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## **Trauma-Informed Mediation Models for Survivors of Emotional and Domestic Abuse**

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### Abstract

Domestic and emotional abuse creates deep psychological trauma that undermines survivors' ability to engage in traditional dispute resolution. The Indian legal system provides protection through the Protection of Women from Domestic Violence Act, 2005, and criminal provisions under the Indian Penal Code, but legal processes often fail to address long-term psychological needs. Mediation has emerged as an alternative dispute resolution mechanism, but traditional mediation models can unintentionally re-victimize survivors due to power imbalances and coercion. Trauma-informed mediation seeks to address these concerns by incorporating trauma-sensitive approaches into mediation practice. This paper critically examines trauma-informed mediation models suitable for survivors of emotional and domestic abuse in India. It analyzes legal provisions, judicial precedents, practical challenges, and policy recommendations. The paper argues that trauma-informed mediation can be effective only when rigorous safeguards, professional training, and survivor-centered frameworks are institutionalized.

**Keywords:** Trauma-Informed Mediation, Domestic Violence, Emotional Abuse, Power Imbalance, Protection of Women from Domestic Violence Act, 2005, Survivor-Centered Mediation, Judicial Safeguards, Alternative Dispute Resolution, Mediation Act 2023, Consent, Safety Assessment.

### 1. Introduction

#### 1.1 Background

Domestic abuse is not limited to physical violence and includes emotional, psychological, economic, and verbal abuse. Survivors of domestic abuse often experience long-term trauma such as depression, anxiety, loss of self-esteem, and difficulty in trusting others. In India, domestic violence is recognized through the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and criminal provisions under the Indian Penal Code such as Sections 498A, 323, 325, and 506.

However, despite legal protections, survivors face significant challenges, including:

- Lengthy litigation and court delays
- Social stigma and community pressure

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- Re-victimization through cross-examination and public exposure
  - Financial dependency on the abuser
  - Threats and coercion during legal proceedings

Mediation is promoted as an alternative mechanism to resolve disputes without the emotional burden of court litigation. However, in abuse cases, traditional mediation can be risky and may fail to protect the survivor.

## 1.2 Purpose of the Study

The paper evaluates whether trauma-informed mediation can provide a safer and more effective framework for survivors of emotional and domestic abuse. The study explores the following aspects:

- The features and principles of trauma-informed mediation
- The ethical and legal limitations of mediation in abuse cases
- Judicial trends and case laws related to mediation in domestic violence cases
- Model frameworks for trauma-informed mediation
- Policy reforms required to strengthen trauma-informed mediation

## 2. Conceptual Framework

### 2.1 Understanding Trauma

Trauma is a psychological response to deeply distressing experiences. Survivors of domestic abuse often experience long-term effects such as:

- Hyper-vigilance
- Fear and anxiety
- Loss of autonomy
- Depression and low self-esteem
- Self-blame and shame
- Difficulty in trusting others

Trauma affects decision-making, communication, and the ability to negotiate on equal terms. Therefore, survivors cannot be expected to participate in mediation without additional support and safeguards.

### 2.2 Traditional Mediation vs Trauma-Informed Mediation

Traditional mediation assumes that both parties have equal bargaining power and can negotiate

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freely. In domestic abuse cases, the survivor often:

- Fears the abuser
- Is financially dependent
- Has low self-confidence
- Lacks legal awareness

Therefore, traditional mediation can become a platform for further abuse and coercion.

Trauma-informed mediation recognizes:

- Power imbalance
- Fear and coercion
- Psychological vulnerability
- Need for safety and autonomy

Trauma-informed mediation uses special techniques to balance power, protect the survivor, and prevent re-victimization.

### 3. Legal Framework in India

#### 3.1 Protection of Women from Domestic Violence Act, 2005

The PWDVA provides civil remedies such as:

- Protection orders
- Residence orders
- Maintenance
- Custody orders
- Compensation

The Act recognizes emotional abuse and psychological violence as forms of domestic violence. It also provides mechanisms for immediate protection and relief. However, the Act does not explicitly address mediation, and the focus remains on legal protection and relief.

#### 3.2 Criminal Laws

Domestic violence may involve criminal offences such as:

- Section 498A IPC (cruelty)
- Section 323/325 IPC (assault)

- Section 506 IPC (criminal intimidation)
- Section 376 IPC (rape)

These offences are generally non-compoundable, meaning they cannot be settled through compromise or mediation. The criminal law framework prioritizes punishment and deterrence, which can conflict with mediation models.

### 3.3 Mediation Act, 2023

The Mediation Act, 2023 provides statutory recognition to mediation and makes mediated settlement agreements legally binding. However, the Act does not specifically provide trauma-informed mechanisms for domestic abuse cases. The Act also does not specify detailed procedural safeguards for survivors of abuse.

## 4. Mediation in Domestic Violence: Judicial Trends

### 4.1 Supreme Court's Approach

The Supreme Court has adopted a cautious approach towards mediation in domestic violence cases. The Court recognizes mediation only when:

- The survivor is willing
- There is no coercion
- The settlement does not violate public policy
- The survivor's safety is ensured

The Court emphasizes that mediation should not be used to suppress the rights of survivors or to force reconciliation.

### 4.2 Key Case Law

#### ***4.2.1 Praveen Singh Ramakant Bhadauriya v. Neelam Praveen Singh Bhadauriya (2019)***

This case is significant as the Supreme Court allowed mediation in a domestic violence context. The Court facilitated mediation, and the parties reached a settlement. The Court quashed the DV and matrimonial cases and granted divorce by mutual consent.

#### **Analysis:**

This case demonstrates that mediation may be permitted in domestic abuse cases when the survivor freely consents and is protected by safeguards. It does not imply that all domestic violence cases should be mediated.

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#### ***4.2.2 Anil Kumar Sharma v. Ranjana (2014)***

In this case, the Supreme Court held that settlement in matrimonial disputes must be voluntary and not coerced. The Court emphasized that mediation must not compromise the rights of the survivor.

#### ***4.2.3 Poonam v. State of Delhi (2010)***

This case emphasized that the Court must ensure that the victim is not coerced and that her consent is free. The Court stressed the need for protecting victims from being forced into settlements.

#### ***4.2.4 S. B. S. v. State of Tamil Nadu (2022)***

This case highlighted the importance of protecting women from domestic violence and ensuring the implementation of protection orders. The Court emphasized that protective measures must be taken seriously and cannot be compromised.

### **5. Need for Trauma-Informed Mediation Models**

#### **5.1 The Problem of Coercion**

Domestic abuse involves coercive control. Survivors may not feel safe to express their needs openly. Without proper safeguards, mediation can become an instrument for the abuser to control the survivor. Trauma-informed mediation recognizes the risk of coercion and uses special techniques to prevent it.

#### **5.2 Power Imbalance**

The abuser often has more power in terms of:

- Economic control
- Social influence
- Emotional manipulation
- Control over children

Trauma-informed mediation recognizes this power imbalance and uses special techniques to balance power, such as separate sessions and legal support.

#### **5.3 Emotional and Psychological Safety**

Survivors require emotional safety. Trauma-informed mediation ensures:

- Private sessions

- Emotional support
- Controlled communication
- Safe environment

This reduces the risk of re-victimization and empowers survivors to participate.

## 6. Principles of Trauma-Informed Mediation

### 6.1 Safety

Safety is the primary principle. Safety includes:

- Physical safety during sessions
- Emotional safety through supportive environment
- Legal safety through informed consent

Safety is ensured through screening, separate sessions, and the presence of support persons.

### 6.2 Choice and Control

Survivors should be able to decide whether to participate. They must have the right to withdraw at any stage. The mediator should ensure that the survivor's autonomy is respected throughout the process.

### 6.3 Empowerment

The mediator must encourage the survivor's autonomy and decision-making. Empowerment includes:

- Encouraging the survivor to speak freely
- Providing legal information
- Helping the survivor understand the implications of settlement

Empowerment ensures that the survivor is not pressured into settlement.

### 6.4 Collaboration

Mediation should be collaborative, not adversarial. The mediator should help parties communicate respectfully and constructively. Collaboration promotes mutual understanding and reduces conflict.

## 6.5 Trustworthiness and Transparency

Survivors must know the process, legal implications, and rights. Transparency ensures that the survivor is not misled or coerced. The mediator must explain the process clearly and honestly.

## 7. Trauma-Informed Mediation Models

### 7.1 Screening Model

Before mediation begins, the mediator must conduct:

- Safety assessment
- Trauma assessment
- Power imbalance evaluation
- Legal awareness assessment

If the case is too risky, mediation should be refused. The screening model ensures that only cases where mediation is safe are accepted.

### 7.2 Staged Mediation Model

This model involves phases:

- Intake and assessment
- Separate sessions (caucusing)
- Joint sessions (only if safe)
- Follow-up and monitoring

Each phase ensures safety and empowerment. The mediator assesses whether the survivor is ready for joint sessions.

### 7.3 Multidisciplinary Model

In this model, mediation is supported by:

- Mental health professionals
- Legal aid lawyers
- Social workers
- Counsellors

The multidisciplinary model provides comprehensive support to survivors. It ensures that

survivors are not isolated.

#### 7.4 Shuttle Mediation Model

This model is suitable when joint sessions are unsafe. The mediator shuttles between parties separately. Shuttle mediation reduces conflict and protects the survivor from intimidation.

#### 7.5 Survivor-Centered Mediation Model

This model prioritizes the survivor's needs and safety above settlement. The mediator ensures that the survivor's voice is heard and respected. Survivor-centered mediation emphasizes autonomy and empowerment.

### 8. Challenges of Trauma-Informed Mediation in India

#### 8.1 Lack of Legal Framework

The Mediation Act does not specify trauma-informed mediation mechanisms. Courts rely on judicial discretion. There is a need for statutory guidelines and national standards.

#### 8.2 Lack of Trained Mediators

There are very few mediators trained in trauma and domestic violence. Training programs are limited and not standardized.

#### 8.3 Risk of Re-Victimization

Without safeguards, mediation can lead to re-victimization. Survivors may face emotional pressure or intimidation during mediation.

#### 8.4 Social Stigma

Social stigma and family pressure often influence survivors. Survivors may feel forced to reconcile due to social pressure.

#### 8.5 Lack of Monitoring

There is no system to monitor whether settlements are fair and safe. Monitoring is necessary to ensure that settlements do not harm survivors.

## 9. Policy Recommendations

### 9.1 Establish National Guidelines

NALSA and judiciary should issue guidelines for trauma-informed mediation. Guidelines should include:

- Screening protocols
- Safety standards
- Training requirements

National guidelines will ensure consistency and fairness.

### 9.2 Create Trauma-Informed Training Programs

Training programs should be mandatory for family mediators. Training should include:

- Trauma psychology
- Power dynamics
- Gender sensitivity
- Ethical standards

Training ensures that mediators can handle abuse cases safely.

### 9.3 Mandatory Screening in Domestic Violence Cases

All DV cases should undergo screening before mediation. Screening ensures that only safe cases proceed to mediation.

### 9.4 Integrate Mental Health Support

Counsellors should be part of the mediation process. Mental health support ensures emotional safety and empowerment.

### 9.5 Monitoring and Evaluation

Monitoring of settlements and outcomes should be implemented. Monitoring ensures that settlements are fair and do not harm survivors.

## 10. Conclusion

Trauma-informed mediation is an innovative approach that can provide safe and meaningful dispute resolution for survivors of emotional and domestic abuse. However, the Indian legal system requires comprehensive reforms to ensure that mediation does not become a tool for coercion. The Mediation Act, 2023 provides a statutory basis for mediation but lacks trauma-informed safeguards. With strong legal guidelines, training, and monitoring, trauma-informed mediation can become a powerful mechanism to restore dignity, safety, and justice to survivors.

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