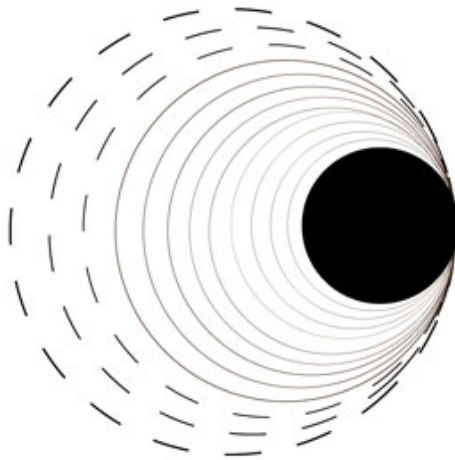


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**Manual on Counseling & Mediation**  
*(guidelines for recovery, rehabilitation and resettlement  
of women displaced as a result of gender based violence)*



# **Manual on Family Mediation and Counseling Guidelines**

## **Introduction:**

Mediation and Counseling play an integral role in assisting women in shelter homes/DUAs because they require services of both - professional psychologists and mediators. A professional psychologist assists women in distress and responds to their emotional and psychological needs. On the other hand, mediator assists women in resolving conflicts that led to crises and instability. Mediation and counseling services are closely connected; however, it is extremely important to differentiate the role of a counselor from a mediator as they fundamentally offer different services and assist women in different capacity.

Dastak Charitable Trust has created mediation and counseling guidelines for the staff of private shelter homes/DUAs/ Crises Centres and other professionals who directly assist women suffering from hardships and tribulations.

The aim of this Manual on Mediation and Counseling Guidelines are two-fold; firstly these guidelines aim to serve as a source of information for mediators, counselors and staff of shelters so they can properly and professionally assist destitute women. Secondly, these guidelines aim to standardize practices and procedures of mediation and counseling at shelter homes so they can provide quality of services to these women.

Dastak Charitable Trust recognizes the fact that women come to shelter homes with different issues and they need to be assisted on an individual basis. In other words, all women cannot be treated and assisted in one way and these guidelines have been developed while keeping this important factor in mind. Dastak understands that mediation and counseling practices cannot be very stringent or fully standardized, and focusing too much on technicalities may turn out to be unproductive. Therefore, these guidelines have been developed to outline broader principles that should be followed while assisting women in distress.

Dastak Charitable Trust has developed the guidelines with consultation and assistance of experts in the field of counseling and mediation. These guidelines have been divided into two sections. The first section provides comprehensive guide to the concept of mediation, its significance, nature, conditions and ground principles on which mediation services should be provided. The second section focuses on Counseling; its basic principles, different types of

counseling, effective techniques and methodologies, and guidance to assist victims of different crimes such as rape, domestic violence, sexual abuse etc.

## **Section I: Guidelines for Family Mediation**

### **1 Defining Family Mediation:**

**Family Mediation** is a procedure in which a couple or a family voluntarily participates and sit together face-to-face to openly discuss their issue, try to resolve a conflict by reaching a mutual agreement, and make appropriate arrangements for the future with the help of an unbiased third party i.e., mediator.

Mediation is non-adversarial in nature in which the parties control the way to resolve the dispute. It takes place in a private and informal setting where parties sit together and collaboratively resolve an issue. Mediator has no power or influence in decision making and final outcome of the process. In mediation a dispute is only settled when both parties agree to the settlement. It is extremely important to understand that mediation is not a substitute of legal and court procedures. In fact it is only an alternative option to resolve conflicts in an informal and timely manner.

### **2 Aims and Objectives of Mediation:**

- 2.1** To provide free of cost opportunity to resolve a dispute at any mutually agreed date and time
- 2.2.** To provide a safe place and environment where two parties can comfortably sit and resolve their dispute at their own pace
- 2.3** To assist both parties in communicating with each other and try to reduce/resolve the issue
- 2.4** To facilitate participants in reaching a mutual agreement that *they think* is appropriate and practical solution to their problem

### **3 Conditions:**

- 3.1** The mediation process is started at the request of - either party and the other party is approached more than one time to participate

- 3.2 Both parties should agree to communicate and negotiate with each other with an intention of settling the dispute
- 3.3 Both parties reserve the right to suspend, withdraw or end the mediation process at any time/stage, without any obligation to furnish a reason

#### **4 Core Principles:**

- 4.1 Mediation is Voluntary: The mediation process is voluntary at all time for both parties and mediator. All participants have the right to suspend, terminate or withdraw from the mediation procedure at any time and stage.
- 4.2 Mediation is Confidential: Information acquired by the mediator about participants and their issues is highly confidential and cannot be disclosed to any one or on any other forum without their express permission. However, mediator should inform the parties about terms and conditions of maintaining confidentiality such as mandatory reporting in case of child abuse and threat of committing a crime.
- 4.3 Mediation is safe and secure: Mediation takes place at a location which is safe for both parties. Moreover, sitting and security arrangements are made according to the needs.
- 4.4 Mediation is empowering: One of the core principles of mediation is to empower and restore autonomy of parties so they can take a leading role in the mediation process. A mediator should support and encourage parties to make their own decisions both individually and collectively rather than imposing his/her ideas on them. In case participants asks mediator to take a leading role in decision making, mediator should immediately shift the focus back on the participants by addressing questions such as what do you think is fair? What do you think should be done? What are possible solutions to the problems addressed by you? What would you like to do? Etc. Mediator should keep a sound balance while empowering two parties and should prevent one party to dominate the decision of the other.
- 4.5 Mediation remains impartial: The mediator should not take sides with any party and try to remain neutral throughout the process. The mediator should not impose his/her opinions, pass his judgments on the parties and their problems, and try not to influence the outcome of mediation in any way.

#### **5 Balancing Impartiality versus Institutional Responsibility:**

There is an extremely fine line between impartiality and institutional responsibility, which must be respected to keep the mediation process watertight. As women are the recipients of shelter services, it becomes the responsibility of the shelter to safeguard their interests. In this regard, the mediator will ensure that there is no contravention of women's rights during the mediation process. However, the actual mediation proceedings must not in any way reflect undue favoritism or irrational support of the women's opinion/choices. Mediation is undertaken on the assumption that mutual honest dialogue between the two parties can lead to a solution and anything that violates this assumption is contrary to the spirit of mediation. While support for women is paramount, mediator must take an objective view of the realities of that situation.

## **6 Mediation is not:**

- 6.1** Counseling: The mediator only acts as an independent and neutral intermediary. If there is a need of counseling service, the mediator will only provide information on how to contact the counselor and benefit from available counseling services.
- 6.2** Reconciliation: Although mediation aims to improve relationships but it does not mean that the final outcome of this process will necessary lead to reconciliation. In other words, the success of mediation cannot be measured by the number of cases in which reconciliation successfully took place.
- 6.3** Legally Binding Agreement: Mediation is an informal process which is not bound by any legal formalities. The participants are free to withdraw or obliterate the mediation process at any time. If the dispute reaches the court at a later stage, records of the mediation proceedings may not be referred to in court endings. Similarly, mediators cannot act as a witness in legal procedures. However any document that records the decision of the mediation i.e. settlement agreement may hold persuasive value in court and may be submitted as evidence to show the prior intentions of the parties in case one of the parties detracts from the agreement.
- 6.4** Substitute for Legal and Court procedures: Mediation only aims to facilitate people to communicate and help them informally reach an agreement that they think is in their best interest. Therefore, meditation process is independent of any court rules or regulations and in no way substitute for the same.
- 6.5** Assured solution to a problem: There is no guarantee that mediation necessary leads to fruitful results. Mediation is simply a possibility/option through which amicable agreement could be reached. In case mediation fails, parties may consider other options for resolving conflicts such as through courts and other legal procedures.

## **7 Role of Mediator:**

Mediator will clearly explain aims and procedure of mediation, its term and conditions, information about getting access to legal services and psychological assistance before starting the mediation process.

**The following steps will help a mediator to prepare for the meeting and guide both parties toward the mediation process:**

**7.1** Defining Professional Limitations: A mediator should be able to fully understand the nature of case and determine the kind of professional assistance it requires. A mediator should know his/her professional expertise and limitations, and must not take cases that he/she is not equipped or trained to handle. Moreover, mediator should avoid offering other professional services to the parties even if he is equipped to provide it. For example, counseling and law-related needs should be left to the professionals.

Before starting the mediation process mediator should candidly explain his/her background and professional experiences because sometimes parties want a mediator with expertise in certain area such as divorce, domestic violence, child custody etc.

**7.2** Prepare both parties for mediation: Before bringing the parties face-to-face, the mediator should fully understand the situation and the issue at hand because bringing the parties together too soon and before appropriate time might create unfavorable circumstances.

**7.3** Selects appropriate location for mediation: A location is selected where both parties are comfortable and they can openly communicate. The sitting and security arrangements are made according to the needs of a case.

**7.4** Creates Pleasant environment: Mediator should try to create and provide best possible environment and try to prevent either of the parties from intimidating or threatening each other. Mediator pays close attention to the verbal cues and the body language of both parties during mediation. Mediator must ensure the woman is not intimidated or coerced during mediation by any of the persons present during the mediation session.

**7.5** Accurate Identification of the Issue: Mediator assists the parties in identifying and framing the main issues of the dispute and helps them focus on resolving those very issues. However, in no way should the mediator influence the articulation of the problems and listing of issues between the parties

- 7.6 Manage Negotiation Procedure: Mediator will oversee and manage structure of negotiation process by keeping modes of communication open and discussion on track. Mediator will also ensure that both parties are given equal opportunity to talk and propose their solution.
- 7.7 Prioritizing Issues: Mediator should assist both parties in resolving conflicts according to their needs and priorities. Some issues can be more significant than the others so they need to be resolved first such as security concerns, child custody, legal matters, etc.
- 7.8 Prepare Parties for Mutual Agreement: Mediator helps both parties to arrive at a possible solution to a problem and then facilitates them in reaching a mutual agreement. The mediator should only act as a bridge between the parties which means that his job is simply to help parties effectively convey their message to each other and find practical solution to their problem.
- 7.9 Documentation: Mediator should document the proposal and final outcome of the mediation.

## **8 Skills of Mediator:**

- 8.1 A mediator should try to remain impartial. In other words he should not take sides with any party and pass his own judgment on the parties and their problems
- 8.2 Must be firm but non-aggressive
- 8.3 Must be a good listener: allows views to be express freely during the sessions.
- 8.4 Must have complete information and understanding of issues being addressed by the parties
- 8.5 Has the ability to ask questions in numerous ways or approach one issue from different angles
- 8.6 Can vary his tone of voice and style of communication effectively
- 8.7 Suggest reasonable and practical solutions, if needed.
- 8.8 Find Common Ground for parties and guide them towards reaching mutual agreement
- 8.9 Bring parties to mutual consensus through dialogue
- 8.10 Document the proposals and final mutual agreement

## **9. Process/Stages of Mediation**

### **9.1 Stage 1: Introductory Session - Meeting of Mediator and participants:**

In the introductory session a party is introduced to the mediator and settings/environment in which mediation will take place. This session plays an integral role in setting the foundation of mediation procedure, which is about to take place. During this session, participants make several observations and judgments including how much they can trust the mediator, whether they feel comfortable talking about their issues, whether mediator will be able to assist them or not etc. Therefore, the level of comfort and trust of participants is contingent on the way mediator introduces her/himself, the way s/he talks and communicates. In other words, for any mediator “what to say is equally important as the way he says it”. This session can take place with the parties individually or collectively. It is advisable to keep this session separately with both parties so they can openly discuss their issues and point of views with the mediator.

At this stage, the mediator can follow the steps listed below:

- (i) Ensure that there is an appropriate place available for mediation i.e., mediation should take place in a private space, it should be safe and secure, in quiet and peaceful environment, and it should not be interrupted by other office staff or phone calls etc.
- (ii) Supporting and encouraging messages can be placed on signboards or visible places to boost the level of comfort and hope of participants. Moreover, advantages of mediation can be placed in the waiting area.
- (iii) Participants should be made comfortable by offering water/tea or suggesting them to use restroom to freshen up before talking.
- (iv) After participants are comfortably seated, mediator can initiate the conversation with general questions (such as asking how the participant(s) is doing, are they comfortable in the office, are they ready to talk about their issue etc) or by simply putting out positive comments to encourage participants to openly discuss their issues (such as appreciating their ability to stand up for their position, trying to resolve a conflict and taking a leading position in life etc.)
- (v) Mediator should introduce himself; briefly explain his background and experience in the profession, role and position in the mediation process. This means that mediator is solely going to act as a neutral third party facilitator who will simply help two parties to communicate and reach an amicable agreement. By no means, mediator is going to act



as an arbitrator: he has absolutely no authority to make decision, bound parties or even influence the result of this process in anyway. Mediator should discuss and clarify any questions they may have regarding role of mediator, mediation process and its final outcome.

- (vi) Mediator should then introduce parties to the mediation process by explicating the procedure, its core principles (discussed on page 3), any cost of mediation, how to access legal assistance, if needed. By introducing participants to the mediation process it is ensured that they have a very clear idea and reasonable expectations from the mediator and his services.
- (vii) Mediator should also inform parties about other options available other than mediation such as therapy, family counseling, legal and court procedures.
- (viii) Mediator should then clarify terms and conditions of mediation:
  - Both parties are willing and agreeing to participate with an intention of reducing or resolving the conflict
  - Both parties are participating in mediation without any obligation and pressure
  - All participants are obliged to keep their voices calm and should not adopt aggressive attitude, verbal cues, and body language that may threaten or make other party uncomfortable. If any participant misbehaves or uses inappropriate language/behavior he/she will be warned once and then asked to step out of the room immediately. In case participant(s) does not follow codes of behavior despite warning then the mediation session of that day can be immediately terminated.
  - Both parties have the right to suspend or withdraw from mediation process at any time/stage

Mediator should keep following elements in mind at the beginning stage of mediation;

- Determine the issue at stake
- Understand point of views of both parties towards an issue
- Assess whether there is a need for mediation
- Ensure there is no pressure on both parties
- Determine if all parties are willing and ready for mediation
- Analyze security concerns and determine if there is a need to make any security/legal arrangements
- Estimate number of mediation sessions required for a given case
- Set a date for the first mediation session

## **9.2 Stage 2 - During Mediation:**

Stage 2 comprises of a joint sitting of both parties where they are prepared to discuss the issue face to face. There is no set time and rule when the joint meeting will take place because mediator has to determine when it is appropriate to bring both parties together. In other words, it is mediator's judgment call based on his experience through which he determines the right time to bring parties together. It is important to note that bringing parties directly facing each other too early may have adverse effect on the mediation process and its outcome.

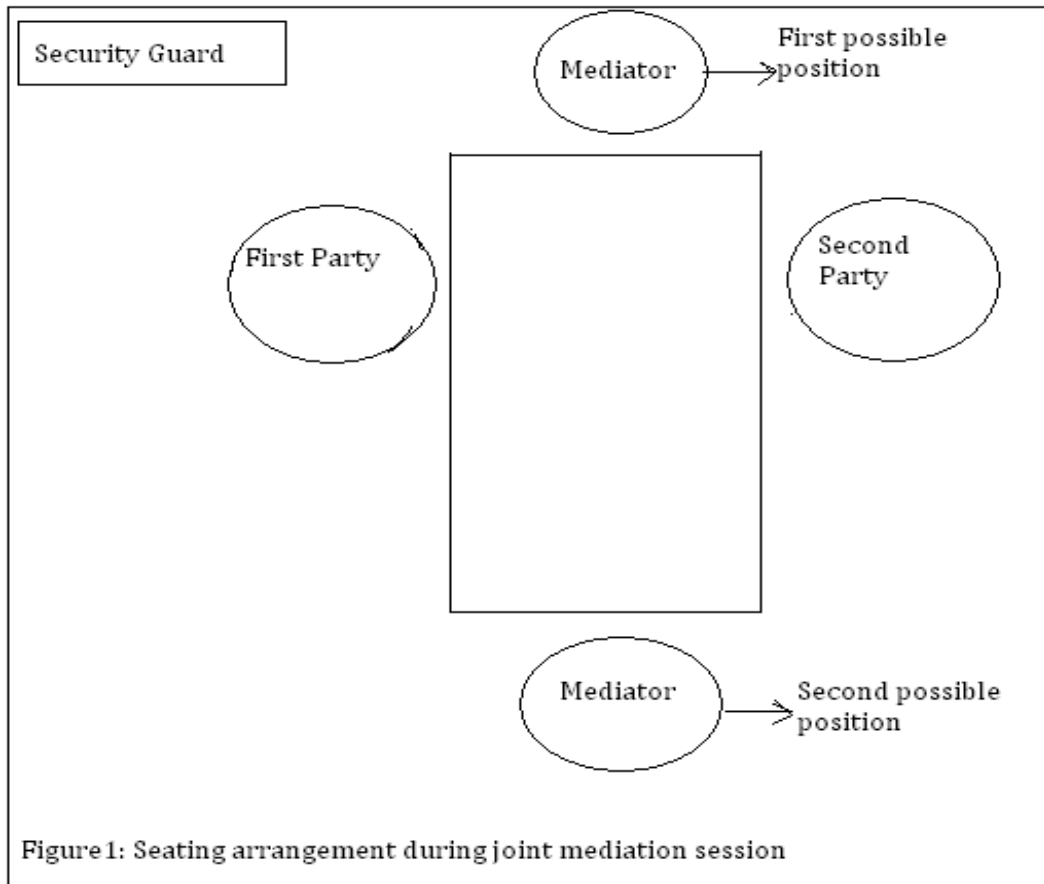
All parties should have knowledge and agree that the mediator may have private meetings with any one party and all discussions/details of that individual meeting are confidential between the mediator and that party, unless the party prefers otherwise.

The number of mediation sessions required to resolve an issue depends on the nature of a case. One party may reach a mutual agreement in two sessions while other may require five mediation sessions to resolve an issue. There is no standard time set for each mediation session and number of meetings within which mediation has to take place. However, a mediator should be able to estimate the number sessions that will be required to resolve an issue.

**9.3 Seating Arrangement:** Special attention should be paid to the seating arrangement as it plays a significant role in determining authoritative figure, role and position of participants, level of threat etc.

**Figure 1:**

- It is advised that two parties sit facing each other at a distance with a good eye contact. Initially eye contact may lead to aggression but eventually it helps to appease hostile feelings and emotions. Moreover, when two parties are facing each other it signifies that they are ready to make concrete decisions and resolve the conflict in a collaborative manner.
- One of the options is to ask parties to take a seat across from each other at a table. Table will help to create a good physical distance between the parties so they can feel safe and comfortable. Moreover, it also helps to create a personal space between the disputant parties.

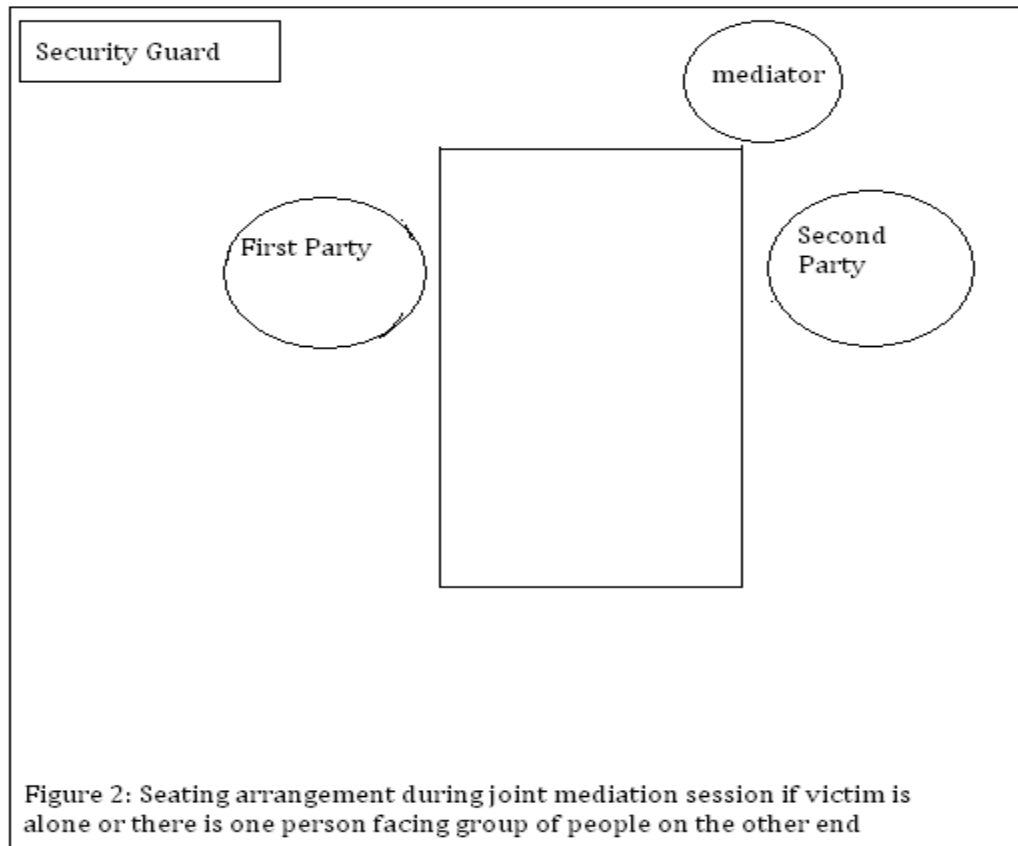


- Mediator can sit on either ends of the table facing towards the participants so that both parties can easily approach him/her. In this sitting arrangement two parties are seated across from each other so they can directly communicate and resolve the conflict. Mediator is seated on the end of the table to demonstrate and assist both parties as a neutral-third party negotiator.
- It is advised that a security guard is seated in the far corner of the room where he might not be able to even hear the ongoing conversation between the parties. In family mediation cases people often become emotional and aggressive so the mere presence of a security guard will help to keep things under control.

**Figure 2:**

- In case a victim is alone and there are no figures to support her part of the story then mediator can sit little closer to the victim rather than sitting in the middle of the table. Sometimes when a person is alone, she may have a hard time facing and communicating with a group of people on the opposite end. By sitting closer to the alone and aggrieved person, mediator simply tries to encourage and support the victim. In this situation,

even though physically mediator is sitting closer to one party, it does not mean in any way that he/she is taking side of that party or will act in his/her favor. In fact, sitting closer to a victim (when he/she is alone) is simply a way of exhibiting moral and psychological support.



- It is advised that victims of domestic violence and sexual abuse should be asked to take a seat where ever they feel comfortable because sometimes victims feel threatened to sit in the corner of the room or away from the entrance door.

**There are no fix rules and regulations for mediation procedure but mediator can follow some general guidelines for joint mediation sessions:**

#### **9.4 Role of Mediator in the Joint Session:**

Mediator can start the first joint session by putting out *general* positive and encouraging comments because it gives hope to the participants that their issue can be resolved in an amicable and fair manner, if both parties respect the rules of mediation. On the initial stages it is important that the mediator should not make specific reference to the issue in dispute as the parties might not be ready for affirmation or confrontation yet.

There are several ways to start a mediation session. One of the options is to ask one party (usually start with the party who requested for mediation) to bring up their issues of concern and then let the other party discuss their part of the story. If both parties are able to communicate and manage well on their own then mediator should let them discuss topics of their choice. In the meanwhile mediator can take notes and try to identify main reason of conflict which needs to be focused and discuss later in detail. A good mediator will keenly focus and understand the challenges being faced by the two parties. He should not solely focus on verbal cues but also pay attention to their tone of voice, expressions and body language.

If the parties are having a hard time initiating the conversation then the mediator can take a lead at starting the dialogue at first mediation session. Mediator can ask one party (usually start with the party who requested for mediation) to elaborate on one of the issues discussed in the individual meetings with the mediator. It is important to keep in mind that the mediator should not provide summary of individual meetings held with each party but simply introduce or mention the concern. The party will then be requested to take a lead from there and share their thoughts. However, mediator can remind parties to discuss an important point that they are missing out. In this approach as well mediator will only serve as a third party negotiator/facilitator that ensures smooth communication is taking place between the parties and they are moving towards agreement reaching stage.

In family mediation cases it is quite normal that parties deviate from the main issues that led to the dispute. So, it is extremely important that mediator assist both parties to concentrate on the relevant issues and ask them to propose possible resolutions. The mediator should intervene only if parties are having a hard time in communicating, becoming aggressive or engaging in irrelevant discussions. When dealing with difficult challenges and complex emotions, parties tend to become overly emotional or overly disappointed at their situation. Therefore, it is part of mediator's job to encourage both parties and help them maintain positive attitude throughout the mediation process.

#### **9.5 Ending the Session/Preparing parties for the next session:**

It is not necessary that an issue is resolved in one mediation session. The number of mediation sessions required to resolve an issue depends on the nature of case, attitude and number of parties involved in the process. After the first session, mediator can ask the parties to think about their discussion and meet again in few days/weeks when they are ready to talk again. This allows both parties to rethink about their problems, position, decisions and future action plan.

In the next sessions mediator will follow the broader principles discussed above and help both parties in communicating and moving towards mutual agreement reaching stage.

According to Dastak's experience, on average mediator have 5-6 individual meeting with the participants and 3-4 mediation sessions.

## **9.6 Agreement Reaching Stage/Final Meeting:**

After holding mediation sessions both parties will have a clear understanding of their issues and will be ready to make decisions that they think is in their best interest. Once parties have reached this stage, which may be after single or multiple sessions, mediator should assist the parties in collaboratively reaching a mutual agreement. Mediator should ensure that both parties are making the decision according to their free will and there is no pressure on them.

When both parties have reached a mutual agreement, mediator should write down details of the final meeting that includes final decision of parties, its terms and conditions, and future arrangements that need to be made. In the end, both parties will be asked to carefully read and sign the agreement.

It is important to keep in mind that this agreement has no legal standing and could not be court cannot enforce its provisions. In other words, the decision and agreement reached through mediation is a private and informal procedure. However, it may have persuasive value and may be admitted in court as evidence to show prior intentions of a party.

## **10 Proper Documentation:**

The detail of mediation sessions and the final outcome of each case should be properly documented because:

- It will help the shelter home to maintain proper records of its residents, their issues and the way in which those very issues were resolved.
- Proper documentation will also help to assist those women who return to shelter home after successfully resolving the conflict through mediation. Shelter staff would then be able to identify/ focus on resolving *the actual issues* that encouraged women to come back to shelter home.
- Record keeping will help a mediator to observe nature and trend of family mediation cases.

Meeting with the lawyer	<input checked="" type="checkbox"/>
Meeting with the psychologist	<input checked="" type="checkbox"/>
Total no. of counseling sessions	<input type="text" value="5"/>
Meeting with the mediator	<input checked="" type="checkbox"/>
Total no. of mediation sessions	<input type="text" value="3"/>
Reached Final agreement with consent of both parties	<input checked="" type="checkbox"/>
Terms and conditions of final agreement recorded	<input checked="" type="checkbox"/>
In case parties failed to reach mutual agreement through mediation they are guided towards other facilities	<input type="text" value="Yes/No"/>

**10.1** The mediator should prepare a brief summary of a case that includes information of the participants, reason(s) of conflict/ issue, detail of mediation session, its final outcome, final agreement along with its terms and conditions etc.

**10.2** The mediator can also use a brief form (on the left) with list of facilities that have been availed by the participants at the shelter home such as legal assistance, psychological services, mediation, and other facilities.

**11 Benefits of Mediation:**

**11.1** Mediation is cost- effective and less time consuming in comparison to court procedures.

**11.2** Improves communication and mutual understanding between two parties

**11.3** Mediation may help to reduce chances of conflicts in the future and/or help to resolve future disputes more easily

**11.3** Mediation is an informal way of resolving conflicts which allows the participants to resolve disputes according to

their own will and pace. This also makes mediation procedures less stressful.

**11.4** Mediation is effective because participants are less likely to withdraw or breach agreements that they have made themselves.

Mediation is a very informal and flexible procedure to resolve conflicts; therefore, there are several possibilities and outcomes of this process. It is not possible to classify mediation into different categories such as 'successful' and 'non-successful mediation.' More importantly, it is extremely crucial to understand that 'successful mediation' does not necessarily mean reconciliation. In fact, mediation will be considered successful in which both parties are able to resolve the conflict through reach mutual agreement.

The four case studies of mediation process at Dastak will help to explain the way mediation takes place and the way mediation principles are applied on practical level. The following case studies will also exhibit that different approaches are used to resolve each case and their outcome also varies significantly.

### **12.1 Case study No.1:**

**Issue:** Ms. Farida came to seek temporary refuge at Dastak. Farida had done Masters in Islamic Studies and belonged to a respectable family. She got married to Naveed Ahmed against the will of her parents. Farida's parents were against this marriage because Naveed belonged to another cast. Naveed's parents approached Farida's family many times to arrange their marriage but they were continuously refused. In the meanwhile Farida's parents arranged her marriage with one of her cousin who was an illiterate. When Farida protested against the forced marriage she was beaten by her brothers and locked in the house.

When Farida was not left with any other choice, she left the house and got married to Naveed. Later she informed her family about the marriage. One of Farida's uncles was a politically strong figure who filed a false case of abduction against Naveed and his family. Police arrested Naveed and his family and the case was taken up to the high court. Farida took refuge at Dastak and requested for both mediation and legal assistance.

Farida's family wanted her to go back with them but she wanted to live with her husband, Naveed. Farida wanted things to settle down peacefully which meant her family allowing her to live with Naveed and withdrawing the false abduction case they filed against him.

**Mediation process:** Special security arrangements were made for the mediation sessions because Farida was meeting her family for the first time after getting married to Naveed.

Farida's entire family was part of the mediation session. Naveed was really scared at that time so someone else from his family participated in the mediation sessions on his behalf. During mediation, Farida's family put forward two conditions:



- They will withdraw the false abduction case if Naveed's family agrees to give their two daughters in marriage to Farida's family.
- The wedding ceremony of Farida and Naveed will be formally arranged if Farida leaves the shelter home immediately and agrees to go back with her family.

Farida's position: Farida told her family that she married Naveed Ahmed with her own free will and she is not ready to go back with her family on any condition.

Naveed's position: When mediator talked to Naveed on the phone, he refused to accept any terms and conditions put forward by Farida's family. Naveed said he did not trust Farida's family and that there is no guarantee that they are not going to harm him even if he agrees to the terms and conditions.

Farida's family position: Farida's family was very stubborn on their position. Therefore, after six mediation sessions both parties decided to withdraw from the mediation process and resolve the matter through court procedure.

**Final Outcome of mediation:** Unfortunately, the mediation sessions did not turn out to be fruitful due to several reasons:

- Naveed never directly/physically participated in the mediation sessions. The person selected by Naveed to participate in mediation on his behalf could not make any commitment before asking Naveed. Therefore, the mediation sessions become lost momentum and impact and subsequently failed to reach any agreement.
- Both parties were very stubborn on their positions and refused to come on come grounds. In other words, both parties were not ready for any kind of sacrifice.
- Different terms and conditions were put forward by the parties that were either not practical or not acceptable to each other.

**After mediation:** In the final mediation session, Farida decided to leave the shelter home and start living with Naveed, regardless of all security threats.

## **12.2 Case Study No. 2:**

**Issue:** Fatima came to seek shelter at Dastak along with other facilities including legal assistance, counseling, and mediation etc. Fatima's brother got married to a woman of his own choice. As a result the family of that woman filed invalid cases against Fatima's family. During this time Fatima was engaged to her first cousin but engagement was later broken due to these issues.

Nevertheless, Fatima's family forced her to get married to another person, Abid who was a sales man by profession. When Fatima came to Dastak she had been married to Abid for five

years. These five years of marriage life included verbal and physical abuse and day to day fights. One day Ayesha, Fatima's sister-in law left the house and got married to someone of her choice. Fatima's in-laws held her responsible for this event and accused her of helping Ayesha in getting married secretly. They also verbally abused Fatima and threatened to kill her and take her kids away. Therefore, Fatima left the house and came to Dastak.

**Mediation Process:** When Fatima came to Dastak, need and risk assessment was done by the shelter staff. Fatima's family was contacted for the mediation process. Fatima's husband wanted things to work out with her wife. Unfortunately, Fatima's in-laws were stubborn on their position and firmly believed that she was responsible for misguiding Ayesha on the "wrong" path.

Mediator at Dastak had individual meetings with all these participants that include Fatima, her husband, and in-laws.

Fatima's position: Fatima said that she has nothing to do with Ayesha leaving the house and secretly getting married. Fatima was worried that her in-laws might encourage her husband to give her divorce and keep children with him.

Fatima was provided counseling facility at Dastak. Moreover, Fatima was also offered legal aid facility so she can be aware of her legal rights.

During mediation, Fatima agreed to go back home with her husband on one condition that the husband and his family stop beating and abusing her.

Fatima's husband held separate meetings with mediator and underwent counseling before the joint session so he was prepared for the actual/formal mediation process.

**During Mediation:** Fatima's brother and his wife participated for mediation process from her side. On the other hand from Abid's side his parents, aunt and brother-in-law participated. All rules and regulations were explained to the parties before starting the mediation process.

During mediation it was recognized that the situation was manageable and was in fact being made worse by Abid's aunt undue interference. The role of mediator was very crucial here in identifying the problem and eliminating participants that are intentionally causing hurdles/misunderstandings. Mediator observed that during mediation sessions Abid's aunt continuously criticized and abused Fatima. Gradually mediator discovered that she always wanted her daughter to get married to Abid, therefore, she continuously creates issues in their life now.

Mediator politely requested Abid's aunt to step out of mediation and wait outside the room so that Abid, Fatima and their parents can directly resolve the conflict.

**Final Outcome:** When Abid's family sat alone face-to-face with Fatima's family, they agreed to change their negative attitude towards Fatima, which means that no one in their family will verbally abuse and degrade her again. Moreover, they agreed that they are not going to accuse Fatima for assisting Ayesha in secretly getting married.

It was decided that Fatima's brother will remain closely in touch with her sister to ensure that Abid's family is not mistreating her again. Moreover, initially he will visit her house once a week and then once every two weeks.

**After Mediation:** After mediation Fatima went back with Abid and his family. Details of the mediation sessions were documented/recorded by the mediator along with the final agreement and its terms and conditions.

### **12.3 Case Study No.3:**

**Issue:** Shamim was forced into an arrange marriage with Anwar. From the first day, Shamim was mistreated by Anwar's family as they often used to beat her. Shamim's parents refuse to support her after the marriage; therefore, her in-laws attitude towards her became worse over the time. Shamim's brother in-law used to claim that he has contacts with jins/spirits and they inform him about all the "wrong" moves of Shamim. For example, once he had beaten Shamim claiming that jins have informed him that she had placed hidden amulets in their house.

Shamim's husband was working as a real estate agent and did not have courage to fight against his family. One day Shamim's in-laws took her child and forced her to leave the house. Shamim went to her parent's house and they agreed to support her temporarily. When Shamim's in-laws found out that she is staying at her parent's house they started threatening Shamim and her family. Therefore, Shamim's parents send her to Dastak to seek temporary refuge and file the case for child custody.

**Mediation Process:** Shamim was provided counseling services, legal awareness and assistance at Dastak before starting the mediation process. Shamim's husband was also provided counseling services by professional psychologist at Dastak. Shamim's husband and his family were contacted to participate in the mediation sessions.

Shamim's position: Shamim wanted her children back through legal procedures. She was willing to go back with Anwar on three conditions: she should not be beaten by Anwar and his family. Secondly, she is no longer going to live with her in-laws and demanded Anwar to arrange an independent house for them. Thirdly, Anwar must bear all the household expense.

Shamim's in-law position: Shamim's father in-law put forward following conditions: he is going to bear all the expense of their house because Anwar is not financially stable at the moment.

Secondly, they should be able to freely meet their grandchildren and no restrictions should be placed by Shamim.

Shamim's argument: During mediation shamim argued that she needs complete independence and privacy in her life. She refused to accept the living arrangements proposed by Anwar's family because she believed they will continuously interfere in her personal affairs.

Anwar's position: Anwar said his parents are alive and he is truly grateful to them for even accepting Shamim in their family. Anwar said his parents have the full right and authority to make decision on his behalf which means that they will bear all the expenses and should be allowed to freely meet their grandchildren.

Final Outcome: Both parties refused to accept the terms and condition put forward by each other. Therefore, mediation process was temporarily stopped and parties were suggested to consult the lawyers at the office.

After consultation with lawyers parties contacted the mediator again and informed that both parties are still not willing to compromise. Shamim argued that Anwar is fully dependent on his family and cannot take any decision on his own. Therefore, they have decided to take divorce. Shamim filed the case of divorce and demanded legal custody of her children.

Important note: This case study is a good example of successful mediation case (regardless of the fact that final decision of the parties was to get divorce) because both parties were able to reach amicable decision through mutual understanding and cooperation.

#### **12.4 Case Study No. 4**

**Issue:** Naz' parents used to live with her uncle because they both were speech-impaired and deaf. Naz' uncle was the authoritative figure in the house who forced Naz to marry his son, Haider who was five years younger than her. Haider was a FA student and he used to be abusive towards Naz. Gradually the physical and emotional abuse increased, and when Naz asked for divorce she was brutally beaten by Haider and her uncle.

Finally Naz left the house and came to Dastak to resolve the matter through mediation. Naz's family was contacted with her permission to participate in mediation process.

Naz was given psychological and legal aid/ counseling facilities at Dastak so by the time she participated in the mediation process she was both legally aware of her rights and mentally prepared to make decision for herself.

**During mediation:** After 2-3 individual meetings Naz agreed to meet the family. Haider did not participated in mediation and only talked to Naz over the phone. Naz's parents and her aunts

participated from her side. On the other hand, Haider's father participated along with other well-known, respectable people from their society to participate in the mediation.

Naz' family position: Naz' family accused her for being rebellious and irrational. They said Naz can take the divorce on one condition: she leaves the shelter immediately and go back with her family.

Identification of main issues: After holding individual meetings with Naz, her family and in-laws, mediator tried to identify the main issues leading to conflict. Mediator asked questions in numerous ways and realized that Naz and Haider did not have any mutual understanding because there is a significant age difference between them. Secondly, they both were forced into this arrange marriage by their families so that property remains within the house. Thirdly, Haider wanted to marry someone with his own choice but he was forced to marry Naz who was five years older than him. Therefore, he used to take out all his anger and grudge on Naz by adopting abusive behavior towards her.

Terms and Conditions:

- It was mutually decided that Naz will go back with her parents and there should no pressure on her from the family/relatives.
- Since Naz' family and her uncle live in the same house, Haider will not enter their portion of the house.
- Naz will get divorce within 15 days and if this did not happen then Naz can start the legal procedures again.

**After mediation:** Mediator recorded all the terms and condition on which mutual agreement is reached. After twenty days Naz contacted her lawyer complaining that the issue has not been resolved yet. The lawyer contacted the crises manger/mediator at Dastak and asked them to contact the parties again and remind them about the agreement. When mediator tried to contact the second party they refused to meet for another mediation session and switched off their phones.

Naz contacted the mediator again because she was not feeling secure at her home and wanted to leave immediately. After discussing the situation with her lawyer, Naz left her home and came to Dastak once again. Naz filed the case again with the help of a lawyer at AGHS and stayed at Dastak until she got the divorce.

Lessons learned from this case study: This case study has been mentioned in these guidelines to explicate several important points:

- Firstly, there is no guarantee that all issues can be fully resolved through mediation. In this case, both mediator and both parties tried their level best to resolve their issues through dialogue and direct communication. As a result of the mediation, Naz agreed to return home to give her family a second chance but the issue was not resolved as per the mediation agreement she returned to Dastak and decided to resort to court. She was now further satisfied that her decision to take divorce is well thought out and in her best interest.
- Secondly, in any situation mediator cannot force either party to follow the terms and conditions put forward by them in the mediation process. If parties change their mind after mediation and decide to opt for other ways to resolve the conflict then they are free to do so.
- Thirdly, there should be no discrimination against women who wish to return to shelter homes nor should there be undue pressure on them to solve their conflicts within a deadline. Naz came back to Dastak when she realized that her issue had not been resolved and stayed at Dastak till her divorce was finalized.