases to be streamlined where one party is in New Zealand and one in Australia.

- **Family Dispute Resolution Act 201:** This provides for parties to attend mediation as the first step in disputes involving the care of children.

(A) Changes made by 2014 Reforms

Out-of-court processes:

- *Introduction of Family Dispute Resolution.*
- *Parenting through Separation Programme becoming compulsory for people who want to apply to the Family Court.*
- *Setting up of the Family Legal Advice Service.*

In-court processes:

- *Removing lawyers from the early stages of a court case (except where cases are urgent).*
- *Changes to court processes including introduction of 'case tracks' and different types of conferences to progress court cases.*
- *Changes to the way the children's safety is assessed.*

Role of professionals

- *Changing the role of lawyer for the child to represent both a child's welfare and best interests and views.*
- *Changes as to how specialist reports are obtained and the introduction of a standard brief (a checklist) for those reports.*
- *Removal of counselling services.*
- *Introduction of 'cost contribution orders'.*

(B) Undefended Family Court Statistics

Undefended applications are undisputed matters that are resolved without proceeding to hearing and are included in the figures below³⁸

Comparing the 2017/2018 fiscal year with 2016/2017, there has been:

- 0.5% decrease in new applications to 59,804;
- 21% decrease in disposals to 46,259 applications; and,
- 5% decrease in the number of active applications to 13,796.

³⁸Family Court Undefended Statistics,

<http://www.districtcourts.govt.nz/reports-publications-and-statistics/statistics-2018/family-court/undefended-family-court-statistics/> (Accessed on: 27.10.2019)

The table below shows the number of applications by location:

- new defended — the filing of new applications
- disposals — applications with a final judgment or outcome Active; and
- applications — number of applications active (or on hand) at the end of the reporting period

Newly Defended	Disposals	Active Application on 30 June 2018
59,804	46,259	13,796

(Table No. 25)

(C) Defended Family Court Statistics

Defended applications are disputed matters that are proceeding to a hearing and are included in the figures below.³⁹

At a national level, all application types are grouped together. Comparing the 2017/2018 fiscal year with 2016/2017, there has been:

- 14% increase in newly defended applications to 14,584;
- 3% increase in disposals to 12,087 applications; and,
- 14% increase in the number of active applications to 12,150.

The table below shows the number of applications by location that:

- newly defended applications are those where a defence has been filed;
- disposals — applications with a final judgment or outcome; and,
- active applications — number of applications active at the end of the reporting period.

Newly Defended	Disposals	Total Active as at 30 June 2018
14,584	12,087	12,150

(Table No. 26)

(D) Learnings from New Zealand

Family Dispute Resolution: In Family Dispute Resolution, an independent mediator will help the parents to discuss and try to reach agreement on the issues in dispute.

³⁹Family Court Defended Statistics, <http://www.districtcourts.govt.nz/reports-publications-and-statistics/statistics-2018/family-court/defended-family-court-statistics/> (Last Accessed: 27.10.2019)

Family Dispute Resolution is usually compulsory in most Care of Children Act cases, so that one usually cannot apply to the Family Court to deal with a dispute unless one has already attempted to resolve the dispute through the Family Dispute Resolution process.

(i) Parenting through separation

Expanding Parenting through Separation and making participation mandatory for many applicants before they proceed to the Family Court. PTS is a free information programme that teaches parents about the effects of separation on children, and parenting skills to reduce children's stress during separation.

(ii) Family Legal Advice Service

Providing low-income parents eligible for out-of-court support is up to four hours of legal advice prior to FDR through the Family Legal Advice Service. They may also be provided with up to three hours of preparatory counselling to help them make the most of Family Dispute Resolution.

4. United Kingdom

Family matters are dealt with in the Family Division of the High Court, by district judges in County Courts and in Family Proceedings Courts, which are specialist Magistrates' Courts. The presiding officer of the Family Court in UK i.e. Magistrates undergo special training before they sit in Family Proceedings Courts, where procedures are very different from criminal courts.

However, in April 2014 a single Family Court was established under Sec. 31A of the Matrimonial and Family Proceedings Act 1984 (MFPA) (inserted by the Crime and Courts Act 2013), exercising jurisdiction in majority of family proceedings. Subsequent to unification of Family Court, the Family Proceedings Court no longer exists. All family matters dealt with in the County Court will be dealt with in the Family Court⁴⁰. In the UK, the Family Court is able to sit anywhere and likely sits at the County and Magistrates' Courts where family cases heard previously.

It is divided into geographical areas, each of which has a Designated Family Centre (DFC) which is managed by a Designated Family Judge (DFJ). The Family Court

⁴⁰ Available at: <https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Reports/single-family-court-guide-final-08042013.pdf> (Accessed on: 20/09/2019)

Rules of 2014 (Composition and Distribution of Business)⁴¹ offers guidance on the level of judge likely to be allocated to certain types of proceedings. Rule 15 to Rule 20 provide for allocation of business of Family Courts and specifies optimum use of the judicial resources

The High Court continues to operate in family proceedings. However, only a limited number of cases are automatically reserved for the High Court, such as those involving the inherent jurisdiction of the High Court whether in relation to children (wardship) or incapacitated or vulnerable adults and certain international cases under the Hague Child Abduction Convention or the Brussels II *bis* Regulation.

(A) Power and Jurisdiction

In the UK, the Family Court and Family Division deal with all kinds of legal disputes relating to children and the breakdown of relationships.

Types of matters include⁴²:

- parental disputes over the upbringing of children;
- local authority intervention to protect children;
- decrees relating to divorce;
- financial support for children after divorce or relationship breakdown;
- some aspects of domestic violence; and
- adoption

There are two types of cases concerning children: public and private law⁴³.

⁴¹ Schedule 1: Allocation, the Family Court (Composition and Distribution of Business) Rules 2014. Available at: <https://www.legislation.gov.uk/uksi/2014/840/schedule/1/made>

⁴² Available at: <https://www.judiciary.uk/you-and-the-judiciary/going-to-court/family-law-courts/> (Assessed on: 20/09/2019)

⁴³ *Public law*: Public law cases are brought by local authorities or an authorized person (currently only the NSPCC) and include matters such as:

- care orders, which give parental responsibility for the child concerned to the local authority applying for the order,
- supervision orders, which place the child under the supervision of their local authority,
- emergency protection orders, which are used to ensure the immediate safety of a child by taking them to a place of safety, or by preventing their removal from a place of safety,

Public law cases must start in the Family Proceedings Courts. They may be transferred to the County Courts if it will minimize delay or enable the case to be consolidated with other family proceedings, or where the matter is exceptionally grave, complex or important.

Private Law: Private law cases are brought by private individuals, generally in connection with divorce or the parents' separation such as:

- parental responsibility,
- financial applications,

The court has wide powers to make orders in relation to the division of assets on divorce or judicial separation including order to a party under Sec. 22 to 24A, MCA 1973 to⁴⁴ -

- make, or arrange, periodical payments (maintenance) to the other party for as long as the court decides it is necessary;
- pay a lump sum/sums to the other party;
- make, or arrange, periodical payments for the benefit of any children (child maintenance) subject to certain restrictions set out in child support legislation;
- pay a lump sum for the benefit of any children;
- transfer specified property to the other party;
- make a settlement of specified property (that is, set up in trust, for the benefit of the other party and/or a child of the family);
- vary any nuptial settlement or trust made for the benefit of one of the parties.
- sell specified property and distribute the proceeds;
- share a pension fund; and
- court can take all assets in which the party/parties have a legal or beneficial interest (including trust, company or property interests, even where the legal title is held in third party hands) into consideration when calculating the assets available for distribution and division.

It can be seen that in the UK, the Family Court specifically focuses on protection of children, in cases where the government intervenes in a family to protect children from harm. The court also tries to eventually put them for adoption or to be placed in an extended family.

Another side effect of the break-up of a relationship is the question of money. The Family Court can settle questions as to who is entitled to what after a marriage or civil partnership ends. Disputes over regular maintenance payments to help and to look after children can end up there as well—when the parent, who’s being asked for money, is

-
- special guardianship orders, which give a special guardian legal responsibility without removing legal responsibility from the birth parents, and
 - Orders under Sec. 8 of the Children Act 1989, which can be used to settle where a child lives, parental contact and responsibility and other specific disputes. Orders can also be made over “prohibited steps” – for example, preventing a parent from moving a child to another country

a high earner, for example—but that’s rare. There’s a government Child Maintenance Service intended to handle most of those cases. The Family Court can order money to be paid by a parent to support their children, but in practice this usually happens when the dispute is about a lump sum rather than maintenance.

The family division of the High Court deals with more complex cases involving specific issues such as certain cases of international child abduction, forced marriage, and female genital mutilation.

(B) Qualification and Role of Judges

Judges of different ranks, from magistrates without legal qualifications to High Court judges, sit in the Family Court. They are assigned cases based on what type of family dispute it is, and how complicated the dispute is.

Appeals against a decision of one judge will often go to a more senior judge within the Family Court. If the original judge is already quite senior, the appeal will have to be heard by the Family Division of the High Court, or even the Court of Appeal above that.

First, any fact in dispute has to be proved on what’s known as the balance of probabilities. This means that to be treated as having happened, any fact in dispute has to be proved to be more likely than not. It’s also referred to as the civil standard of proof—to distinguish it from the criminal standard of proof, in which a jury must be “sure” (or be “beyond reasonable doubt”) to convict somebody. This difference means that sometimes the Family Court will decide, to take an extreme example, that somebody has killed their child even if a separate criminal trial for murder has resulted in an acquittal. If there were other children in that family, the Family Court may need to make a decision on what happens to them, and to do so would decide on the balance of probabilities whether the parent was responsible for the death.

Second, most hearings concerning matters to do with children are heard in private. Members of the press may attend most hearings, but there are restrictions on how much of what goes on they can report. Judgments in cases heard in private are often published, particularly when important or controversial, with the names of the people involved replaced by letters.

(C) Family Court Statistics

(i) Public law

There were 4,460 public law cases started in January to March 2019, down to 9% compared to the equivalent quarter in 2018, and the lowest number of cases started since the final quarter of 2015. There were 4,290 cases that reached a final disposal, 3% lower than the same period in 2018.

Timeline: The average time for a care and supervision case to reach first disposal was 33 weeks in January to March 2019, 3 weeks up from the same quarter in 2018. It is the longest average time to first disposal since the final quarter of 2013. Half (42%) of these care proceedings were disposed of within the 26-week limit introduced in the Children and Families Act 2014.

(ii) Private law

The number of Private law cases started and the number of applications increased by 12% from January to March 2019 compared to the equivalent quarter in 2018. The number of Private law cases disposed of from January to March 2019 was up 9% on the equivalent quarter in 2018, with the number of disposals up 11%

Timeline: In January to March 2019, it took on average 29 weeks for Private law cases to reach a final order, i.e. case closure, up nearly 4 weeks on the same period in 2018. This continues the upward trend since the middle of 2016, where the number of new cases overtook the number of disposals, creating a greater number of outstanding cases.

(iii) Legal Representation:

Cases with legal representation take longer on average. In general, cases where either both parties or the respondent only had legal representation it took longer time to be disposed than those cases where only the applicant was represented or where both parties were without legal representation.

(iv) Divorce

Increase in the number of divorce petitions, alongside an increase in timeliness of proceedings. Divorce petitions were up to 6% from January to March 2019 compared to the same period in the previous year. Average time from petition to decree nisi

increased from 33 weeks in January to March 2019, to 27 weeks in the same quarter of 2018.

(v) Adoption:

Number of adoption applications and orders up for second quarter in a row following downward trend. During January to March 2019, about 1,324 adoption applications were made, up 1% from the equivalent quarter in 2018. Over the same period, the number of adoption orders increased by 3% to 1,331

(E) Learnings from United Kingdom

It can be seen that the Family Court in the UK has shifted from multiple courts to a unified single court since 2014. The main focus of the court is not to upkeep the marriage but to take care of welfare of the child out of a disturbed family or family in dispute. The court has wide power relating to division of assets which can be provided for the benefit of the child.

The cases in the Family Court are allocated to the judges pertaining to their level and the need for a particular proceeding. New technology has been introduced in the Family Court to make the system simpler and more efficient for everyone, with improvements to the court estate, and developed the functions of enhanced case officer (legal adviser) to support judges better⁴⁵. The technology allowed the parties to file divorce online and 41,000 divorce online applications were made since the service was launched in April 2018, with digital uptake at 58% and 82% of users saying they were satisfied with the service.⁴⁶

In the UK, there is a concept called pre-proceedings which included the Mediation Information and Assessment Meeting, where attendance at a Mediation Information and Assessment Meeting is required for any applicant in relevant family proceedings (as provided in Sec. 10 of the Children and Families Act 2014) and is expected and encouraged for all respondents. These provisions ensure that parties have an opportunity to find out about mediation and other forms of family dispute resolution. The Mediation Information and Assessment Meeting provides an opportunity for parties to meet with a mediator. At this meeting the Mediator will:

⁴⁵ The latest reform in the family jurisdiction, <https://www.gov.uk/guidance/hmcts-reform-update-family> (last accessed: 10.8.2019)

⁴⁶ *Ibid*

- provide information about the process of mediation and other forms of family dispute resolution;
- start to clarify the areas where there are disputes, and provide options for resolving them;
- identify other sources of support including financial, emotional and legal; and
- provide parties with more detailed information about additional services that encourage reaching settlement.

At the Mediation Information and Assessment Meeting, the mediator will talk to the parties about their concerns and their immediate priorities with the aim of setting an agenda for areas to be negotiated. This typically includes children, finance and property issues. Discussions take place with the parties separately until or unless it is recognized to be safe for any meeting to take place together.

As well as providing information about what mediation can provide, the mediator is making an assessment about the parties' ability to mediate. In some cases mediation might not be suitable. There may be other over-riding factors, which mean that the court does not consider attendance at Mediation Information and Assessment Meeting is suitable in any particular case. Family Procedure Rule 3.8(1)/(2) sets out the circumstances in which a requirement to attend a Mediation Information and Assessment Meeting does not apply. In summary, the main exemptions are:

- domestic violence/child protection;
- bankruptcy;
- unavailability of an authorized mediator within a specified geographic area or timescale; and,
- Mediation Information and Assessment Meeting has already been attended in the four months prior to making the application.

Court obligations to review opportunities for non-court dispute resolution:

1. The Child Arrangements Programme makes clear that mediation and other forms of non-court dispute resolution should be considered at every stage of a court process.
2. Family Procedure Rule 3.10 of UK requires judges, if appropriate, when making a decision on allocation and in any event at first hearing, to inquire into whether any Mediation Information and Assessment Meeting exemption claimed has been validly

claimed. If it is determined that the exemption was not validly claimed, the judge can direct the applicant or both parties to attend a Mediation Information and Assessment Meeting and can adjourn proceedings for that purpose.

3. The judge can assist parties, especially litigants in person, to understand the choices available to them and the likely outcome of continuing court involvement, with or without Children and Family Court Advisory and Support Service mediation or other non-court dispute resolution interventions.

5. United States

The changes occurring in the structure and functions of the American family, the family law systems of the western industrial societies began a radical transformation in the 1960s in the areas of marriage, divorce, support and parent-child relationships.⁴⁷ Around the turn of the 20th century, family law courts was one of the several great public institution established by the American social reformers to address the burgeoning complexity of societal issues in an increasingly urban environment.⁴⁸

In the US, the Family law courts began as an alternative to adult criminal courts for children in trouble with the law but expanded to include multiple areas of jurisdiction including delinquency, child welfare, custody guardianship, child support, family offenses, and divorce etc. The Family Court system was set up in the late 60s to alleviate the burden on the civil and criminal courts.⁴⁹ The statistics provided that there was an increase in the number of divorces from 1867 to 1886, which led to overburdening of justice delivery system with an ever-growing need to provide adjudication of divorce and the issues related to it.

In New York, there was evidence of public dissatisfaction with the courts' handling of family-support cases even at the turn of the century. The State Constitution of 1894, carried over without change in 1921 and 1938, permitted the legislature to establish children's courts or courts of domestic relations as separate forums or as parts of other courts. The first Family Court (then called the domestic relations court) was

⁴⁷ Mary and Glendon, *The Transformation of Family Law: State, Law, and Family in the United States and Western Europe*, (1989).

⁴⁸ Jane M. Spinak, "Reforming Family Court: Getting it Right Between Rhetoric and Reality", *Journal of Law & Policy*, 31 (2009)

⁴⁹ Victor E. Flango, "Creating Family Friendly Courts: Lessons from Two Oregon Counties", 32 *Family Law Quarterly* 1998, 115

established in New York by a statute in 1910. The court was set up in Manhattan and in Brooklyn as part of magistrate's court system. No change was made until 1933 when children's and Family Courts were brought together as non-criminal tribunal⁵⁰. Followed by Cincinnati, Ohio establishing an integrated Family Court, Cleveland established similar courts as divisions of trial court, Missouri established a court of domestic relations as part of circuit court. The state of Washington created a family court as part of the superior court for hearing and reconciliation of matrimonial controversies, and in Texas the juvenile courts were converted to Family Court. These Family Court operates as separate divisions dealing with all family and child related matters including adoption and custody, desertion and support matters and divorce matters⁵¹.

In the District of Columbia in 1956, a domestic relations branch was created which included three separate courts, one of which handles divorce cases, another pretrial conferences and a third motions, preliminary orders, uncontested cases and adoptions.

The Family Court was created to focus special attention on individual and social problems concerning families and children. Consequently, its goals are to assist, to protect, and if possible, to restore families whose unity or well-being is threatened. This court is also charged with assuring that children within its jurisdiction receive care, guidance, and control conducive to their welfare and the best interest of the state. Additionally, if children are removed from the control of their parents, the court seeks to secure care equivalent to that which their parents should have provided. On these goals, the Family Court has jurisdiction to hear and determine⁵²

- all petitions for divorce and any motions in conjunction with divorce proceedings, such as motions relating to the distribution of property, alimony, support, and custody of children,
- petitions for separate maintenance and complaints regarding support for parents and children,
- matters relating to delinquent, wayward, dependent, neglected, abused, or mentally deficient or mentally disordered children, and,

⁵⁰ Jacob T. Zukerman, "The Family Court- Evolving Concepts", *Annals of American Academy of Political and Social Science*, 383, Progress in Family Law (1969), 119-128

⁵¹ *Ibid.* 26

⁵² About the Family Court, <https://www.courts.ri.gov/Courts/FamilyCourt/PDFs/AbouttheFamilyCourt.pdf>, (Accessed on: 10/09/2019)

- adoptions, child marriages, paternity proceedings, and a number of other matters involving domestic relations and juveniles.

Courts in the US currently recognize two types of divorces: absolute divorce and limited divorce. To obtain an absolute divorce, courts require some evidence showing misconduct or wrongdoing on one spouse's part. An absolute divorce is a judicial termination of a legal marriage. Many states have enacted no-fault divorce statutes, which do not require showing spousal misconduct and are a response to outdated divorce statutes that require proof of adultery or some other unsavory act in a court of law by the divorcing party. Nevertheless, even today, not all states have enacted no fault divorce statutes. Instead, the court must only find⁵³ that;

- 1) relationship is no longer viable,
- 2) irreconcilable differences have caused an irremediable breakdown of the marriage,
- 3) discord or conflict of personalities have destroyed the legit ends of the marital relationship and prevents any reasonable possibility of reconciliation, or
- 4) marriage is irretrievably broken.

Mediation: In the US, mediation is widely recognized in matters concerning Family Court and some of the state Family Court provides free court mediation. One such Family Court of Rhode Island offers a free court-based mediation program to assist parties in settling cases through a process that is fair, cooperative, and respectful. Mediation gives parties an opportunity to discuss issues, be heard, and to work toward an agreement in a safe, and private setting. When a case involves children, it is expected that mediation will result in a parenting plan that meets both parents' concerns as well as the children's needs.

⁵³ Cornell Law School, https://www.law.cornell.edu/wex/category/family_personal_matters
(Accessed on: 10/09/2019)

CHAPTER-SIX

CONCLUSION AND SUGGESTIONS

CONCLUSION

The pendency in Family Courts of Madhya Pradesh is around 40,000 cases, but this pendency is not very high compared to other states like Bihar, Kerala and Uttar Pradesh. The Family Courts of Madhya Pradesh is believed to have made tremendous progress in responding to the needs of families and children in distress. The judges currently presiding over Family Courts of Madhya Pradesh are working efficiently within the limited resources, infrastructure available and lack of information and communication technology in these courts. These judges motivate parties to resort to alternative techniques of dispute resolution to the best of capacity even in existing institutional gaps in the area. Therefore, there is a room for improvement to bring these specialized courts towards excellence. The improvement in these specialized courts could be done through different ways which work within the court and litigating families at different stages. There is need for sufficient resources for intervention in initial process and in far more areas of Family Courts to make them accessible and litigant friendly. This transformation of courts dealing in judicial dispensation of family law cases is striving to reduce pendency, not only in Family Courts of Madhya Pradesh but also in Family Courts functional in all other states of India.

In countries like Australia, New Zealand, Singapore, United Kingdom and United States, Family Courts are more oriented towards the welfare of children and individual interest of parties in cases of breakdown of marriage. The focus is not solely on arriving at a reunion or granting divorce as against reaching at reunion which is the main emphasis of Family Courts in India. In India these courts focus upon preserving and prioritizing the institution of marriage over individual interest or welfare of children. Therefore, it is felt that with the ever changing needs of the society, its practices and cultures, the Family Court must also change to the contemporaneous needs of society. A shift is required in the perspective of Family Courts from preserving the marriage as an institution to a child welfare institution focused upon individual interest by adopting intensive ADR techniques, utilizing information and courtroom technology, upgrading websites, limiting the role of advocates and restricting adjournments to minimum.

It is required that the suggestions be separated into broad and manageable goals which can be incorporated into existing system and goals which can be adopted in the future to ensure a successful new model of Family Courts in Madhya Pradesh.

SUGGESTIONS

Delay in any case can leave litigants in uncertain situation and potentially add to costs. Delay in disposal of family matters leads to anxiety and uncertainty at a time when parents and children need stability to reorganize their lives. Therefore by adopting various techniques judges must try and aim to resolve a family dispute case as quickly as it is feasible and appropriate.

This part summarizes the study on functioning of Family Courts in different jurisdictions, analysis of questionnaire, observations made during field study and inputs gathered from respective Family Court Judges by suggesting possible solutions which could be adopted for the efficient functioning of Family Courts in Madhya Pradesh. The research team tried to come-out with comprehensive suggestions for various stakeholders involved in the process of dispensation of justice through Family Courts which may help in addressing concerns relating to delayed disposal in these courts.

This research team focused on some pertinent areas which aim in achieving better outcomes for children and families that come before the Family Court of Madhya Pradesh to improve their overall functioning and suggesting methods to reduce pendency in these courts. There are six key points on which elaborate suggestions are recommended:

- I. Three “S”: Specialized Court, Specialized Judges and Specialized Training.
- II. Mediation and Counselling in Family Courts
- III. Court and Case Management
- IV. ICT in Family Courts
- V. Addressing Pendency
- VI. Infrastructure Improvements in Family Court of Madhya Pradesh

I. Three “S”: Specialized Court, Specialized Judges and Specialized Training

Specialized Court: Court specialization is commonly considered to be an important reform initiative to advance the development of a successful judicial system. Studies on Family Courts in Australia, United Kingdom and United States provide an insight into the benefit of specialized courts in family matters, where greater integration, coordination and efficiency in the management of cases are involved.⁵⁴ The creation of a specialized court allows the government to establish specialized rules and procedures which are uniquely suited to family cases. Therefore, considering the need for speedy settlement of family matters the Indian Parliament passed a Family Court Act, 1984 to establish specialized courts called Family Courts.

Key Findings:

Specialized Court

Family Courts are not operating as specialized courts. They operate as regular civil or criminal court.

Lack of simplified procedures. Complicated process and procedures followed similar to that followed in any other courts

Non conducive environment to deal with the intricate nature of family cases

Suggestions

Simplified Process and Procedures

- As a specialized court these courts must be made litigant friendly and accessible by simplifying process and procedures followed. These courts must reflect the special need of the cases the courts handle.
- The Act was framed with the purpose to have specialized courts where involvement of advocates was to be exceptional and parties were expected to represent their cases. However, with the passage of time every case in the Family Court is now represented by advocates and self-representation has become rare. The provisions of the Act are not followed in its spirit. Example

⁵⁴ Australian law Reform Commission (ALRC) on Family Violence – A National Legal Response (Sydney: ALRC, 2010)

Sec. 12, 13 and other provisions of the Family Courts Act. These provisions must be followed with the very purpose with which they were incorporated.

- The designated Judge of the Family Court has been provided discretion and autonomy to deal with family cases as they find appropriate by the Act. However, it is not in practice in every Family Court of Madhya Pradesh due to judicial hierarchies in the existing system.
- Separate court building or atleast separate wing for Family Courts be made having less formal process with more focus on conciliation techniques. Family Court matters be heard in family friendly environment and in space separate from other courts.

Specialized Judges: Judicial specialization generally means that judges have special knowledge of and expertise in a particular area of the law. More specifically, it also means that certain types of cases are handled somewhat differently, possibly even separate from the rest. The main reason for court specialization is increasing specialization of the law and the growing complexity of topics as stated by the Working Party of the Consultative Council of European Judges (CCJE). The specialization of judges is increasingly needed due to the specialization of lawyers and other stakeholders involved in family disputes.

Key Findings:

Family Court Judges

The Family Court (Other Qualification for Appointment of Judges) Rules, 1988 is not followed in practice.

Judges currently presiding over Family Courts come from dissimilar background with different civil/criminal areas of practice.

Few women judges are currently presiding over Family Courts as against Sec. 4(4)(b) of the Family Court Act.

Suggestions

In Australia, only those are appointed as Family Courts judges, who by reason of training, experience and personality, are suited to deal with family law cases.

- High Court may look into the prospect of developing a panel of judges dedicated towards social issues involved in family law cases as feasible and appropriate.
- Further, these judges could be encouraged to develop subject expertise, so they can be assigned to handle these cases when they come before the court.
- The family matters often present complicated emotional and non-legal issues requiring a Family Court judge to have interdisciplinary knowledge of social work, psychology and alternate dispute resolution techniques which should be taken into consideration before designating a judge in Family Courts.
- The minimum term to serve as a Family Court judge must be fixed in all districts for four years or five years.
- Well trained and highly motivated judicial officers and staff in specialized courts be selected and retained.

The experience and expertise of specialized judge will lead to the better decision, better outcomes for litigants, and greater user satisfaction. It was also noted that if a specialized court is headed by specialized judge will be able to contribute to greater predictability and confidence in the courts and possibly reduced appeal rates.

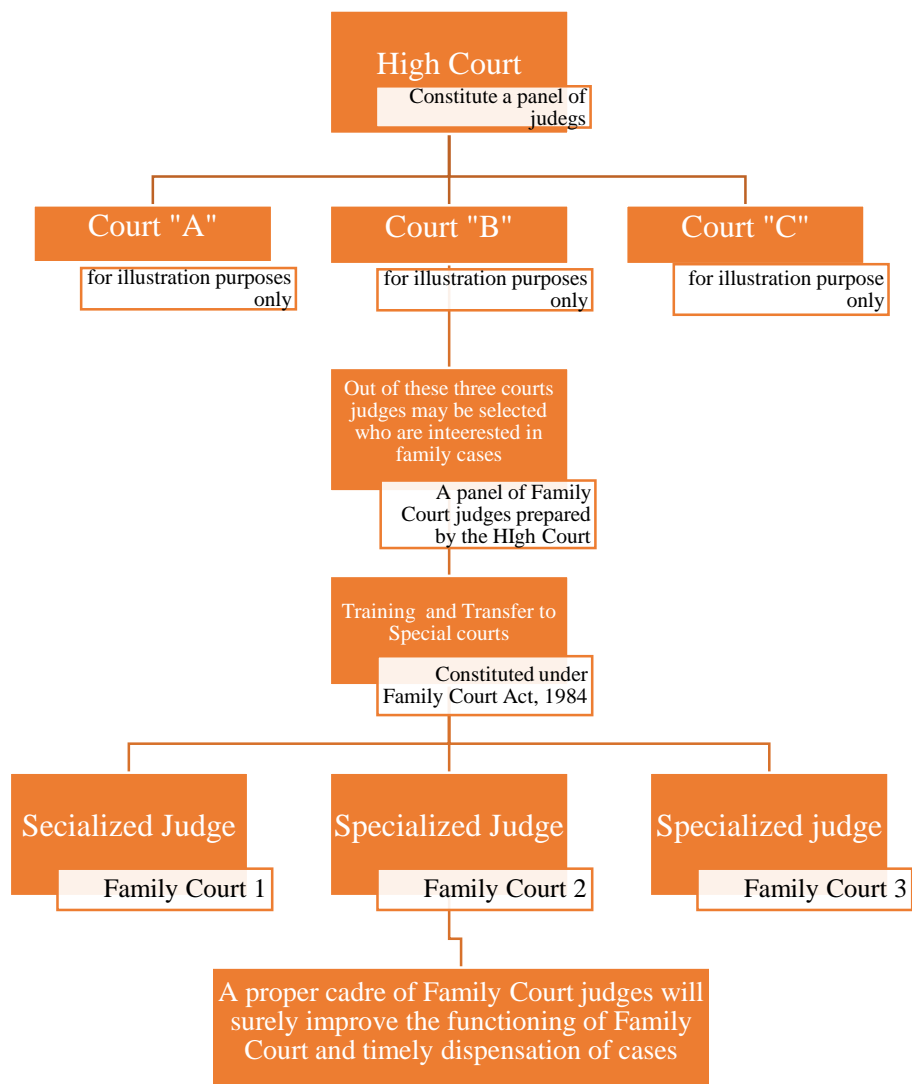


Illustration 1: To constitute panel for specialized Judges in Family Courts

Specialized Training: During the course of study it was analyzed that due to the intimate and emotional nature of cases filed in Family Courts, a judge is required to have complex knowledge, skills and qualities. Therefore, it is imperative for Family Court judges to undergo regular training and education to keep up with these developments and to remain properly qualified to adjudicate family cases. Without continuous training, specialized judges may be less equipped to hear new issues, and the court may not function to its optimum.

Key Findings:

Training

Most of the Family Court judges lack prior training before taking charge as a Family Court Judge. (refer Chart 1)

Lack of continuous training on specialised modules after taking charge of a Family Court.

Lack of comprehensive training modules and training imparted.

Suggestions

- The judges, having interest in dealing with family matters, must be identified and given necessary training before positing or transfer as a Family Court judge.
- Continuous training must be imparted to Family Court Judges after taking charge to abridge them with the changing needs of law and specialized courts. A sample list of topics which could be included in training modules for Family Court Judges is annexed as *Annexure 1*.

*Additional Knowledge, Skills and Qualities for Family Court Judge*⁵⁵

- **Cadre Management:** A Family Court judge must have a minimum qualification, be well versed in the subject matter, and rules of procedures for, the types of cases that come up to Family Courts.
- **Evidence:** FCJ dealing with cases involving one or more self-represented litigants must be able to elicit evidence necessary to secure justice without creating an appearance of impropriety or bias.
- **Ethics:** FCJs must be prepared for the ethical challenges that arise from managing cases involving families and children
- **Trauma Informed decision and awareness of forensic trauma:** FCJs must be aware of and sensitive to the experience of litigants moving through the Family Court system. FCJ must have an expansive view of the reliefs available to maximize effectiveness of the processes.

⁵⁵ Honoring Family Initiative, *The Modern Family Court Judge: Knowledge, Qualities and Skills for Success*, Institute for the Advancement of the American Legal System, University of Denver. (2015)

- **Child development and Family dynamics:** FCJ makes decision having long term impact on families and welfare of child. While judges can rely on professionals but having knowledge in the area can be an enabler for a judge to weight and value his decision.
- **Understanding one's own biases:** Shaped and influenced by one's personal experiences, cultural stereotypes and attitudes about oneself, implicit biases can jeopardize fairness in any case. Therefore, a FCJ must recognize that these biases exist and workout strategies to address them.
- **Cultural Competence:** A FCJ must be sensitive and attentive to issues of class, race, age, citizenship, marital status, and gender, in a society which operates at varying levels in any case explicit or implicit.
- **Dispute resolution techniques:** it is important for a judge to know of these techniques from a procedural standpoint and its benefits to litigants in these matters.
- Listening skills, decisiveness, timeliness, humility and thoughtfulness, respectfulness and courtesy, stress management, judicial leadership and commitment.

The above qualities are very essential attributes for a Family Court judge. However, when a judge is assigned the bench of Family Court most of them are transferred without any prior experience in handling these complex family law cases. Judicial education may play a significant role in shaping a judge highly skilled towards the specialized area of law. A judge will acquire the required skills for presiding over particular type of cases over time through his hand on experience and self-education. But the time consumed may negatively impact the justice dispensation causing delay in proceedings and leading to pendency. This is where the judicial academies has an indispensable role. Without adequate judicial training, judges lack the specialized knowledge skills and qualities required in time.

II. Mediation and Counselling in Family Courts

Family dispute matters including matrimonial causes, maintenance and custody of children form a major portion of cases referred for mediation, since these cases are best suited for ADR.⁵⁶ These disputes are often caused by trivial misunderstandings which can be sorted out with the help of trained mediators.⁵⁷ However, it is to be noted

⁵⁶ *Afcons Infrastructure v. Cherian Varkey Construction Co (p) Ltd and Ors (2010)*

⁵⁷ *K. Srinivas Rao v. D.A. Deepa (2013)*

that mediation cannot be resorted to in all type of family disputes; specific cases of domestic violence and child abuse are not suitable for ADR mechanism unless suitable orders are made for the protection of the party at risk.

During the analysis of responses received through questionnaire and field visit, the research team identified that ADR has a very significant role in resolving family dispute matters. It was observed that in some districts most of the family cases were amicably resolved through mediation techniques since parties gets an opportunity to confront each other one on one to work out their issues and arrive at a settlement. However, in some districts ADR has not been very successful and parties are not willing to try an alternate mechanism to settle their family dispute whereby, leading to burdened courts. (Refer *Chart Nos. 24-26 in Chapter III*).

As stated by Justice Madan B. Lokur that:

“The necessity of introducing effective ADR mechanism coupled with case management is the need to tackle the snowballing problem of pendency in Indian judiciary. However, the goal should not only be to expedite the delivery of justice but also to improve the efficiency in decision making in courts.”

The concept of Family Court demands that the Family Court should be essentially a conciliation service with court appearances as a last resort, rather than a court with a conciliation service as pointed out in the report of the *Royal Commission of New Zealand*.

Key Findings:

Challenges: ADR in Family Courts of Madhya Pradesh

Many districts lack a court annexed mediation center and those which have are in bad shape. In some districts these mediation centers are operating in garages or the least space available in a Family Court.

The 12 identified districts of Betul, Burhanpur, Chhindwara, Dewas, Hoshangabad, Neemuch, Panna, Sagar, Satna, Seoni, Shivpuri, and Sidhi do not have a court annexed mediation center.

Unawareness and unwillingness of parties to resort to ADR

Lack of trained mediators and counsellors in many Family Courts.

Lawyers perusing parties to follow the regular adjudication process in courts instead of adopting alternate means.

Suggestions

Trained Mediators

There is a dire need of trained mediators in mediation centers annexed to Family Courts to help parties to find a solution to the problem of breakdown of marital relationship. Failure to appreciate the role of trained mediators and mental health professionals who work with Family Courts is a serious error.

- Mediation could be performed by retired judges, inclusive participation of lawyers, an outside agency including NGOs and social workers.
- A panel of mediators willing to help parties in their family disputes be constituted by the appropriate authorities.
- Proper funds be released by the Government for mediation to sufficiently remunerate mediators currently working or associated with Family Courts.

Pre Institution Mediation

- In the Commercial Courts Act, 2015 under Sec. 21A (2) read with Sec. 12A (1) of the Commercial Courts (Pre Institution Mediation and Settlement) Rules, 2018 ("the Rules") have been framed. These rules provide for mandatory pre-

institution mediation in case of commercial disputes under Sec. 12 A which states that, *no suit shall be instituted before the plaintiff exhausts the remedy of pre-institution mediation*. The rules also prescribe the procedure in which the pre-institution mediation as envisaged under the Act has to be carried out. It further provides that the authority to conduct pre-litigation mediation must be constituted under the Legal Services Authorities Act. The rules further stipulate a timeline to be followed to conclude the pre-institution mediation without delay and if the parties fail to arrive at a settlement, a failure report is provided to resort to regular adjudication. These rules have made the whole process of pre-institution mediation highly organized with the Authority and the Mediator being required to process several forms prescribed for institution of proceedings, issuance of notice to parties, settlement, and reporting of 'non-starter' process to parties and failure report.

- A similar model of pre- institution mediation could be adopted in case of family dispute matters in Family Courts whereby the rules are framed for parties to mandatorily resort to pre institution mediation before resorting to adjudication proceedings. Similar timeline could be fixed in these matters to conclude the mediation within time without causing any delay and incase parties fail to arrive at a settlement then a failure report be given to the parties.

It is pertinent to make a reference of Family Justice Court of Singapore, where there is mandatory mediation and counselling for cases in which parties have atleast one child below 21 years of age. The Family Justice Court also conducts a Family Dispute Resolution conference for parties having disagreement on family matters which is to be attended by parties along with their lawyers if any. Further, majority of cases require three or less than three sessions for conclusion. *(Singapore)*

This whole process will help to reduce the undue delay caused in between regular proceedings of court whereby, parties seeking adjournments on stating scope for amicable settlement. If the parties at the very beginning arrives at settlement the court will be less burdened and could adjudicate only on complex matters. A proper mechanism could be put in place with the help of DLSA or SLISA.

Timeline for Mediation

The research team suggests that strict timelines must be followed to conclude mediation process, and further proposes a timeframe where:

- length of each session of mediation will vary depending on requirement of each case with, no session longer than one hour;
- maximum 4 sessions in complex cases but minimum 3 sessions for each case unless otherwise appropriate;
- mediation process be aimed to be concluded at the earliest and not more than 2 months; and,
- report must be mandatorily submitted at the conclusion stating the outcome with reasons.

Infrastructure for mediation centers

- The identified districts which do not have court annexed mediation center be provided adequate infrastructure to annex a mediation center to their Family Courts at the earliest.
- In other districts, annexed mediation centers be provided separate rooms to conduct mediation sessions thereby upholding the confidentiality of parties. The space must be conducive for parties to be at ease, to discuss their issues with each other along with mediator. This will improve the effectiveness of mediation in family disputes.
- The Family Court premises must be equipped with display boards, sign boards and television panels displaying the options of ADR to parties and providing simplified procedures to resort to these services. These techniques would also be able to address the major challenge of parties being pursued by their lawyers, since they would be aware of the mediation techniques and its advantages to make their own choices.

Parties will gradually come to realise that mediation process far outweighs the other methods of dispute resolution and take recourse to it earlier than later instead of judge led pressure to participate in mediation process.

In Family Courts of Australia, families have access to a wide range of additional court annexed services for counselling, education and mediation to provide one provide one stop forum for families in dispute. (*Australia*)

Online mediation

The prospects of online mediation must be explored in family dispute matters, whereby online portals could be made to provide information regarding trained

mediators and the process to apply for it. Institutes like IIAM Bangalore and other agencies could be involved for the same. There are increasing number of family disputes where parties reside in different countries, joint mediation be made one of the alternatives for speedy settlement of these disputes.

Counselling

In Chapters III and V the importance of counselling in family disputes has been highlighted. It was observed that many consented and contested cases can be amicably settled through the help of professional counsellors. Currently there are only 10-12 Family Courts of Madhya Pradesh where counsellors are present and regular counselling is done in family matters where necessary. In Australia and New Zealand, maximum family dispute cases are resolved through mediation & counselling and similar is the case in some of the districts of Madhya Pradesh like Indore and Rajgarh.

- Pre-litigation counselling will avoid court litigation and reduce cost, time and delay in the settlement of dispute.
- More trained counselors with required qualification must be appointed in Family Courts of Bhopal, Gwalior, Indore, Katni and other districts facing high rate of institution of new cases.

The research team proposes that each Family Court of Madhya Pradesh must have Family Dispute Resolution center (*Parivar Paramarsh Kendra*) providing a wide range of facilities like mediation, counselling, education and training.

The following suggestions could be implemented immediately within the prerogative of the Principal Judge of the Family Court with limited resources available:

Immediate Possible Solutions

- In case of lack of infrastructure, while the Family Court judge is presiding on bench, the chamber could be utilized to conduct mediation techniques. It could be adopted as an immediate possible solution.
- *To spread awareness amongst litigants regarding ADR mechanisms in Family Courts:* voluntary services could be utilized from students of law colleges as a part of their mandatory course work. Students could be involved to give short presentation in Family Court premises to litigants about mediation and its advantages.

III. Court and Case Management

Judge as a master of court can control the entire management concerning the judicial and supervise administrative functions. Considering the current crisis of caseload in Family Courts, it is imperative to implement proper court and caseload management so as to save time, cost and effort. The dispensation of justice and disposal of new as well as old cases is of paramount importance to reduce the ever increasing workload from the judicial officers. To address the issue of pendency in Family Courts, it is essential to speed up court process by managing and identifying areas which need to be streamlined and consistently supervised.

Key Findings:

Court and Case Management

Absence of uniform in-house mechanism to monitor the progress of each case in Family Courts of Madhya Pradesh.

In some Family Courts, judges are involved in non-judicial functions thereby losing significant working hours.

Lack of systemic mechanism to identify and categorize cases at the stage of institution of new case.

Prioritization of cases on the basis of urgency is not done in each Family Court which is essential seeing the complex nature of cases involving welfare of child and senior citizen.

Lack of trained staff for effective court management in most districts of Madhya Pradesh.

Non-adherence of time assigned for oral hearing if any.

Suggestions

Prioritization of cases in Family Courts

During the study it was observed that Family Court cases involve intricate issues and some of these issues require prioritization over other cases. Therefore, the research team suggests that cases requiring immediate relief due to involvement of parties of such nature must be put up on board for urgent hearing. Prioritization could be done on the following basis:

1. cases relating to maintenance whereby the wife is completely devoid of maintaining herself or the child;
2. custody of child matter where the child is below 10 years of age or as necessary; and,
3. cases involving senior citizen.

The above cases are indicative and any other matter which judges of Family Courts deem necessary may be prioritized for urgent hearing.

Categorization of Cases

It is evident from the analysis that Family Courts are burdened with different type of cases which require special arrangements as all cases are not of similar nature. Proper categorization of cases at the stage of institution is essential to direct an appropriate path considering the type and nature of dispute. It is pertinent to note that not all cases are suitable for ADR or counselling. Each case is not a contested case, some cases which are prioritized above may fall in any of the below category. The cases in Family Courts may be streamlined by the Principal Judge from very initial stage as below:

1. Contested *versus* Uncontested (Consented) cases
2. Cases suitable and not suitable for mediation and or counselling.
3. Cases could be categorized based on complexity of dispute:
 - Simple cases not involving technical issues.
 - Cases involving multiple issues
4. *Cases with no activity*: where parties are not willing to settle the dispute due to grant of interim maintenance, or where the court has not received any interest from the petitioner or respondent subsequent to the petition.
5. *Default cases*: Cases where no response has been received from the respondent after service of notice and summons by the Court.

It was observed that there are cases in Family Courts whereby parties mutually agree to settle the dispute and the cases are uncontested at one point but becomes contested gradually or vice versa. Therefore, “*Differentiated caseload management*” needs to be worked out in Family Courts to monitor effective progress of each case pertaining to its need.

Timeline for effective caseflow

Time management is essential to address the concerns of pendency in any court and Family Courts are no exception to it. Proper time management is a pre-requisite to conclude trial in time without causing any delay. Principal Judge may assign timeline for each category of cases and adhere to the set timeline.

- Strict adherence of time line assigned for oral hearing if any. If no timeline is assigned as it was observed in some districts, then a stipulated time must be assigned to conclude oral hearing and adherence to it.
- Family Court Judge may set a firm deadline for conclusion of settlement proceedings or mediation sessions.

In Family Court of Singapore there is proper timeline for each of the steps followed by judges presiding over Family Court from institution to disposal. (Refer *Table no. 22*)

Similar timeframes may be adopted in our Family Courts as feasible and appropriate for different categories of cases.

In-house mechanism to check progress of each case

In some Family Courts, judges are involved in monitoring progress of a case themselves thereby losing significant working hours. Therefore, the research team suggests that a proper in house-mechanism be devised which could be put in place to monitor the progress of each case and expedite disposal.

IV. ICT in Family Courts

Incorporating Information and Communication Technology in courts is the need of the hour to reduce current workload and abreast the judiciary with latest development in the technological era. Every sector is taking advantage of ICT and Judiciary is no far behind. E-courts Committee of the Supreme Court of India is consistently working to bring in innovative technology for effective functioning of courts. The research team proposes that Family Courts should not be left behind and must be equipped with necessary infrastructure pertaining to ICT to make these specialized courts more accessible and litigant friendly.

Key Findings:

Information and Communication Technology

Absence of electronic filing in most of the Family Courts of Madhya Pradesh (As indicated in *Chart No. 28*)

Lack of video conferencing facility in many Family Courts of Madhya Pradesh.

Lack of Internet connectivity in Family Court of Indore and Sidhi and records are still not digitalised. No server rooms are available in some Family Courts.

Latest techniques like SMS, Email for service of notice and summons are not adopted in all Family Courts.

Lack of dynamic website for Family Courts to provide information to litigants.

Suggestions

Dynamic Website for Family Courts of Madhya Pradesh

There is a need for updating the current website of Family Courts of Madhya Pradesh to dynamic website. The website must be simple and informative for a laymen who do not have knowledge of law. The website must include the following:

1. What is a Family Court and the type of cases dealt by these courts?
2. How to go about filing a matter in Family Court: Step wise procedure to file a case in Family Court.
3. Online system of filing a case or electronic filing through a common portal for Family Court.
4. Every application or document necessary with regard to filing a dispute in Family Court must be made available on the Family Court website.
5. Information on alternate means of dispute resolution like mediation and its advantages on the website. Further, as a future goal the website may provide an option for online mediation services.
6. Website must have the option to choose or convert the text in Hindi or English.

7. An indicative list of outside agencies like private mediators, counsellors, social workers, NGOs, and lawyers must be provided for the support of litigants.

When litigants will have substantial information on how to go about their case in Family Court, it will simultaneously limit the role of legal practitioners as these courts will become more accessible and different from other civil or criminal courts.

A screenshot of websites operated for the Family Courts of Australia, New Zealand, Singapore, and United Kingdom have been attached as *Annexure 3* to provide an illustration.

Immediate possible solution: Alternatively, the e-court website may provide the following information with regard to Family Courts.

Use of Social media in Family Courts

Australia has advanced an extensive use of IT in Family Courts. There is a social media platform of the court under which it operates twitter and YouTube. The twitter account provides followers with timely, relevant and easy to access information about court and family law issues, while the YouTube channel help litigants to easily understand court process through videos uploaded on the channel.

The Family Courts in the state may work on similar lines and make extensive use of IT in a positive way to spread awareness amongst litigants on important aspects related to Family Courts such as procedure: *how to apply for*, advantages of mediation and counselling etc. through easily accessible information like short video clips and tweets. The links to these videos could be made available on the website of the Family Court as well.

Video Conferencing

These techniques are very essential to reduce the life cycle of family dispute cases due to the reason of parties residing in different districts, states or countries. Therefore proper infrastructure and facilities for conducting video conferencing must be provided in each Family Court of Madhya Pradesh. If video conferencing is extensively used in these cases adjournments due to non-availability of parties will be reduced. The evidence could be taken through video conferencing thereby reducing the cost and time involved at the stage.

Alternative options for the service of summons

Service of notice through E-mail: The Supreme Court of India in the case of *Central Electricity Regulatory Commission vs. National Hydroelectric Power Corp. Ltd. & Ors.*, directed that in commercial litigation and in cases where advocates seek urgent interim reliefs, service of notices may be effected by E-mail, in addition to normal mode of service. The Courts have inducted the “electronic means” in their respective rules in order to speed up the summons process. Therefore, the same may be implemented in the family disputes also.

Service of notice through WhatsApp: In *Tata Sons Limited & Ors vs John Doe(s) & Ors*, Delhi High Court, permitted affidavit of service through text message, WhatsApp or by email.

The Delhi High Court notified on 9 February 2011, “Delhi Courts Service of Processes by Courier, Fax and Electronic Mail Service (Civil Proceedings) Rules, 2010” wherein service by fax and electronic mail was provided. Therefore it is submitted that electronic mode of service of notice should be incorporated in the existing rules of Family Court to help judges to expeditiously disposed of the matter.

V. Addressing Pendency

One of the core area of the present research is to identify causes of bottlenecks in Family Courts of Madhya Pradesh and address them to reduce pendency. The above suggestions mentioned are equally important to address the concern of pendency and improve the efficiency of Family Courts.

However, during analysis and filed study the research team identified specific areas that could focused upon to reduce pendency in Family Courts of Madhya Pradesh:

Key Findings:

Major Bottlenecks Causing Delay

Grant of adjournments is a regular practice in family trial.

Substantial number of cases pending for 5 years and above in Family Courts are due to stay by the High Court

High involvement of lawyers in family dispute matters as against Sec. 13 of the Act.

Non-adherence to timelines at the very initial stage due to settlement proceedings often causes delay

Poor infrastructure, untrained staff, and inefficient agencies for service of summons and execution of warrant.

High number of filings as compared to the number of disposal.

High institution and pendency in cases involving Sec. 9, and Sec. 13 of the Hindu Marriage Act and Sec. 125 of the CrPC.

Suggestions

Limiting Adjournments

It was observed through the study of case files that parties and their advocates often seek multiple adjournments during trial, thereby increasing life cycle of a case. Strict regulation of adjournment be done by imposing exemplary costs for seeking adjournments on flimsy grounds i.e. unnecessary and unwarranted adjournments should be avoided by imposing fines.

- If adjournment is necessary then shorter adjournments may be granted.
- Setting firm hearing dates to facilitate continuous trial.

Role of Advocate in Family Courts

In the existing framework of Family Courts, lawyers cannot be completely barred in family matters due to the complex procedures involved from filing of a case till its disposal. Judges pointed out that when parties are unaware of procedural requirements, they create much problem in continuous trial of their dispute.

The research team proposes to restrict or limit the role of advocates in Family Courts as follows:

- An established standard of practice for lawyers functioning in Family Courts be framed and strict rules regarding absence of lawyers during counselling be put in place.
- Limiting the role of advocates to filing of a case and barring them during trial stage as feasible except in complex case.
- No legal representation in uncontested (consented) cases. These cases are those whereby, the parties mutually agree on similar lines and are not complex cases. These cases require a decree by court and lawyers could be restricted in such cases.

Providing lawyers team: There may be court appointed lawyers to represent cases before Family Courts who are willing to fulfill the purpose of establishing specialized courts, who work with social workers and have an interdisciplinary approach. If lawyers are appointed by the court then adjournments will be reduced. The court at the first instance try to resolve the dispute through ADR and if it fails, then assign a court appointed lawyer on limited representation basis to facilitate parties in trial.

Institution and Disposal

Family Courts are facing an increase in number of new cases being instituted every year because of the changing society, while the disposal rate is lower in comparison to the number of cases filed (as indicated in *Chapter III, Table No.*). Considering the current trend of institution and disposal, it is imperative to suggest measures to increase the disposal rate as follows:

- Number of judges must be increased according to institution rate. Identified districts of Bhopal, Chhindwara, Gwalior, Indore, Jabalpur, Katni, and Khandwa where institution of cases in Family Courts is higher than other districts, additional or *Ad hoc* judge be appointed to balance the disposal rate.
- Districts where very few cases are instituted could be linked with other districts having lesser institution. (Refer to *Chart No. 6,7,8,9 in Chapter III*). This will balance and even out the distribution of caseload for Family Court judges.
- *Adhering to timeline for trial phase, institution phase and judgement phase:* The research team identified that as per the existing practice in Family Courts of Madhya Pradesh approximately 413 days (13 months) are taken to conclude

institution phase, while it takes around 360 days (12 months) to conclude trial phase, around 15 days for judgement and approximately 240 days for execution of decree. The research team proposes a firm timeline i.e. 167 days (around 6 months) to conclude Institution phase, while approximately 200 days (7 months) to conclude Trial phase and 90 days (3 months) for Execution of Decree. This timeline is indicative and may be followed as feasible and appropriate. Adhering to firm deadlines will reduce the life cycle of a family dispute case.

- *Uncontested cases:* Judge may try to dispose of the consented matter at the earliest or within maximum 4 months (except in cases where the cooling period mentioned in the Hindu Marriage Act is to be adhered).

Pending cases due to stay by the High Court of Madhya Pradesh

It was observed during analysis and field study that out of the total number of cases pending under the range of 1-3 years, 5-10 years and 10 years or above includes cases stayed by the High Court of Madhya Pradesh.

- The research team proposes that stay in cases of Interim Maintenance may be decided and reverted back to the respective Family Courts at the earliest.
- Further, any other cases relating to family matter stayed by the High Court may be decided and reverted back to the respective Family Courts, to enable the Family Court judge to dispose of these matters within reasonable time.

Unit System

On studying the unit system followed in case of family matters, it was observed that the Units granted to Family Court judges on disposal of cases is not parallel to the outcome of cases.

For example – Disposal of cases after conciliation resulting in re-union of parties has more units than disposal of cases after conciliation resulting in decree of divorce. The research team proposes that the units for both the categories should be equal as the outcome of the case depends on merit and circumstance of each case whether it is reunion or divorce. The decree is granted by a Family Court judge adopting the most suitable option based on the circumstance of the case.

Further, the upper limit of unit for cases resolved through mediation may be increased to promote the very purpose of the Act.

Therefore, unit system in case of Family Court may be revised according to the needs of the specialized court and efforts put in by a Family Court judge instead of on outcome of the decree.

Maintenance cases pending in Family Court of Madhya Pradesh

It was found during the study that substantial number of case instituted and pending fall under Sec. 125 of the CrPC. On study of case files and field visit it was observed that the respondent are either unwilling to pay the maintenance amount or many a times do not have financial position to pay the same. In interim maintenance cases, it was observed that after grant of interim maintenance the party receiving the amount becomes reluctant or unwilling to proceed with case further and also tries to adopt delay tactics. This increases adjournments and life cycle of a case. If the life cycle of these cases is reduced then the number of pending cases could also be reduced. To address reasons of delay in Sec. 125 cases, the research team proposes following suggestions:

- In such cases to avoid delay when a case for maintenance is instituted, principal judge may make it mandatory for parties to attach sufficient documents giving proof of income, or property etc.
- Amount of interim maintenance be minimum and proportionate for sustenance as wife is entitled in law to lead a life in similar manner as she would have lived in the house of her husband.
- The recovery officer involved in these cases must be of a senior rank and a trained official.

Reducing delay in Service of Summons and Notice

It can be seen in *Chart No. 3* and *Table No. 7 (Chapter III)*, that service of summons takes considerable amount of time and causes major delay. Further, during field study judges of Family Courts expressed the problems faced in timely service of summons. The research team proposes suggestion to address bottlenecks faced in this stage which may be adopted as appropriate:

In Singapore, service of summons in family violence cases is done within a day or maximum 3 days in case of summons without and attachment of expedite order.

- There should be a court annexed coordination center to track service of summons in Family Court.

- Proper designated agency must be identified and attached with Family Courts to expedite service of summons. In case the authority in charge of service of summons does not respond then strict fines may be imposed.
- Further, Principal Judge of the Family Court should have power to take action against the defaulter in case of service of summons.
- Alternate options for service of summons through email, SMS and other messaging services under the heading *ICT in Family Court* above. These alternate means could be adopted to reduce the time taken in service of summons.

Critically old Cases

Cases which are pending for more than 5 years and above, be taken on board regularly and marked year-wise for disposal. The categorization scheme mentioned above under *III. Court and Case Management* may be followed whereby, the *default cases* and *cases with no activity* could be separated and appropriate actions may be taken to dispose off these cases.

VI. Infrastructure Improvements in Family Courts of Madhya Pradesh

During the field study and analysis of responses from Family Courts, it was found that the Family Courts are in dire need of upgrading the available infrastructure to increase the overall functioning of the Family Courts and reduce capacity gaps.

Key Findings:

Infrastructure

Family Courts in many districts of Madhya Pradesh do not have separate building or court complex. These courts are operating in district courts.

Lack of proper setup for mediation and counselling

Insufficient space in courtrooms and lack of chambers for presiding judges of Family Courts.

Lack of proper administrative setup i.e. no server rooms in some Family Courts, no space for storage of records

Family Courts do not have any waiting room for parties or any room for children

Suggestions

Adequate infrastructure must be provided for following

1. Separate filing sections: The filing sections should not be in the courtroom but a separate room to avoid disturbance and interruption during proceedings.
2. Separate room for children and waiting room for families.
3. Proper mediation center with small chambers for conducting mediation or counselling for more than one party simultaneously.
4. Separate building for Family Courts or atleast a separate court complex for Family Courts be made in districts where Family Courts are operating in District Court building.
5. Proper courtrooms with adequate spacing, and other facilities be provided to facilitate a dignified working place for the Family Court judges.
6. The court must be equipped with sign board and display board facilities along with CCTV cameras to spread awareness to parties about mediation, for parties to know their case status and to ensure safety respectively.

Lastly, the research team suggests that in future to find out the effectiveness of specialized courts appropriate authority with the help of outside agency could conduct a Court User Satisfaction Survey similar to the practice adopted in Australia to analyze the accessibility of their Family Courts. For the purpose of illustration the “*Court Satisfaction Survey*”⁵⁸ of Australia has been annexed as *Annexure 2*.

The above mentioned suggestions could be summarized as, some suggestions and recommendation require immediate attention of appropriate authority to bring a change and improve the overall functioning of Family Courts of Madhya Pradesh followed by those which could be adopted at later stages and lastly, suggestion which may be adopted over years to bring the Family Courts of India at a global standard including some futuristic goals.

⁵⁸Family Court of Australia, Federal Circuit Court of Australia, “Court User Satisfaction Survey”, Appendix A – 2014 Survey, pg. 46-56, (2015), Available at: <http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/reports-and-publications/reports/2015/>

BIBLIOGRAPHY

Statutes:

India

- The Code of Civil Procedure, 1908
- The Code of Criminal procedure Code, 1973
- The Dissolution of Muslim Marriage Act, 1939
- The Family Court Act, 1984
- The Guardians and Wards Act, 1890
- The Hindu Adoptions and Maintenance Act, 1956
- The Hindu Marriage Act, 1955
- The Hindu Minority and Guardianship Act, 195
- The Indian Divorce Act, 1869
- The Muslim Personal Shariat Act, 1937
- The Special Marriage Act, 1954

Australia

- Family Law Act 1975

Singapore

- Administration of Muslim Law Act (Cap. 3
- Adoption of Children Act (Cap 4)
- Enforcement) Act (Cap. 169)
- Family Justice Act (Act 27 of 2014)
- Family Justice Rules (2014)
- Maintenance Orders (Reciprocal

New Zealand

- Adoption (Inter-country) Act 1997
- Adoption Act 1955
- Care of Children Act 2004
- Child Support Act 1991
- Domestic Violence Act 1995
- Family Court Act 1980
- Family Dispute Resolution Act 2010
- Family Proceedings Act 1980
- Human Assisted Reproductive Technology Act 2004
- Marriage Act 1955 and Civil Union Act 2004

- Oranga Tamariki Act 1989
- Property (Relationships) Act 1976
- Status of Children Act 1969

Reports:

- Divorce Courts, Case Management, Case Characteristics, and the pace of litigation in 16 urban jurisdictions, National Center for State Courts.
- Family Court of Australia Annual Report (2017-2018),
<http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/reports-and-publications/annual-reports/2017-18/2017-18-annual-report-toc>
- Family Court of Australia, Annual Report (2016-2017),
<http://www.familycourt.gov.au/wps/wcm/connect/7456589e-fc98-409b-8d1c-7b909bd30dcf/2743>
- Family Courts (Report on Working of Family Courts and Model Family Courts), National Commission for Women, Report of the Workshop, March 2002
- Report of the Royal Commission on the Courts
- State Justice Institute, State Court. Caseload Statistics Annual Report, 1992

Books:

- Agnes Flavia, Family Law Marriage, Divorce & Matrimonial Litigation, Vol. II Oxford University Press, New Delhi
- Eekelaar J & .Mclean M, Family Justice: The Work of Family Judges in Uncertain Times (Oxford: Hart Publishing 2013)
- Leong WK, Elements of Family Law in Singapore (LexisNexis, 2007)
- Varma Ratan, Family Courts in India: An Appraisal of Strength & Limitation, Inter India Publication, New Delhi

Articles:

- Babb, A. Barbara, “Family Courts are here to stay, so let’s improve them”, Family Court Review, Vol. 52 No. 4
- Basu, Srimati, “Judges of Normality: Mediating marriage in the Family Courts of Kolkatta, India”, Vol.37. No.2, The University of Chicago Press
- Casals, Martin Miquel, “Divorce Mediation in Europe: An Introductory Outline”, Electronic Journal of Comparative Law, Vol.9
- Gramckow, Jeike and Walsh Barry, Developing Specialized Court Services, International Experiences and Lessons Learned, Justice & development working paper series.
- Jane, M. Spinak, “Reforming Family Court: Getting it Right Between Rhetoric and Reality”, Journal of Law & Policy, 31 (2009)

- Janet, M. Bowermaster, “Sympathizing with Solomon: Choosing Between Parents in a Mobile Society”, 31 University Louisville Journal of Family Law. 791, 795-96 (1992-93)
- KJ, Keith, “New Zealand Family Law and International Law – A Comment with Some Questions,” (2016) 47 Victoria University of Wellington Law Review
- Kourlis Love Rebecca, Taylor Melinda, Schepard Andrew and Prueet Kline Marsha, “IAALS’ Honoring Families Initiative: Courts and Communities Helping Families in Transition arising from Separation or Divorce, Institute for the Advancement of the American Legal System”, Family Court Review, Vol.51 No.3, July 2013
- Lee, F. Stterfield, The New District of Columbia Family Court – Only the Beginning, 37 Family Law Quarterly.(2003)
- Lim S, Ong KS and C Mohan, “Setting up a Unified Family Court in Singapore”, 1985 6 Sing L Rev 22
- Ng, Kevil and Loi Yarni, “Family Courts-Innovations, Initiatives and Programmes”, 30 SACLJ (2018)
- Robertson, Laura and Broadhurst, “Introducing Social Science Evidence in Family Court Decision-Making and Adjudication: Evidence from England and Wales, International Journal of law”, Policy and the Family, 2019
- S, Quah “The Family Court: A Sociologist’s Perspective on Enlightened Collaboration between Law and Social Sciences, 1993 SJLS 16.
- Theresa, A. Furnaria, “Proposals for creating a realistic Family Court for the future”, 47 U. BALT. L/F (2017)
- Victor, E. Flango, “Creating Family Friendly Courts: Lessons from Two Oregon Counties”, 32 Family Law Quarterly 1998, 115
- Vohra, Kritika, Mediation Matrimonial Disputes in India, Trends from the Bangalore Mediation Centre.
- Zukerman, T. Jacob, “The Annals of the American Academy of political and Social Science”, Vol. 383, Origress in Family Law.

Online Resources:

- ‘Pendency a cause for concern, says CJI’, The Hindu, 04 February, <https://www.thehindu.com/news/national/andhra-pradesh/pendency-a-cause-for-concern-says-cji/article26169645.ece> Accessed on: 20/09/2019
- A Joint Statement by the President of the Family Division and the HMCTS Family Business Authority, <https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Reports/single-family-court-guide-final-08042013.pdf>
- A Matter of Public Importance: Time for a Family Court of Australia”, Discussion paper, July2018 <https://www.nswbar.asn.au/docs/mediareleasedocs/FamilyCourtMR2.pdf>

- About the Family Court, <https://www.courts.ri.gov/Courts/FamilyCourt/PDFs/AbouttheFamilyCourt.pdf>
- Cornell Law School, https://www.law.cornell.edu/wex/category/family_personal_matters
- Court User Satisfaction Survey, 2015, by the Family Court of Australia and Federal Circuit Court. <http://www.courtexcellence.com/~media/Microsites/Files/ICCE/User%20Satisfaction%20Survey.ashx>
- District court of New Zealand, <https://www.districtcourts.govt.nz/reports-publications-and-statistics/annual-reports/>
- E-courts services, https://ecourts.gov.in/ecourts_home/
- Family Court Defended Statistics, <http://www.districtcourts.govt.nz/reports-publications-and-statistics/statistics-2017/family-court/defended-family-court-statistics/>
- Family Court Justice, familyjusticecourts.gov.sg
- Family Court of Madhya Pradesh, <https://familycourts.mphc.gov.in/>
- Family Court Undefended Statistics, <http://www.districtcourts.govt.nz/reports-publications-and-statistics/statistics-2018/family-court/undefended-family-court-statistics/>
- Family Justice Initiative the Landscape of Domestic Relations Cases in State Courts <https://iaals.du.edu/sites/default/files/documents/publications/fji-landscape-report.pdf>
- Family Mediation - Sorting out family disputes without going through court, <http://www.mediationeastsussex.co.uk/perch/resources/familymediationleafletwebeng.pdf>
- Family Mediation and Dispute Resolution: <https://www.familyrelationships.gov.au/separation/family-mediation-dispute-resolution>
- Family Mediation in England and Wales: A guide for Judges, Magistrates and Legal Advisors, <https://www.judiciary.uk/wp-content/uploads/2014/06/mediation-guide-for-judges-may2014.pdf>
- New Zealand Law Society, Family Justice Reforms, <https://www.justice.govt.nz/assets/Documents/Publications/Family-Court-rewrite-submission-New-Zealand-Law-Society.pdf>
- Schedule 1: Allocation, the Family Court (Composition and Distribution of Business) Rules 2014. <https://www.legislation.gov.uk/ukSI/2014/840/schedule/1/made>
- The latest reform in the family jurisdiction, <https://www.gov.uk/guidance/hmcts-reform-update-family>

Other Materials:

- Burton, Frances, Compulsory Mediation in the Civil and Family Courts: Opportunity or threat?, Aston Universities, Birmingham, UK
- Differentiated Case flow Management in family law: A Guide to Efficiency and Access, Family law Resource Guidelines
- Justice Abella, 'The Challenge of Change', (1998) Speech to the 8th National Family Law Conference, Hobart Tasmania, 25 October 1998, 2-3
- Justice Lokur, B. Madan, Case Management through Court Annexed Mediation and other developments.
- Mary and Glendon, The Transformation of Family Law: State, Law, and Family in the United States and Western Europe, (1989)
- National Council of Juvenile and Family Court Judges, The Modern Family Court Judge: Knowledge, Qualities, and Skills for Success, Institute for the Advancement of the American Legal System
- National Initiative to Reduce Pendency and Delay in Judicial System, Organized by Supreme Court of India in Collaboration with the Indian Law Institute.
- The National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays.

ANNEXURE 1

Suggestive List of Topics for Continuous Training Modules for Family Court Judges that may be incorporated by State Judicial Academies

1. The role of family court judge in maintenance and divorce proceedings
2. Developing relevant judicial *persona* to preside over family disputes
3. Simplified procedures for Court management
4. Child custody and guardianship including child support and welfare
5. Case management through categorization: Contested and uncontested cases
6. Gender justice and gender bias: Maintaining equilibrium
7. Interpersonal skills, including interviewing and counselling, especially with parties in emotional distress
8. Evidentiary issues in family law cases
9. Property division, including business valuation
10. Adoption and Guardianship
11. Complying with Indian Child Welfare statutes
12. Managing and interacting with self-represented litigants
13. Alternative Dispute resolution techniques in Family Disputes
14. Effectiveness of counselling in Family Courts
15. Court-annexed services by Family Courts
16. Courtroom safety and judicial security
17. Communication skills and techniques for effective resolution of family disputes
18. Intensive use of technology in Family Courts
19. Developing leadership skills
20. Stress Management

ANNEXURE 2
(Excerpt)



FAMILY COURT
OF AUSTRALIA
FEDERAL
CIRCUIT COURT
OF AUSTRALIA

Court User Satisfaction Survey

2015

Court User Satisfaction Survey

Thank you for participating in this survey on-line. The Courts value the work of the legal profession and are very interested in your views as regular court users.

This survey includes some questions which are designed for face to face interviews at Registry. Therefore, you do not need to complete Questions 2 to 4 (as you are responding on-line).

Just skip those questions please.

Please be assured that all survey responses are anonymous. This feedback will guide us in relation to planning improvements. This survey should only take about 10 minutes or less.

1. Registry:

2. Interviewer Name: (Questions 2 to 4 are only for face to face interviews and need not be completed if you are responding on-line)

3. Interview Details:

	DD	MM	YYYY	HH	MM	AM/PM
Date & Start	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Time						

4. What was the primary purpose of your visit to court?

- ☐ Attend a court hearing
- ☐ Attend a Registrar conference (family law)
- ☐ Attend mediation with a Registrar of the Federal Court (not family law)
- ☐ Attend an appointment with a Family Consultant
- ☐ General enquiry
- ☐ File papers
- ☐ Search Out Records/Obtain Documents
- ☐ Support family and/or friends
- ☐ Other (please specify)

Court User Satisfaction Survey

5. Which court did you attend (or for practitioners, in which Court(s) do you practice/appear)?

- ☐ Federal Circuit Court (FCC) - Family Law
- ☐ Federal Circuit Court (FCC) - General Federal Law
- ☐ Family Court
- ☐ Unsure
- ☐ None of the above

6. What is your role?

- ☐ Lawyer
- ☐ Paralegal/Filing Clerk
- ☐ Applicant represented by a lawyer
- ☐ Applicant represented by a duty lawyer
- ☐ Applicant without a lawyer (Please complete Question 7 to 12)
- ☐ Respondent represented by a lawyer
- ☐ Respondent represented by a duty lawyer
- ☐ Respondent without a lawyer (Please complete Question 7 to 12)
- ☐ Friend/relative
- ☐ Other

If you answer Lawyer or Paralegal/Filing Clerk and your attendance relates to family law, please skip to Q24 If you answer Lawyer or Paralegal/Filing Clerk and your attendance relates to general federal law, please skip to Q26

7. (Questions 7 to 12 are **ONLY** for clients who indicated in Question 6 that they are an applicant without a lawyer or respondent without a lawyer. Otherwise skip to Question 13)

We are interested in the reasons why you are not legally represented?

- ☐ Unable to afford legal representation
- ☐ Ineligible for legal aid
- ☐ Prefer to present your own case

Other (please specify)

Court User Satisfaction Survey

8. Have you been involved in a court action before?

☐ Yes

☐ No

9. We are interested to understand whether you have obtained legal advice or representation at any stage previously?

☐ Yes

☐ No

10. If yes, we are interested to understand, what service(s) you accessed and where you obtained assistance:

☐ A private lawyer

☐ A community Legal Service.

☐ A pro-bono legal assistance service.

☐ A State or Commonwealth Legal Aid Service.

Other (please specify)

11. Can you comment on whether this service or these services were helpful to you.

☐ Yes

☐ No

Please make any comments you can about how these services assisted you in managing or resolving your dispute.

Court User Satisfaction Survey

12. We are interested in your experience as someone representing yourself. Please indicate how difficult the following aspects have been for you while representing your case.

	Very Easy	Easy	Moderate	Somewhat Hard	Hard	Very Hard
Preparing documents for filing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Using the courts portal to e-file or access documents	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Appearing before a registrar in court	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Appearing before a judge	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Asking questions of witnesses in court, ie cross examination.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Attending for interviews with a court family consultant or an external expert for the purpose of preparing a report for the court	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Attending a conference with the other party and a Registrar/Family Consultant to try to resolve your dispute.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other, please comment below.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

We would welcome your comments about why these or any other aspects of representing your case may have been difficult for you.

13. What is your age?

- ☐ < 20
- ☐ 20 to 30
- ☐ 31 to 40
- ☐ 41 to 50
- ☐ 51 to 60
- ☐ 61 and above
- ☐ Prefer not to answer

14. What is your postcode?

15. What is your gender?

- ☐ Female
- ☐ Male
- ☐ X= Indeterminate, Intersex, Unspecified

Court User Satisfaction Survey

16. Do you speak a language other than English at home?

☐ Yes

☐ No

17. If yes, please specify that language?

18. Do you identify as ATSI?

☐ Yes

☐ No

19. If yes, as?

☐ Aboriginal

☐ Torres Strait Islander

☐ Aboriginal and Torres Strait Islander

20. What is your highest level of education?

☐ Primary

☐ Secondary

☐ Trade

☐ University

21. What is your family income?

☐ < than \$50k per year

☐ \$50-80k per year

☐ \$80-120k per year

☐ > than \$120k per year

☐ Prefer not to answer

Court User Satisfaction Survey

22. (If you are attending about a Federal Circuit Court - General Federal Law Matter please skip to Question 26)

Question 22 to 25 are for family law client only (either Family Court or Federal Circuit Court)

What is your current marital status?

- ☐ Married
- ☐ Divorced
- ☐ Separated
- ☐ De facto
- ☐ Single

23. How many children do you have?

- ☐ 0
- ☐ 1
- ☐ 2
- ☐ 3
- ☐ 4
- ☐ 5 or more

24. What type of matter brought you to the court?

- ☐ Divorce proceedings
- ☐ Final/interim orders
- ☐ Other (please specify)

25. If you are here Final/interim orders, what type of orders are you seeking?

- ☐ Children issues
- ☐ Financial issues
- ☐ Both children/financial issues
- ☐ Other (please specify)

Court User Satisfaction Survey

26. This question is for clients attending the Federal Circuit Court - General Federal Law ONLY

What type of matter brought you to the Court?

- ☐ Admiralty
- ☐ Appeal
- ☐ Bankruptcy
- ☐ Corporations
- ☐ Human Rights
- ☐ Intellectual Property
- ☐ Migration
- ☐ Native Title
- ☐ Taxation
- ☐ Trade Practices
- ☐ Workplace Relations

Other (please specify)

27. (The remainder of the questions are for all clients)

Who did you see?

- ☐ Counter staff
- ☐ Administrative staff in the court room
- ☐ Registrar
- ☐ Family Consultant
- ☐ Judicial Officer
- ☐ Other (please specify)

28. Approximately how long has this proceeding been on foot since the filing of the initial application?

- ☐ 0 to 3 months
- ☐ 3 to 6 months
- ☐ 6 to 12 months
- ☐ 1 to 2 years
- ☐ 2 years or more

Court User Satisfaction Survey

29. How many times have you visited the court?

- ☐ First time
- ☐ Several times
- ☐ Regularly (e.g. many times per year)

Thank you for that information. Now we wish to ask you a few questions about your experience at the court.

30. About the court building and facilities

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	N/A
Finding the court building was easy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Finding your way around the court was easy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You felt safe in the court environment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You felt safe in the courtroom	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There were sufficient facilities e.g. seating areas	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(if you disagree, it would be helpful to us if you could indicate in the comments why)

31. About the people you met (staff, registrars, consultants, judicial officers etc.)

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	N/A
They treated you professionally and respectfully	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
They attended to you promptly	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
They answered your enquiry directly	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In general, you were satisfied with the service provided	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(if you disagree or answer not applicable, it would be helpful to us if you could indicate in the comments why.)

32. About the court process

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	N/A
The forms you needed were clear and easy to understand	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The procedural advice from staff was easily understood	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The payment facilities are easy to use	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(if you disagree or answer not applicable, it would be helpful to us if you could indicate in the comments why.)

Court User Satisfaction Survey

33. About the day at court

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	N/A
You received plenty of notice leading up to your attendance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You were clear about what was to happen during your attendance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Your matter took the time you were expecting	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You understand what is to happen next in your matter	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(if you disagree or answer not applicable, it would be helpful to us if you could indicate in the comments why.)

34. About your hearing (in the courtroom)

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	N/A
The way in which my case was handled was fair	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Judicial Officer listened and led the hearing well	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Your matter started on time	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You were treated the same as everyone else	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(if you disagree or answer not applicable, it would be helpful to us if you could indicate in the comments why.)

35. Overall (and disregarding the outcome of your case)

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	N/A
You were generally satisfied with your visit to the court	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(if you disagree, it would be helpful to us if you could indicate in the comments why.)

36. What, if anything, impressed you most about your experience with the courts?

37. What, if anything, would have improved your experience with the courts?

And finally, a few questions on the technology and other services

Court User Satisfaction Survey

38. Which of the following websites have you used?

- ☐ Family Law Courts (www.familylawcourts.gov.au)
- ☐ Family Court (www.familycourt.gov.au)
- ☐ Federal Circuit Court (www.federalcircuitcourt.gov.au)
- ☐ Not sure
- ☐ None

Any other website (please specify)

39. About your experience with the website(s)

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	N/A
You found the Courts' website easy to use	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You found the information needed quickly	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(if you disagree, it would be helpful to us to indicate why.)

40. Have you filed court documents electronically through the Commonwealth Court Portal?

- ☐ Yes
- ☐ No

Comments:

41. Do you know it is possible to file documents electronically?

- ☐ Yes
- ☐ No

42. If you have filed documents electronically

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	N/A
You found the Courts' Commonwealth Portal of assistance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(if you disagree, it would be helpful to us to indicate why.)

43. Have you used the courts' national telephone service (National Enquiry Service on 1300 352 000)

- ☐ Yes
- ☐ No

Court User Satisfaction Survey

44. If you have

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	N/A
You found the National Enquiry Centre helpful and professional	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You found the National Enquiry Centre quick and responsive.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

(if you disagree, it would be helpful to us to indicate why.)

45. Do you have any other general comments about the courts' technology services.

46. The courts are considering moving away from accepting cash and cheques to be replaced by more credit/debit card payment options at the counter, phone, and online.

How would that change affect you?

significantly inconvenience	some inconvenience	no impact	some benefit	significantly benefit
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Comments:

47. Many thanks for assisting us with this survey.

Signed (Interviewer)

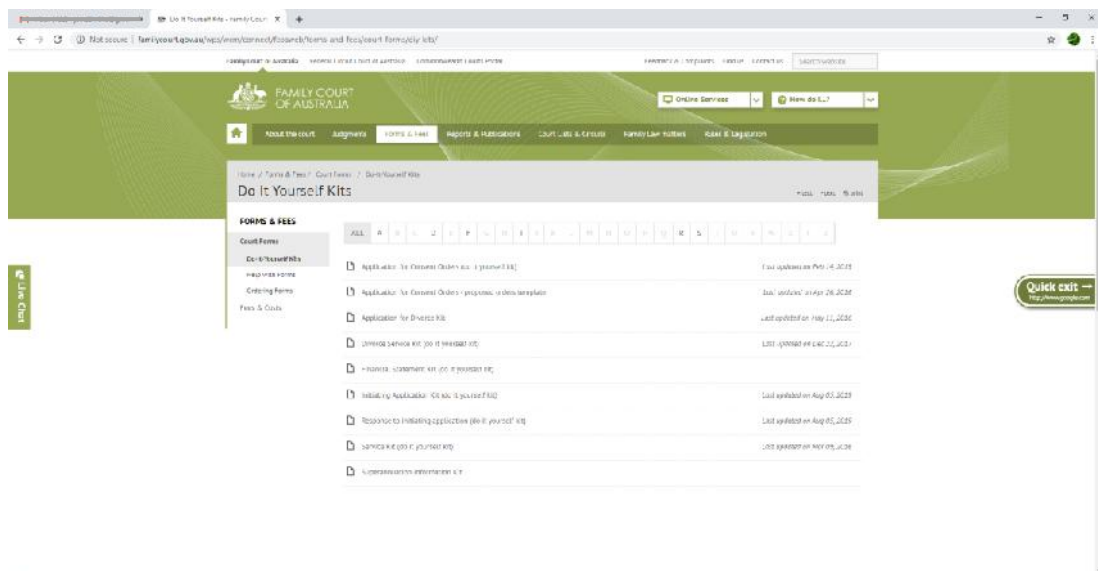
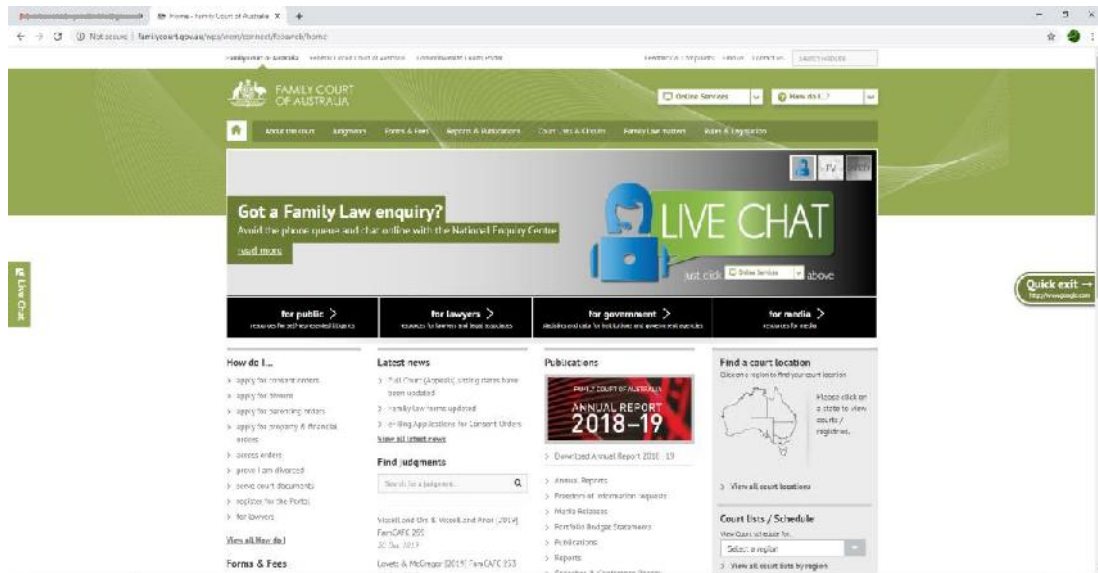
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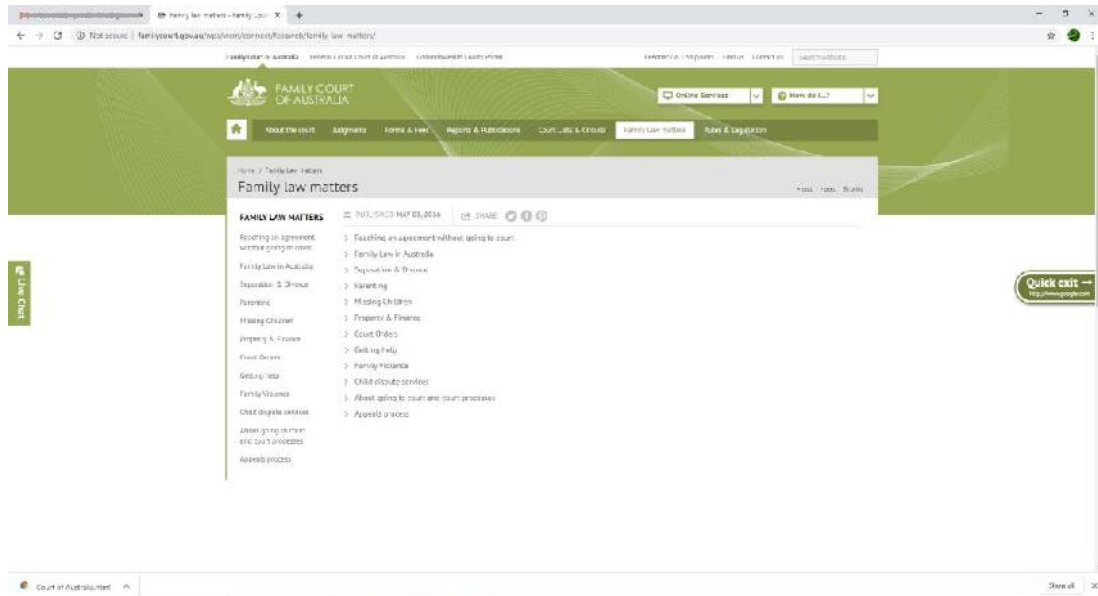
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ANNEXURE 3

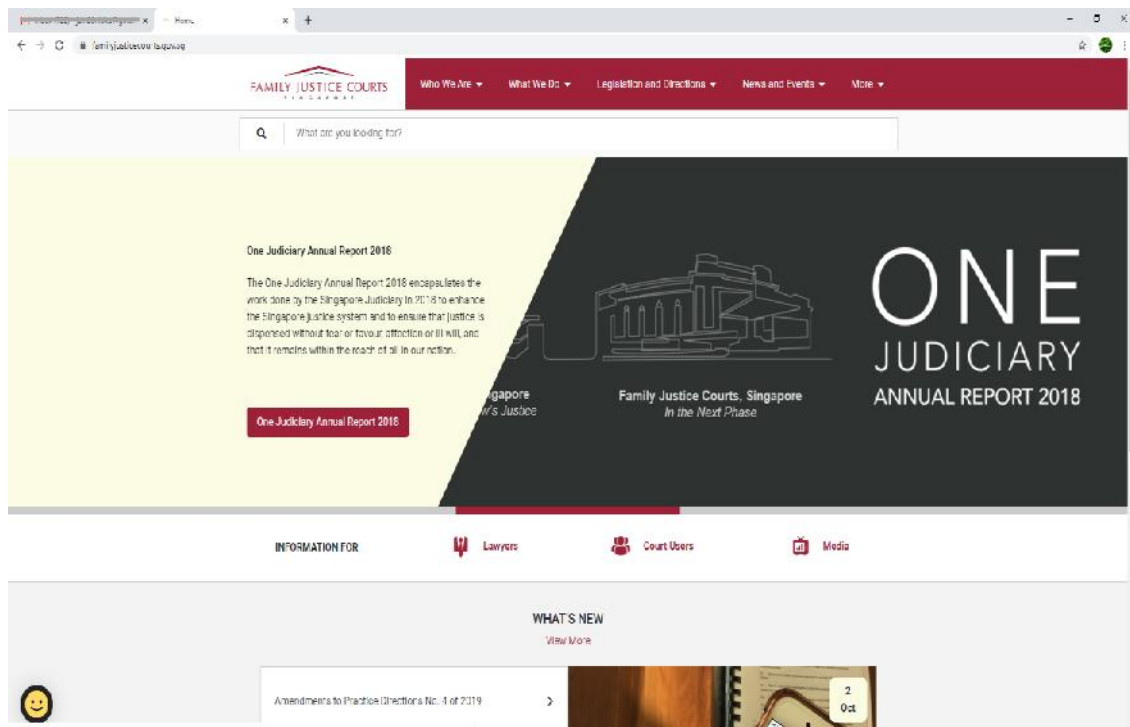
Sample of Family Court Website of Australia, Singapore, New Zealand and United Kingdom

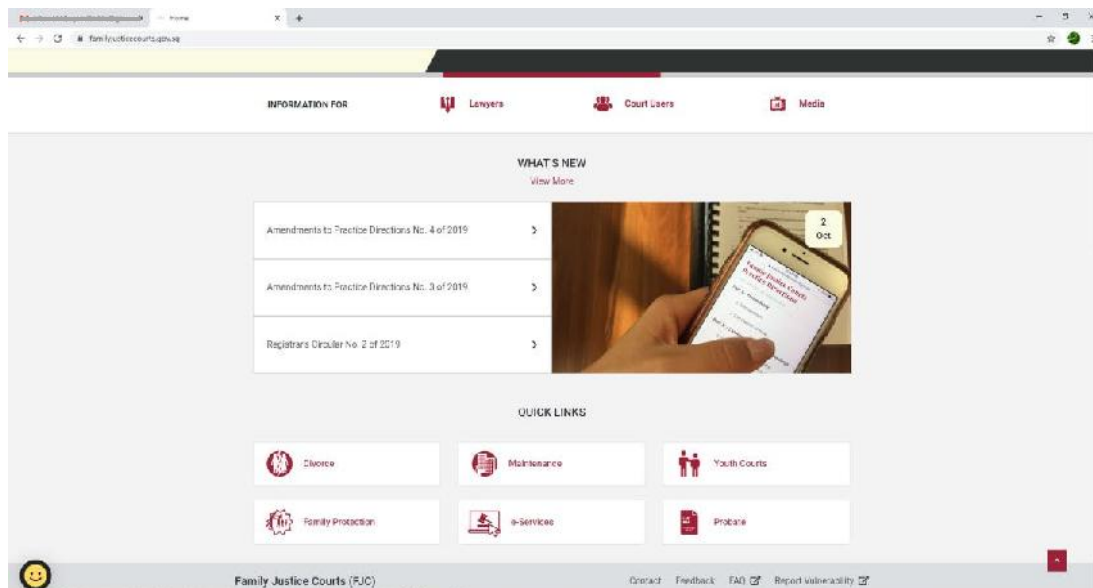
Australia Family Court Website

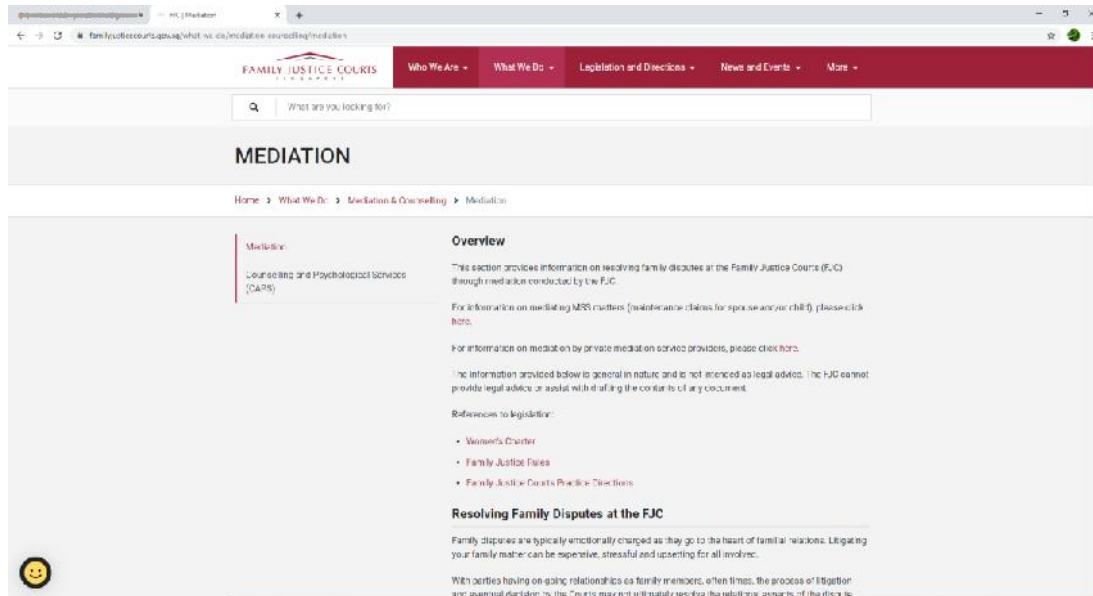




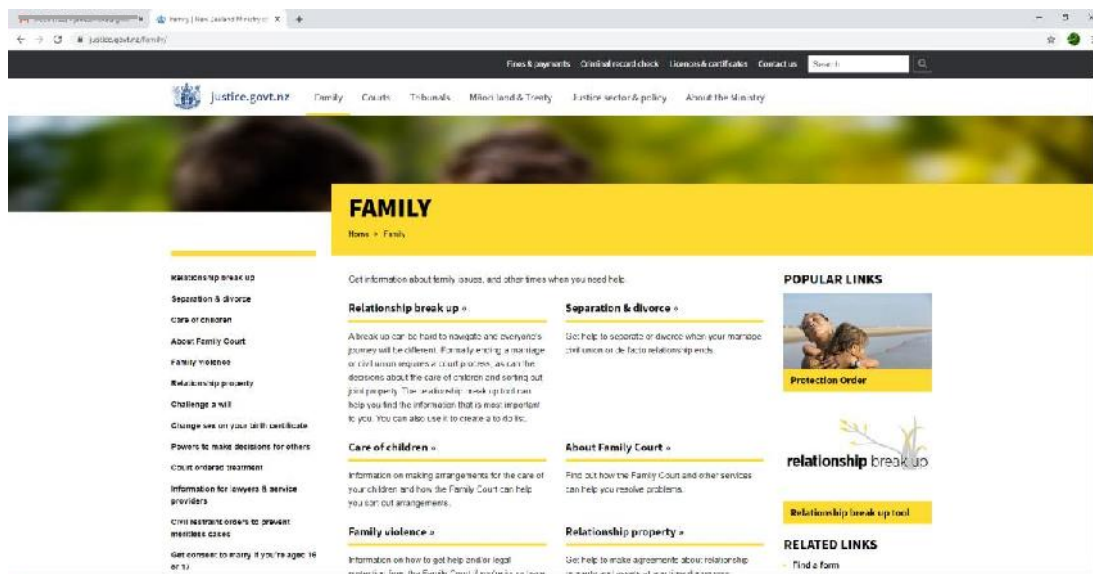
Singapore Family Court Website







New Zealand Family Court Website



Courts and Tribunals Judiciary

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Family Law Courts

What Family Courts deal with

The various types of Family Court handles:

- parental disputes over the upbringing of children
- local authority intervention to protect children
- decrees relating to divorce
- financial support for children after divorce or relationship breakdown
- some aspects of domestic violence
- adoption

Family matters are dealt with in the Family Division of the High Court, by district judges in County Courts and in Family Proceedings Courts, which are specialist Magistrates' Courts.

Magistrates undergo specialist training before they sit in Family Proceedings Courts, where procedures are very different from the criminal courts.

There are two types of case concerning children: public and private law.

Public law

Public law cases are brought by local authorities or an authorised person (currently only the NSPCC) and include matters such as:

Action Research and Studies on Judicial Reforms

National Judicial Academy, India, BhopalQuestionnaire for Principal Judge of Family Court in different districts of Madhya Pradesh for the purpose of collecting data for study and analysis

On

“An Analysis of Pendency of Cases in Family Courts of Madhya Pradesh and Methods to Reduce Pendency”

Respected Sir/Madam,

Currently, we are working on a research project on the above subject sponsored by the Action Research and Studies on Judicial Reforms, Department of Justice (Ministry of Law and Justice), the Government of India. This questionnaire has been designed in order to identify the relevant problems of delay in delivery of justice and speedy trial in crisis area before family courts of Madhya Pradesh.

Since we value your opinion very relevant for the present research, we request you to kindly go through the following questions and indicate your response (tick mark/ descriptive reply) in the appropriate space. However, your frank opinion in details will be highly appreciated. Kindly do not skip any question. Your identity and responses will be kept confidential and will be used exclusively for research and not otherwise. Thanking you for your support.

Research Team:

Ms. Nitika Jain, Law Associate, NJA

Mr. Prasidh Raj Singh, Law Associate, NJA

Mr. S.P. Srivastava, Professor, NJA

Supervisor:

Prof. D.P. Verma, Additional Director (Research & Training), NJA

Part I: Personal Information

1. Name:
2. Designation:
3. District:
4. Experience in family court:
5. Age:

Part II

1. (a) Did you receive any prior training before joining the family court?

Yes	
No	

- (b) Whether speedy disposal of family matters was one of the aspects of training?

Yes	
No	

- (c) If you received any prior training before joining as judge of family court, was it effective?

Yes	
No	

2. Do you think that there is a need for prior training before presiding as a judge of family court?

Yes	
No	

3. Which court you were presiding over before joining as principal judge of the family court?

--

Part III

1. According to your experience as a family court judge, can you mention which stages of proceedings lead to delays or bottlenecks in a family matter?

1	Institution phase	
2	Trial phase	
3	Judgment phase	

2. Please state the types of family cases which are complex in nature and tend to get delayed often?

1	Maintenance under Sec. 125 of CrPC	
2	Dissolution of Marriage	
3	Judicial Separation	
4	Custody of child	
5	Any Other category	

3. How many cases on an average are put up on the daily board in your family court?

1	Between 5 – 10 cases	
2	Between 10-15 cases	
3	Between 15-20 cases	
4	More than 20 cases	

4. A stipulated time period is mentioned under Sec. 21B (2) of Hindu Marriage Act 1955 for expeditious disposal of family dispute cases. Whether you are able to conclude the trial within six months from the date of service of notice as stipulated under Sec. 21B (2) of HMA.

Yes	
No	
<u>If not, please state reasons for not being able to dispose of cases within the said timeframe:-</u>	

5. (a) The family Court Act under Sec. 13 specifies that parties to a suit in a proceeding shall not be entitled to legal representation as a right. Whether counsels are appointed by the parties in family disputes in your court?

Yes	
<u>If yes, how many cases on an average are tried by parties themselves?</u>	
No	

- (b) Is there a separate notification for legal representation in family courts in your jurisdiction?

Yes	
No	

6. How many cases were instituted in your family court in the last 5 years?

2015:
2016:
2017:
2018:
2019:

7. How many cases were disposed-off by your family court in the year 2017-18? Please provide year wise break-up of cases disposed:

--

8. Please specify the number of cases filed in last 3 years under categories mentioned below.

Sr. No	Particulars	2017-18	2016-17	2015-16
1	Maintenance under Sec. 125 of CrPC			
2	Divorce Simpliciter			
3	Divorce w/r to Judicial Separation & Restitution			
4	Judicial Separation			
5	Restitution of Conjugal Rights			
6	Custody of child			
	Any other category			

9. Which types of family dispute cases are generally filed in your court?

1	Maintenance under Sec. 125 of CrPC	
2	Divorce Simpliciter	
3	Divorce w/r to Judicial Separation & Restitution	
4	Judicial Separation	
5	Restitution of Conjugal Rights	
6	Custody of child	

	Any other category	
--	--------------------	--

10. (a) The purpose of establishing special courts is speedy disposal of family matters. According to you, what are the major problems causing delay while adjudicating family matter or reasons for pendency?

1.
.....
2.
.....
3.
.....
4.
.....

(b) To improve the efficiency of court, can you suggest any measure or best practice which can be followed by family courts to address above reasons of delay & pendency?

--

Could you also suggest any procedural amendments for reducing delay?

--

11. Is there any time line assigned for oral hearing?

Yes	
No	

12. Whether there is strict adherence to time assigned by the presiding officer of family court?

Yes	
No	

13. (a) As per the data collected from NJDG it was observed that the cases filed under Sec. 125 CrPC (pertaining to maintenance) has maximum pendency. According to you, what are major reasons of delay in disposing cases involving Sec. 125 CrPC?

--

14. Could you give suggestions for speedy disposal of cases involving Sec. 125 of CrPC:

--

15. Are the cases for recovery of maintenance allowance regularly taken up and effective steps are taken to release the amount of maintenance due?

--

16. (a) Whether the amount of maintenance, released or deposited in the court is actually paid to the claimant:

Yes	
No	

- (b) Whether proper receipts are kept on record?

Yes	
No	

17. (a) Whether interim maintenance is awarded in maintenance cases?

Yes	
No	

- (b) Is interim maintenance being paid to the petitioners by the opposite parties directly?

Yes	
If No, Please state the procedure of payment :-	

18. Whether decrees in civil family dispute cases are being promptly prepared and proper notice given to the party or counsel (if appointed) without any delay?

--

19. Are there any court annexed mediation centers? If yes, are these mediation centers annexed to your family court?

Yes	
No	

20. As a Presiding Officer of the family court do you make genuine efforts to interact with parties & explore the possibility of ADR at the beginning of the trial to arrive at settlement at the first instance, whenever possible?

Yes	
No	

21. Whether any uniform and systematic mechanism for prioritization of cases has been worked out in your court such as: Cases relating to senior citizen, involving children, property disputes; and divorced women who are victim of violence

Yes	
No	

22. Do you have any in-house mechanism to monitor progress of cases from filing to disposal?

Yes	
No	

If yes, kindly state the mechanism which could be suggested to other districts.

--

23. Whether cases in family courts can be categorized on the basis of urgency?

Yes	
No	

If Yes, do you categorize cases in your court on the basis of urgency?

Kindly state which family dispute cases according to you may be categorized as most urgent:

1.

2.

3.

24. Whether parties are willing to settle their family dispute cases through mediation or conciliation instead of adjudication by family court?

Yes	
No	

If no, please state reasons for parties not resorting to (mediation & conciliation)

1. Lack of trained mediators & conciliators	<input type="checkbox"/>
2. Unawareness of parties regarding alternate means of dispute settlement	<input type="checkbox"/>
3. Counsels persuade the parties to resort to adjudication	<input type="checkbox"/>
4. Mediation centers not annexed to family courts	<input type="checkbox"/>
5. Lack of trained counselors	<input type="checkbox"/>

25. Whether Lok Adalat are efficiently functioning for matrimonial disputes in your district?

Yes	
No	

If not, could you please state reasons:

26. (a) Are there cases in your family court pending for 5-10 years?

Yes	
No	

(b) Are there cases in your family court pending for more than 10 years?

Yes	
No	

(c) If yes, then please specify the number of cases pending for 5-10 years and more than 10 years:

Number of cases pending	Total
5-10 years	
More than 10 years	

(d) Please state reasons for cases pending for 5- 10 years and above in the family court of your district – reasons for bottleneck:

1. No Principal judge in the Family court – seat vacant	<input type="checkbox"/>
2. Complex cases	<input type="checkbox"/>
3. Parties not present	<input type="checkbox"/>
4. Adjournments	<input type="checkbox"/>
5. Lack of assistance from legal representative	<input type="checkbox"/>
Any other:	

27. Please indicate average time taken by each stage and whether the stage contributes to delay significantly:

Institution phase

<u>Stages</u>	<u>Average time</u>	<u>Contribution to delay (Yes/No)</u>
Institution of suit		
Issue & Service of Summons		
Appearance of Defendant		
Filing of written statement		
Replication, rejoinder		
Framing of issues		

Trial phase

<u>Stages</u>	<u>Average time</u>	<u>Contribution to delay (Yes/No)</u>
Plaintiff evidence		
Cross examination of plaintiff		
Defendant evidence		
Cross examination of defendant		
Final hearing		

Judgment phase

<u>Stages</u>	<u>Average time</u>	<u>Contribution to delay (Yes/No)</u>
Judgment		
Review of Decree		
Appeal		
Execution of Decree		

Part IV

1. (a) Whether electronic filing of cases and e-court set-up have been introduced in your Family court?

Yes	
No	

- (b) Do you think introduction of electronic filing and e courts will facilitate speeding up court process in family courts?

Yes	
No	

2. Whether your Family court is equipped with computers and are you provided a laptop under the e-court scheme?

Yes	
No	

If yes, whether the court has proper internet connectivity? Yes, No

3. Whether in-camera trial is conducted in any case by you in a family dispute as mentioned under Sec.11 of Family Courts Act?

Yes	
No	

4. Whether case details are regularly updated on the NJDG?

Yes	
No	

5. Whether video conferencing facility is available in your family court?

Yes	
No	

6. Whether video conferencing has been adopted by you in any family matter? If yes, kindly provide the number of cases?

Yes	
No	

7. Whether proper infrastructure is provided for the family court in your district? If not, what infrastructure improvements do you suggest?

--

8. How are parties/advocates informed of their case status?

1	SMS	
2	Mail	
3	Serving of Notice/Summon in person	
4	Any other means	Kindly state:

9. Do you have any coordination center annexed to your court to track the service of notice?

Yes	
No	

Part V

1. On an average, how many adjournments do you think a family dispute case requires?
[based on the complexity of a case]

1	Between 2-5 cases	
2	Between 5-7 cases	
3	Between 7-10 cases	

4	More than 10 cases	
5	More than 15 cases	

Part VI

1. Do you get optimum assistance from the bar? If no, please specify the problem faced by you as judge presiding over family court?

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Party VII

1. Whether administrative charge or additional responsibility has been given to you?

Yes	
No	

2. Whether the staff is adequate or otherwise and whether the distribution of work is even and proper?

--

3. Please offer any other suggestions for expeditious disposal of family court cases which may help reduce delay in deciding family matters:

Date:

Please return the filled in questionnaire on the below mentioned address:

National Judicial Academy, Bhopal

Suraj Nagar, Bhadbhada Road

Pin-Code: 462044

Fax No: 0755-2696904/ 0755-2696856

You can also scan the filled in questionnaire and mail us at: prasidh.singh@nja.gov.in
nitika.jain@nja.gov.in

COMPREHENSIVE PLAN FOR FIELD STUDY

- ⊕ A Category [Districts where cases are pending above 1000]
- ⊕ B Category [Districts where cases are pending between 800 - 1000]
- ⊕ C Category [District where cases are pending between 600 - 800]
- ⊕ D Category [District where cases are pending between 400 - 600]
- ⊕ E Category [District where cases are pending below 400]

A Category

Serial Number	District
1	Bhopal
2	Indore
3	Jabalpur
3	Chindwara
4	Katni
5	Satna
6	Ujjain

B Category

Serial Number	District
1	Soni
2	Bhind
3	Damoh
4	Khandwa
5	Morena
6	Mandsaur
7	Rajgarh
8	Ratlam

C Category

Serial Number	District
1	Balaghat
2	Betul
3	Burhanpur
4	Narsinghpur
5	Mandla
6	Rewa
7	Sagar

8		Chhatarpur	
9		Guna	
10		Tikamgarh	

D Category

Serial Number		District	
1		Dindori	
2		Hoshangabad	
3		Shahdol	
4		Sidhi	
5		Datia	
6		Dewas	
7		Dhar	
8		Neemuch	
9		Panna	
10		Schore	
11		Shivpur	
12		Singrauli	

E Category

Serial Number		District	
1		Ashoknagar	
2		Barwani	
3		Jhabua	
4		Mandleshwar	
5		Raisen	
6		Shajapur	
7		Vidisha	

**The research team will first visit the districts which are coming under the category of A followed by B, C and D category.

**It was observed that normal life span of family disputes is around 12 months.

[Published in Gazette of India, Extraordinary, Part II, section 3,
sub-section (i), dated 2nd June 1988]

MINISTRY OF LAW AND JUSTICE

(Department of Justice)

NOTIFICATION

New Delhi, the 31st May 1988

G. S. R. 678(E).—In exercise of the powers conferred by sub-section (1) of section 22 of the Family Courts Act, 1984 (66 of 1984), the Central Government, with the concurrence of the Chief Justice of India, hereby makes the following Rules, namely :—

1. *Short title and commencement.*—(1) These rules may be called "the Family Courts (Other Qualification for appointment of Judges) Rules, 1988".

(2) They shall come into force on the date of their publication in the *Official Gazette*.

2. *Other qualifications for appointment of a Judge.*—A person shall not be qualified for appointment as a Judge of a Family Court unless he fulfills the conditions specified in clause (a) or clause (b) of sub-section (3) of section 4 of the Family Courts Act, 1984 (66 of 1984) or possess the following other qualifications, namely :—

(i) a Post-Graduate in Law with specialisation in Personal Laws ;

OR

a Post-Graduate degree in Social Sciences such as Master of Social Welfare, Sociology, Psychology/Philosophy with a Degree in Law ; and

(ii) at least seven years experience in field work/research or of teaching in a Government Department or in a College/University or a comparable academic institute, with special reference to problem of women and children ;

OR

seven years' experience in the examination and/or application of Central/State Laws relating to marriage, divorce, maintenance, guardianship, adoption and other family disputes.

3. *Decision of questions.*—If any question arises about the interpretation of the provisions of these Rules, the Central Government shall decide the same.

[F.No. 79-1-85-Jus (JR)]
J. S. BADHAN, JT. SECY.