

AN INDISPENSABLE ROLE OF COUNSELOR: THE BRIDGE BETWEEN COUPLES, STAKEHOLDERS AND RECONCILIATION FOR MARITAL DISPUTES

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Abstract

The family is universally regarded as the primary unit of society and family tend to be very close knit. When the stability, faith and confidence of the members of the family are threatened by a dispute, people mostly approach to the elders of the family or other authority who has influence or NGOs. If it doesn't settle there they approach to the arms of judiciary like police or court to stop the dispute or secure their right within the family. While working in the family court witnessed and intervened in such cases regularly.

Counselors in family court are the key persons as every case filed in the family court are directed to counselors for amicable settlement. The counselors are helping couples realize the root cause of their problem and engaging them in the problem solving process by intervening as counselor, educator, mentor, mediator, negotiator, conciliator, facilitator, etc. Once the rapport is built then they act as friend and philosopher to the couple.

Keywords: *Counselors, reconciliation, family court, spouses, stakeholders.*



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Introduction

While looking at the factors influencing reconciliation it is very much required to go back to the history to understand evolution of family. From the decade's family has been evolving and adapting newer values and rules as per the changes in society. Family as institution has been changed. Engels (1891), quoting Marx points out, 'while the family continues to live, the system of consanguinity becomes ossified, and while this latter continues to exist in the customary form, the family outgrows it'.

Every year more than 10% couples get married in India. The marriage industry is 45% on growth path. Divorce rate has gone up, in 1980 it was 5% and at present it is 14%. (Some facts, Graphic courtesy: *India Today*). In Family court, 50% settlements are done through

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counselors intervention. in the settlement reconciliation is only 2%. Marriage is an enduring relationship between adult male and adult female and is one of the important stage in the life cycle of human being. Marriage is like any other living system; therefore, for good, healthy and enduring marriage, it has to be nurtured and cared for (Bhatti 1997).

The setting up of Family courts represents a shift from legalism to welfare. The introduction of conciliation and the informal justice system, without safeguards, could have the effect of relegating women and women's issues to the "private" sphere. (*Family court a critique. D. Nagasaila, Economic and political weekly, Vol. 27, No. 33 (Aug. 15, 1992), pp. 1735-1737 (3 pages)*)

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Gender has been a critical strategy of feminist groups internationally (Smartand Brophy 1985; Kapur and Cossman 1996; Rai 1996). Shirin M. Rai argues that the postcolonial state is particularly "of critical importance in women's lives both public and private," citing the example of India, where there is "a considerable emphasis placed on the power (or lack of power) of the state to formulate, legislate and enforce laws regarding equality between men and women" (1996, 11). **(Judges of Normality: Mediating Marriage in the Family Courts of Kolkata, India, shrimati Basu Page 471)**

The family in India is often understood as an ideal homogeneous unit with strong coping mechanisms. It is a basic, cohesive, and integral unit of the larger social systems. Moreover, families in a large and culturally diverse country such as India have plurality of forms that vary with class, ethnicity, and individual choices. Its members are bound by interpersonal relationships in a wider network of role and social relations. It is considered a link between community and change (Bharat, S. (1994). *Alternate family patterns and policies: Alternate family pattern* (Unit for Family Studies Report, pp.72- 76). Bombay, India: TISS

The attention given to marital conflict is understandable when we consider its implications for mental, physical, and family health. Marital conflict has been linked to the onset of depressive symptoms, eating disorders, male alcoholism, episodic drinking, binge drinking, and out-of-home drinking. Marital conflicts that are frequent, intense, physical, unresolved, and child related have a particularly negative influence on children, as do marital conflicts that spouses attribute to their child's behaviour (see *interpersonal conflict and child development , theory research and implication edited by Grych & Fincham, 2001 page 11*).

In India, the old traditional joint family system no longer continues. It was patriarchal in nature, its size was large, status of women in the family was very low, members of family had

no individual identity, and the decision-making power lied exclusively with the eldest male member of the family. (Indian **Journal Social Work**, 56, p. ... **16-41**, by Desai, 1994, Bombay, India: **TISS**. ... Nate family pattern (**Unit for Family Studies Report**, pp.72-.)

Indian family system has undergone drastic change in response to development in terms of industrialization, education and urbanization. Industrialization and urbanization, leading to accelerated rate of rural-urban migration, diversification of gainful economic activities and individual-friendly property laws, have had consequential impact in terms of drastic reduction in the size of family in the country (www.yourarticlelibrary.com/essay/recent-changes-in-the-family...in-india/30751) an article shared by – Pooja Mandal).

In India by jurisdiction all disputes related to marital issues are referred to the Family Courts in the cities or districts where Family Courts are established and where there are no Family Courts, the matters are referred to the Civil Courts. The Family court is a special court, which is mainly concerned with resolving family disputes. Government in India established Family courts with the objective that family disputes be dealt with separately from general cases, and that such cases are handled with a humanitarian view and to enable women to approach the court easily without having to appear with general criminals.

The general procedure followed by the Family Courts to resolve the disputes are usually the Civil Procedure Code and the Criminal Procedure Code or any other procedure as laid down by the Family Court Act. *18-Feb-2019 — Family Court (Non-Plan) : Budget Estimate and Actual Expenditure for the year 2011-12 to 2014-15 and 2015-16 (upto 29.03.2016) (59.91 KB).*

The first step commonly is the reference of the dispute to a marriage counsellor whose main aim is to bring about conciliation and agreeable settlement of issues without the need for tedious litigation. (section 9 of the Family Court Act 1984). Only if the dispute is not resolved even after conciliation, it is taken up for trial.

Importance of Counselors role :

As per the Family Court Act 1984 and Family Court Rule 1987 counselors role is to promote conciliation and speedy settlement in matrimonial dispute. Family Court Rules have given legal framework for the marriage counselors work. Following duties are performed by counselors:

- To encourage couples for amicable settlement and reconciliation.
- Assisting judges in the court.

- Counselors role is neutral, balancing, and bridging the gaps between client and various stake holders.
- Highlights the core of case work in the process as skills and techniques of case work and counselling are used.
- Primary level address mental health.
- The interventions are multidisciplinary, Adapted various models like client centered approach, three stage model, behavioral therapy or rational emotive behavioral therapy.
- While performing role counselor has to consider legal framework, and protocol of judiciary.
- Should have working knowledge of matrimonial laws.
- In the process of intervention counselor is bridging the gap or liaison between client and judicial officers, senior citizens and court, between warring couple, between non custodian parents and child, between lawyers and clients, family and couples.

Challenges

The modern life style, technology and media influence, individualism, consumerism and self-centered behavior for survival, have brought changes in relationships which have further resulted in the changes and shifts in the family system. The researcher, as counselor, came across many cases while interacting with clients in the court during counselling found that, Couples are coming to the court as a last resort. so the problems involved are full of complexities, such as growth of nuclear family and problems related to that, restlessness to earn easy money and become rich, living materialistic life, which creates lack of feeling among the partners like no tolerance no sacrifice or adjustment in crisis, ego issues, financial imbalance, incompatibility at various level, rigidness in values, attitude and behaviour, lack of willingness to take marital responsibility and blame game which resulted most of the time in separation or divorce from partner. This adds to lot of limitations to the counselors role.

Limitations

- We need to be rational each and every case cant be settled each case is challenge
- There should be rapport between counselor and judges for effective work
- While doing this duties and roles photocall should be maintain (laxman resha) draw a line.
- Maintaining office decor-rum

- All these duties and effective performance will give recognition to counselors work as well as profession
- Making work tangible
- Visibility through the work by incorporating qualitative aspect
- Increasing complexity in marital conflict due to impact of technology needs to be study
- Impacting women and children the intervention will be challenging compare to last decade we need to prepare ourselves accordingly with the time

Micro and macro perception of role

- Micro level dealing with individual and individuals rights within families
- Macro level handling social problem as family part of society
- Also while intervening and coordinating with judiciary system at every step
- While handling children s problem we are addressing future generations problem
- Addressing senior citizens problems in society in the maintenance case of older parents.

Conclusion

People approach family court to get rights within Institution of family which covers issues of marriage, divorce, adoption, or property settlement child custody, juvenile adjudication, paternity testing and maintenance or compensation etc. family courts functions under districts and sessions courts and are subordinate to High Courts. While working in the family courts as marriage counselor researcher handle each and every issue which is mentioned above during the process of counseling however in recent years, researcher realize there are major cultural shifts at individual as well as social level, so the challenges have also increased for counselor at intervention level and for the judges of family courts to give such judgments and adapt/ evolve newer procedure as require.

It is because marriage is an Institution in Indian society not a contract as it exists in western society. Other way round, the counselor's own bias, prejudice, belief should not be imposition of the clients or particular case in hands. The Role of counselor has become backbone for judges to pronounce sentence or decree in all aspects whether it is custody of child, dissolution of marriage, survival or livelihood of partner and even restitution of marriage etc. However, the role of counselor is affected by many internal and external factors such as Infrastructural, administrative, Attitudinal, Awareness and Interference by other stakeholders within four walls of the courts and outside world. Consequently, the quality of justice to the victims either gender or even best interest of the child custody have failed in safe hands. In

short counselor is having multidisciplinary approach I e.as counsellor, facilitator, mediator, negotiator, educator, guide, at times philosopher etc, so its crucial in the court setup.

This research will give insights to the counselors who are newly appointed, this research will also help creating scope for further research in intervention policy, and findings of this research will help in making policy decisions at the intervention level as well as create resource of strategies to intervene in the family dispute. This research will help researcher students to refer and understand the role of counselor and intervention in family courts in Maharashtra at large.

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