

Comparison of Family Courts in India, U.S.A. And Australia

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ABSTRACT

Family courts play a crucial role in resolving disputes within families and protecting the rights of individuals and children. While the functioning and structure of family courts may vary across countries, there are some common global trends that can be observed in the family court systems of India, USA, and Australia. These include an increasing focus on alternative dispute resolution methods, such as mediation and arbitration, to reduce the burden on traditional court systems. Additionally, there is a growing recognition of the importance of addressing issues related to gender-based violence and child welfare in family court proceedings. However, challenges such as delays in proceedings and inadequate resources continue to plague family courts in these countries. Overall, there is a need for continued efforts to improve the efficiency and effectiveness of family courts in order to better serve the needs of families and individuals. In India, family courts are a specialized court system that deals with matters such as divorce, child custody, and property disputes. In the USA, family courts vary from state to state, but they all deal with similar matters related to family and domestic relations. Unlike India, the USA has a more established and standardized system for family courts. Similarly, Australia also has a well-developed family court system that deals with family law matters, including divorce, child custody, and property settlements. Looking at global trends, there has been a push towards alternative dispute resolution methods, such as mediation and arbitration, in family courts. This is to encourage parties to come to a mutually agreeable solution without the need for lengthy and expensive court proceedings. Additionally, there is a growing recognition of the importance of involving children in family court proceedings and considering their best interests. However, despite these advancements, there are still challenges and disparities in the family court systems of these countries. Access to justice, particularly for marginalized communities, remains a major issue in India, USA, and Australia. There is also a need for better training and resources for family court judges to handle sensitive and complex family matters. Overall, while there are similarities in the family court systems of India, USA, and Australia, there is still room for improvement and reform to ensure fair and efficient resolution of family-related issues. Comparative study of the above mentioned aspects between the family courts of three countries which are champions of justice- India, U.S.A and Australia, plus a critical analysis along with feasible suggestions for improvement.

INTRODUCTION

A family courts deals with legal issues related to families, such as divorce, child custody, adoption, and domestic violence. It is a specialized court that focuses on resolving conflicts and making decisions that are in the best interest of the family and its members. Family courts may also provide support and resources to help families navigate through difficult situations and maintain healthy relationships. The main goal of family court is to resolve disputes and conflicts within families. It aims to provide fair and just decisions in matters related to divorce, child custody, child support, and other family-related legal issues. Another objective of family court

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is to protect the best interests of children involved in these cases and ensure their safety and well-being. Additionally, family court also provides resources and assistance for families to resolve conflicts and improve relationships in a peaceful and sustainable manner. Family courts have jurisdiction over matters such as divorce, child custody, adoption, and domestic violence. They work to resolve disputes and make decisions in the best interest of the family and any children involved. Family courts also handle cases related to child support, alimony, and paternity. They play a crucial role in ensuring the well-being and stability of families and their legal rights.

Family court in India

Indian Judiciary has the largest backlog of pending cases in the world. According to National Judicial Data Grid (NJDG), around 3.7 million cases are pending before the High Courts, District and Taluka Courts across India or even more than 3.7 million for over 10 years.¹ This statistics truly justifies “justice delayed is justice denied”. The regular courts are burdened with as many civil matters that no attention was given to the familyrelated disputes. Also, there was pressure from several welfare organisations and individuals, demanding for fast relief in the family-related disputes, by establishing the special courts. The Law Commission in its 59th Report (1974) also emphasised that there is a need of distinguishing the family-related disputes from common civil proceedings and reforming efforts should be made to settle the disputes between a families. Therefore, to provide speedy settlement with fewer expenses and formalities, in disputes relating to marriage and family and to make an agreement between the parties for their conciliation, the Family Courts Act, 1984 was enacted by the parliament. Through this act, the Family Courts were set up in the states through which reasonable efforts for an agreement are made before beginning a trial in other Courts.²

The Family Courts Act, 1984 provides for establishment of Family Courts by the State Governments in consultation with the High Courts with a view to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs and family affairs and fir matters connected therewith. Under Section 3 (1)(a) of the Family Courts 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 deems it necessary.

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

- 1) To 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;
- 2) To institute a mechanism for conciliation of the disputes relating to family;
- 3) To provide an inexpensive remedy; and
- 4) To have flexibility and an informal atmosphere in the conduct of proceedings.

Therefore, to provide speedy settlement with fewer expenses and formalities, in disputes relating to marriage and family and to make an agreement between the parties for their conciliation, the Family Courts Act, 1984 was enacted by the parliament. Through this act, the Family Courts were set up in the states through which reasonable efforts for an agreement are made before beginning a trial in other Courts.

The main objective of these courts is to provide a quicker and less adversarial method of resolving family issues, as compared to the traditional court system. One of the key features of the family court system in India is its attempt to adopt a more conciliatory approach to dispute resolution. This means that before a case goes to trial, parties are encouraged to try and reach an amicable settlement through mediation and counselling. This approach is especially beneficial for families, as it prioritizes the preservation of relationships and the wellbeing of children. However, despite the good intentions of the family court system, it has been facing several challenges in its functioning. One of the major issues is the lack of adequate infrastructure and resources. In many parts of the country, there is a severe shortage of family courts, resulting in long delays in resolving cases.

¹ <https://blog.ipleaders.in/types-cases-addressed-family-courts/>

² Victor E. Flango, Creating Family Friendly Courts: Lessons from Two Oregon Counties, 32 Family Law Quarterly 115 (1998)

This has a significant impact on families, especially in cases involving child custody or financial support. Furthermore, there is a shortage of trained professionals in the family court system. Judges, counsellors and mediators often do not have specialized training in family law, which can lead to delays and errors in decision making. There is a need for more specialized training programs and resources to ensure that those involved in the family court system are equipped with the necessary skills and knowledge. Another challenge faced by the family court system in India is the prevalence of social and cultural biases. Traditional gender roles and stereotypes often influence decision making, particularly in cases of divorce and custody. Women and marginalized groups may face discrimination and unequal treatment in the family court system, leading to further injustices and delays in resolving disputes. Moreover, there are concerns about the accessibility and affordability of the family court system. Legal procedures can be complex and expensive, making it difficult for individuals from lower socio-economic backgrounds to seek justice. This results in a disproportionate burden on the poor and marginalized, who may not have the resources to navigate the legal system. In recent years, there have been efforts to improve the functioning of the family court system in India. The government has introduced initiatives such as the National Mission for Justice Delivery and Legal Reforms, which aims to improve the efficiency and accessibility of the justice system. Additionally, there have been proposals for the establishment of more family courts and the appointment of more trained professionals. However, there is still a long way to go in ensuring a fair and efficient family court system in India. It is essential to address the existing challenges and implement reforms that prioritize the well-being of families and the best interests of children. This can be achieved through increased funding, training, and awareness about the importance of family courts in resolving disputes and preserving relationships. In conclusion, the family court system in India plays a crucial role in addressing family disputes and promoting social justice. While there have been efforts to improve its functioning, there is still a need for significant reforms to address the challenges faced by the system. By ensuring adequate resources, training, and addressing biases, the family court system can become a more effective and accessible means of resolving family issues in India.

FAMILY COURTS IN USA

The family court system was set up in the late sixties to alleviate the burden on the civil- and criminal courts. The vastly increased number of divorces that those courts had to deal with then resulted from the divorce-law reforms in the sixties. Divorces were plugging the system because they had become so easily obtainable and presented so many incentives for gaining financial advantages for the litigants and the legal industry.³ Family courts were originally created to be a Court of Equity convened to decide matters and make orders in relation to family law, including custody of children, and could disregard certain legal requirements as long as the petitioner/plaintiff came into court with "clean hands" and the request was reasonable, "quantum meruit". Changes in laws and rules have made this distinction superfluous.⁴

Nearly seventy-five percent of states have some form of family court. These courts are either state-wide family courts, family courts in selected areas of the state, or pilot or planned family courts. The eight-percent increase in the number of states utilizing some type of family court system since 1998 reflects a substantial change, particularly considering the complexities of court reform. For example, even minor changes in court systems often involve judges, court personnel, attorneys, and clients, as well as legislative or court rulemaking input on occasion. As the current survey reveals, justice systems in only thirteen states operate without some form of family court, a decrease from the seventeen states without a family court reflected in the 1998 survey.⁵ Family law subject matter jurisdiction can include jurisdiction over cases involving divorce, annulment, and property distribution; child custody and visitation; alimony and child support; paternity, adoption, and termination of parental rights; juvenile causes (juvenile delinquency, child abuse, and child neglect); domestic violence; criminal non-support; name change; guardianship of minors and disabled persons; and withholding or withdrawal of life-sustaining medical procedures, involuntary admissions, and emergency evaluations.⁵

Another trend apparent in the eight-year period from 1998 to 2006 was a significant shift among the states in relation to the pervasiveness of family courts within a state. In 1998, only eleven states had a state-wide family court.⁶ Family courts hear all cases that relate to familial and domestic relationships. Each US state and each country has a different system utilized to address family law cases including decisions regarding divorce cases. The federal or the Supreme Court has no Jurisdiction to try the cases tried by a family court. The federal

³ Victor E. Flango, *Creating Family Friendly Courts: Lessons from Two Oregon Counties*, 32 *Family Law Quarterly* 115 (1998)

⁴ <https://family.laws.com/cases-tried-and-role-of-court/types-of-cases-tried-and-role-of-court> ⁵

Barbara A. Babb, *Where We Stand: An Analysis of America's Family Law Adjudicatory Systems and the Mandate to Establish Unified Family Courts*, 32 *Fam. L.Q.* 31 (1998).

⁵ Del. Code Ann. tit. 10, §§ 921-928 (2006).

⁶ Gerald W. Hardcastle, *Adversarialism And The Family Court: A Family Court Judge's Perspective*, 9 *U.C. Davis J.*

Juv. L. & Pol'y 57 at 59

⁷ <https://www.flcourts.gov/content/download/218181/file/Model2000.pdf>

Government, including the federal courts must not intrude on the rights of the states. In the particular situation of divorce, because only states can issue a marriage license, only states and not the federal government can issue a divorce decree. However, federal courts might decide the validity of a divorce decree issued by a state.⁸

Pursuing multiple domestic actions in different courts involves several judges and lawyers and also delays a final determination of any issue. For adults, that delay may simply be frustrating and annoying. For children, however, such a delay can be emotionally harmful. The child in the above scenario will suffer and can be permanently damaged from an extended delay in determining where he will live, whether his conduct warrants punishment and perhaps removal from his parents' control, and if he qualifies for special educational placement at school. Furthermore, the "excessive wait" for court action is far more than an inconvenience. It is very costly, since attorneys and social workers are drawing salaries while they are waiting and are prevented from taking care of ordinary casework.⁸

Multiple actions and multiple judges can produce inconsistent decisions that will severely impact the child. For example, in an abuse case the judge may have determined that a father has sexually abused his daughter and prohibited his future contact with the daughter. However, in the concurrent dissolution of marriage action between the child's parents, a second judge may have excluded evidence of the father's sexual misconduct and ultimately ordered visitation between the father and daughter. Inconsistent determinations also result when different judges hearing similar cases review the applicable law but arrive at contradictory interpretations. The lack of coordination among cases dealing with children and their families may be the primary force behind family court reform. This problem has a significant impact upon children and families. Furthermore, lack of coordination among cases magnifies two negative attributes of the non-unified family court system. First, the failure to consolidate cases before a single judge leaves the individual courts and judges vulnerable to manipulation. For example, a litigant unhappy with the results in one court can simply file an action in another court and obtain a new and separate decision, perhaps more favourable than the last one. In the above scenario, if the parent's neglect allegation is rejected by one judge, the parent may raise that or another allegation with a second judge and again try to obtain custody of the child.

The problems inherent in the fragmented, adversarial judicial system are genuine and should generate deep concern for those children and families who need assistance. Conservative reformers may believe moderate reform of the adversarial system can eliminate its problems. However, those problems are intensified as courts are forced to handle dramatically increasing caseloads prompted by society's ailments and the resulting decline of the family. An increase in caseload logically produces a decrease in the time allowed for judges to reach a decision in each case. Therefore, as the caseload increases, the quality of the decisions decreases. Although most states still operate with a non-unified family court system, its inherent problems, magnified by increasing caseloads and the current status of society, warrant immediate reform in order to save the children and families. Family-related cases cannot be properly addressed in the present system. Consequently, the fragmented, adversarial judicial system should be abandoned in favour of the unified family court system, which offers a viable means of rescue.

FAMILY COURTS IN AUSTRALIA

The Family Court of Australia is a federal Australian court, created by the Family Law Act 1975 as a specialist court dealing with family law matters, established in 1975 as an initiative of the Whitlam government. The Court has had three Chief Justices to date, Elizabeth Evatt, Alistair Nicholson and Diana Bryant. The Family Court of Australia has jurisdiction over all marriage-related cases in Australia, including applications for declarations of the validity or nullity of marriages, divorces, residence, contact, maintenance, child support and property issues. This jurisdiction, granted in the Family Law Act 1975, is a Commonwealth responsibility under the 'matrimonial causes' head of power in Section 51(xxii) of the Australian Constitution. Prior to 1975, jurisdiction over family law matters was held and exercised largely by state Supreme courts under the Matrimonial Causes Act. The best known characteristic of the FLA is its introduction of no-fault divorce. Significant as this is, the FLA does far more. It separates principal relief from ancillary relief, thus allowing a divorce to be granted independently of the institution of proceedings (for example, the disposition of property and children). In terms of substantive law, the FLA recognises that both parents have rights and responsibilities over their children after separation, unless a court orders otherwise; allows a court to make an order for the payment of spousal maintenance where the applicant exhibits need and the respondent has the capacity to pay; and provides a statutory basis for the distribution of property following marriage breakdown, taking into account several forms of direct and indirect contributions and other specified factors where relevant. Over the years the Family Court has sought to manage its ever-increasing workload in a variety of ways. For example, the Court's jurisdiction is exercised through a judicial structure comprising judges, judicial registrars, senior

⁸ Barbara A. Babb, *Where We Stand: An Analysis of America's Family Law Adjudicatory Systems and the Mandate to Establish Unified Family Courts*, 32 *Family Law Quarterly* 31, 35-37 (1998)

registrars and deputy registrars, all but the judges exercising delegated jurisdiction. This is necessary because of the diversity of the matters which come before it and also because of the constitutional constraints.

Case management and coordination is a defining characteristic of a model family court. Case managers inform the family of voluntary services, refer the family to mandatory court programs, and coordinate all cases involving the family to maximize judicial resources, avoid inconsistent court orders, prevent multiple court appearances by the parties on the same issues, and monitor compliance with court-ordered services. Case management staff provides continuity within the system by ensuring that all cases involving a single family are assigned to the same judge or by active oversight by the case management team.

The initial step in case management is screening. All cases, whether they involve litigants representing themselves or litigants with attorneys, will be screened, managed, and monitored. Initial and continual screening should be performed by a case management team that includes not only staff trained in the operation of the family court, but also staff trained in the behavioural sciences who understand the dynamics of families in crisis. Screening and subsequent service referrals will ensure that all presenting issues are clearly focused and that families are provided with an opportunity to resolve their disputes before engaging in destructive adversarial litigation.

Screening will alert the court of the family's special circumstances, such as a history of domestic violence or the need to address emotional issues before the parties are expected to negotiate appropriate parenting plans and resolve other legal issues. Although the models stresses the importance of non- adversarial processes, in many cases, the adversarial process and resulting authoritative judicial decision are needed to address power imbalances and to ensure appropriate conduct by uncooperative parties. As part of the screening process, staff may differentiate various time tracks for case disposition based on the level of complexity, need for discovery, need for services, or unusual emotional factors. Some families will have needs that require immediate judicial attention such as issuing a domestic violence injunction, conducting an emergency shelter hearing, or scheduling a temporary hearing to establish support. Judges must be available to meet these critical needs on an expedited basis. Other cases may be appropriate for a "fast track." A "fast track" may include cases such as simplified dissolutions, dissolutions with a marital settlement agreement, or dependency actions sheltering a child. Some cases may be resolved more quickly and more economically by referring them to a quasi-judicial officer.

Case management staff is also responsible for collecting and reviewing aggregate data to evaluate the progress of all cases in the division. The Committee describes this responsibility as the case flow monitoring function. This data will be used to make reports, determine compliance with time standards, and to evaluate how well the family division is operating. In this case management model the judge is a coordinator and facilitator as well as an adjudicator. The "gatekeeper" function historically assumed by judges is shifted to court staff, thereby allowing judges to focus their efforts on making legal decisions. The simple technique of reviewing court files to determine if a case is ready for judicial action before scheduling it on a judge's calendar will maximize the use of judicial time, a scarce commodity in family court. Technology. The court needs an integrated management information system to monitor and coordinate cases in the family division. The system should be integrated with the clerk of court and be able to provide information on all pending and closed cases involving the members of a family. Specifically, the system should have the capacity to: provide automatic calendar management monitor significant case events and generate automatically an appropriate order or notice maintain a complete history of the family's involvement in the court system allow retrieval of documents contained in the court file capture statistical data needed for reports search for records involving the same parties in all counties of the state allow courtroom data entry as proceedings are conducted allow for teleconferencing and appearance of witnesses by electronic means allow interagency and public access to appropriate information

The Chair of the Family Court Steering Committee should appoint a Technology Subcommittee to work with the Trial Court Technology Subcommittee of the Technology Commission to establish a technology plan that meets the case management and coordination needs of the model family court. The family court's need for technology is a priority. Without appropriate technology, the court cannot obtain the information necessary to manage and coordinate cases effectively. Currently, clerical staff, employed by clerks of court, track and crossreference cases manually. This is a time consuming process. It is difficult for them to keep up with the files and to determine when cases involving the same family members are pending in different divisions. Technology is available to automate these tasks. Ideally, the system should be integrated state-wide with law enforcement agencies, the Department of Children and Families, the Department of Juvenile Justice, and any other agencies that interact with the family court on a regular basis. In 1991 much of the research on the needs of children and families was just beginning. Only recently, have studies provided empirical evidence on the importance of fathers to children's physical and psychological development. Studies involving attachment and alienation of children and parents are continuing. Florida judges should have the benefit of the most up-to-date information on these issues. Judges need to understand child-development and attachment theory before deciding primary physical residence in a domestic relations case, or placement in a dependency proceeding. Judges need to understand the characteristics of alcohol and drug dependency and treatment for addiction

before deciding whether a child should be reunited with a parent suffering from these problems. Judges need comprehensive education in the dynamics of domestic violence, power and control theory, and information on why anger management classes may endanger victims and their children before judges can make the best decision in a domestic violence case. Judges should have training in basic psychology before ruling on the credibility of psychiatric and psychological testimony. These are just a few examples of the educational needs of family judges.⁹

The Family Court also has jurisdiction over the children of defacto couples and those that have never lived together. This jurisdiction was acquired by the Commonwealth through an agreement between the states (except West Australia) and the Commonwealth to refer powers. The initial referral referred to custody and access in the breakdown of defacto relationships. A number of states have also referred defacto property issues; however the federal government has not yet legislated in this area. As a result, in all Australian states, financial issues between defacto couples are dealt with by state courts pursuant of state legislation. With the establishment of the Federal Magistrates Court (FMC) in 1999, the Family Court now has concurrent jurisdiction in most areas, with the FMC. The majority of proceedings under the Family Law Act are now filed in the FM Appeals from first instance decisions of the Family Court lie to the Full Court of the Family court. It is possible to appeal to the High Court of Australia, although this requires special leave to appeal from the High Court, or a certificate from the Family Court certifying that the case raises important legal questions or matters of public interest. Few family law cases have obtained special leave to appeal. Section 43 of the FLA requires the Family Court and other courts exercising jurisdiction under it to have regard to:

- (a) The need to preserve and protect the institution of marriage as the union of a man and a woman to the exclusion of all others voluntarily entered into for life;
- (b) The need to give the widest possible protection and assistance to the family as the natural and fundamental group unit of society, particularly while it is responsible for the care and education of dependent children
- (c) The need to protect the rights of children and to promote their welfare; and the means available for assisting parties to a marriage to consider reconciliation or the improvement of their relationship to each other and to their children.

The best known characteristic of the FLA is its introduction of no-fault divorce. Significant as this is, the FLA does far more. It separates principal relief from ancillary relief, thus allowing a divorce to be granted independently of the institution of proceedings (for example, the disposition of property and children). In terms of substantive law, the FLA recognises that both parents have rights and responsibilities over their children after separation, unless a court orders otherwise; allows a court to make an order for the payment of spousal maintenance where the applicant exhibits need and the respondent has the capacity to pay; and provides a statutory basis for the distribution of property following marriage breakdown, taking into account several forms of direct and indirect contributions and other specified factors where relevant. The FLA also contains a provision whereby children can be represented separately and independently of their parents, and removes spousal immunities in contract and tort.

Family court reform offers children and families a viable alternative to the present system. The unified family court, operating under a centralized administration and unified case processing and management system, coordinates legal and social service resources to provide children and families comprehensive resolutions to their individual problems. Advocates believe in the value and effectiveness of the unified family court, and now Missouri legislators, judges, practitioners, and most importantly, children and families can experience the unified family court system. Family court reform offers children and families a viable alternative to the present system. The unified family court, operating under a centralized administration and unified case processing and management system, coordinates legal and social service resources to provide children and families comprehensive resolutions to their individual problems. Advocates believe in the value and effectiveness of the unified family court, and now Missouri legislators, judges, practitioners, and most importantly, children and families can experience the unified family court system.

Many family court child custody and visitation cases involve child abuse or neglect, domestic violence, or substance abuse. These place children at increased risk of emotional, behavioural, relationship, and cognitive problems. The Family Codes of most countries recognizes the seriousness of these social problems by assigning them special weight in its definition of the best interest of children and by authorizing the family court to order parents to participate in Educational, counselling, and supervision programs. Family court, by tradition and structure and as currently organized, is not designed to deal effectively with these types of problems, especially when both parents are experiencing difficulties that leave them unable to care for their children. The court system has a responsibility to understand the nature and complexity of these problems and their impact on children and families; to appropriately use the powers and authority given to it to identify and effectively address these problems; to assist families in obtaining needed services; and to monitor and enforce the

⁹ A Model Family Court for Florida: Recommendations of the Florida Supreme Court's Family Court Steering Committee (Office of Florida State Court Administrator, June 2000)

courtordered conditions imposed by the need to preserve the health, safety, and welfare of the children and the safety of other family members.

Family court is not juvenile dependency court, but it must deal with similar issues in many of the cases before it. Family court, when doing these job effectively in serious cases, can help keep children safe and allow them to live with their families in the community, out of the juvenile dependency system. But reaching this goal requires that the family court develop a philosophical orientation and logistical infrastructure and acquire the resources to effectively confront the serious problems occurring in families-- particularly child abuse and neglect, domestic and relationship violence, and substance abuse--when these problems have not risen to the level of a juvenile dependency action. The challenges that family law generally, and all Family Courts of the world, have faced will undoubtedly continue to arise, albeit in constantly changing legal and social contexts. The content and direction of family law itself will also undoubtedly evolve as new developments emerge. The amendments should seek to remedy one of the most contentious areas of family law: the enforcement of parenting orders. The method to do this is via a three-stage process, in which the Court informs parents of their obligations under a parenting order and advises them of the services available to assist them, should they encounter any difficulties. Relationship program designed to resolve parental conflict. Should non-compliance continue, the Court will be able to impose a variety of sanctions. The amendments also permit legal recognition of financial agreements made before or during a marriage which set out how the property will be divided upon marriage breakdown. Further, they introduce a scheme of private arbitration.

Also needed is a legislation which will allow superannuation entitlements to be divided on marriage breakdown, either by agreement or by order. Currently, a superannuation interest can be taken into account as a financial resource, but cannot be divided. This has led to allegations that superannuation is frequently ignored or undervalued in family law proceedings, despite its being the second most valuable asset after the matrimonial home for most couples. As men typically have regular employment during marriage and women frequently leave the workforce and/or work part time (even if only temporarily) because of child-rearing responsibilities, women were found to be experiencing financial disadvantage as a consequence of superannuation being overlooked or undervalued. Internally, the Family Courts have embarked on a widespread overhaul of the guidelines it uses to manage cases and is also trialling programs to assist litigants in person and other disadvantaged groups. In addition to the Court's website, technological advances will soon allow electronic filing and more widespread use of video conferencing and listing of cases via the Internet. Trial management is also under consideration, and judicial conciliation is being trialled. As always, there is much happening in the family law area and the Family Courts are constantly striving to improve its methods and procedures. The Courts will continue to be criticised, often unfairly, because of the nature of its jurisdiction, but it is, and will continue to be, a world leader in the delivery of family law services in the 21st century.¹⁰

CONCLUSION

Many family court child custody and visitation cases involve child abuse or neglect, domestic violence, or substance abuse. These place children at increased risk of emotional, behavioural, relationship, and cognitive problems. The Family Codes of most countries recognizes the seriousness of these social problems by assigning them special weight in its definition of the best interest of children and by authorizing the family court to order parents to participate in educational, counselling, and supervision programs. Family court, by tradition and structure and as currently organized, is not designed to deal effectively with these types of problems, especially when both parents are experiencing difficulties that leave them unable to care for their children. The court system has a responsibility to understand the nature and complexity of these problems and their impact on children and families; to appropriately use the powers and authority given to it to identify and effectively address these problems; to assist families in obtaining needed services; and to monitor and enforce the courtordered conditions imposed by the need to preserve the health, safety, and welfare of the children and the safety of other family members. Family court is not juvenile dependency court, but it must deal with similar issues in many of the cases before it. Family court, when doing these job effectively in serious cases, can help keep children safe and allow them to live with their families in the community, out of the juvenile dependency system. But reaching this goal requires that the family court develop a philosophical orientation and logistical infrastructure and acquire the resources to effectively confront the serious problems occurring in families-- particularly child abuse and neglect, domestic and relationship violence, and substance abuse--when these problems have not risen to the level of a juvenile dependency action. The challenges that family law generally, and all Family Courts of the world, have faced will undoubtedly continue to arise, albeit in constantly changing legal and social contexts. The content and direction of family law itself will also undoubtedly evolve as new developments emerge. The amendments should seek to remedy one of the most contentious areas of family

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https://www.researchgate.net/publication/228144326_Comparison_of_Family_Courts_in_India_USA_and_Australia

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