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CAN MATRIMONIAL MEDIATION UNDERMINE WOMEN'S SUBSTANTIVE RIGHTS? A FEMINIST LEGAL ANALYSIS

Abstract:

This paper examines whether matrimonial mediation in India, despite being promoted as an efficient and less adversarial mode of dispute resolution, can undermine the substantive rights of women. It argues that while mediation is often presented as a neutral and consensual process, its operation within deeply unequal matrimonial and social structures can produce outcomes that are formally agreeable but substantively unjust. Using a feminist legal framework, the paper analyses how concepts such as neutrality, consent, and compromise may conceal structural inequalities rooted in patriarchy, economic dependency, and cultural expectations surrounding marriage. The study further evaluates the Indian legal framework governing matrimonial mediation, including the Family Courts Act, 1984, Section 89 of the Code of Civil Procedure, 1908, and the Mediation Act, 2023, to show that although the law institutionalises mediation, it does not adequately address gender-specific vulnerabilities. Particular attention is given to the effect of mediation on women's rights relating to maintenance, custody, protection against domestic violence, and property entitlements. The paper concludes that matrimonial mediation is not inherently oppressive, but in the absence of safeguards such as domestic violence screening, gender-sensitive mediation practices, access to legal counsel, and judicial scrutiny, it may

function as a mechanism that prioritises settlement over justice. It therefore calls for a rights-based and gender-sensitive restructuring of matrimonial mediation so that it protects, rather than dilutes, women's substantive rights.

Keywords: *Matrimonial mediation, women's substantive rights, feminist legal theory, family law, domestic violence, gender justice, mediation in India, access to justice, power imbalance, consensual dispute resolution.*

1. INTRODUCTION

The growing institutionalisation of Indian mediation in matrimonial disputes is an indication of a larger change in the legal system of adjudication as adversarial to consensual forms of dispute resolution. Conventionally, family litigation was handled within a formal litigation that was mostly criticised to be time consuming, emotional and confrontational in style. Indian courts and policy makers have, in turn, advanced mediation as a less hostile, cheaper and more efficient alternative. Introduction of Family Courts under the Family Courts Act 1984 was a big step in the same direction which required reconciliation and settlement in family disputes.¹ This move has also been reinforced by the statutory and judicial approvals regarding the use of mediation especially in Section 89 of the Code of Civil Procedure, 1908 where the courts are entitled to place disputes under alternative dispute resolution mechanisms, such as mediation. The incorporation of mediation into a formal and legally recognised process has just become codified in the Mediation Act, 2023, which has just reaffirmed the State in its implementation of a settlement-oriented justice.²

¹ Family Courts Act, 1984, Statement of Objects and Reasons; Section 9 (duty of Family Court to make efforts for settlement).

² Mediation Act, 2023 (India), Preamble and relevant provisions recognising mediation as a formal dispute resolution mechanism.

This mediation focus has its foundation in the perceived advantages of efficiency, less backlog of cases and maintenance of relationship, especially in the matrimonial setting where family connections are usually viewed as important. Nonetheless, a significant conflict between procedural efficiency and substantive justice arises in this change as well. Although mediation focuses on fast and amicable solutions, it can come at a cost of complete implementation of legal claims of the involved parties. This tension is especially important in matrimonial conflicts since they are often integrated in unequal systems of social and economic forces. In most instances, women can be placed into mediation processes at a structural disadvantage because of economic dependency, socialization and cultural norms on marriage and family.³

According to feminist view of the law, the ostensible impartiality of mediation as a dispute management tool is subject to censure. Feminist critics have been making this argument since ancient times: that legal practices that are supposedly neutral do not take into consideration the underlying inequalities, furthermore, they replicate already existing power imbalances unwittingly.⁴ By focusing on compromise and mutual agreement, mediation runs the risk of distorting the asymmetrical realities of matrimonial relationships, where one of the sides the woman is often not at equal bargaining power. This problem is also complicated by the fact that the mediation process can be carried out privately and informally, thus decreasing the presence of such aspects as coercion, pressure, or unequal bargaining positions, which can affect the process. Consequently, the conception that the mediation outcomes are inherently fair as they are consensual turns out to be quite problematic when approached with the help of a gender-sensitive perspective.⁵

The main research problem of the paper hence is to investigate whether matrimonial mediation as practised today in India compromises the substantive rights of women. In this respect, such terms as substantive rights may be seen as not only the formal legal rights of women, included in maintenance, protection against domestic violence or property rights, but the real possibility of women to exercise and bring into the practice these formal rights. The worry is that mediation

³ Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press 1999).

⁴ Catharine A. MacKinnon, *Toward a Feminist Theory of the State* (Harvard University Press 1989).

⁵ Martha Albertson Fineman, "Dominant Discourse, Professional Language, and Legal Change in Child Custody Decisionmaking" (1988) 101 *Harvard Law Review* 727.

can give rise to settlements that technically solve the disputes but at the cost of eroding or undermining these rights thereby putting more emphasis on the resolution than the justice.⁶

The argument in this paper is that as much as mediation has great benefits on efficiency and resolution of disputes, it can be structurally unjust to women because of the long traditions of imbalance of powers and influence of the patriarchal society entrenched in the matrimonial relationships and societal norms. Without proper precautionary measures, however, including gender-sensitive mediation techniques, domestic violence screening, and judicial review, there is a danger that mediation is operated not as an agent of empowerment, but as an instrument that strengthens existing inequalities in the medium of settlements to consensuality.⁷

2. THEORETICAL FRAMEWORK: FEMINIST LEGAL PERSPECTIVE

The approach to analyzing matrimonial mediation on a critical basis is provided by the feminist law theory especially in its connection with the substantive rights of women. Feminist jurisprudence is most fundamentally based on a critique of the belief that law is neutral, objective, and universal. Rather, it states that the legal systems are traditionally influenced by the patriarchal organization that tends to ostracize the experiences and interests of women. In this context, the various streams of feminist thought provide different but complementary ideas. Liberal feminism pays attention to formal equality and promotes equal legal rights and access to justice among women in the current legal frameworks. ⁸Radical feminism however questions the structural nature of patriarchy and it poses institutions like marriage and family as being places of systemic domination that create gender inequality. Intersectional feminism broadens this criticism by pointing out the intersection of gender with other identity formations, like class, caste, religion, and economic status, and, thus, creates different and multiple experiences of oppression. All these views allow an observer to view matrimonial mediation in terms of operation within wider socio-legal frameworks of power.

⁶ Sharmila Lodhia, "Negotiating Gender Justice: Women and Alternative Dispute Resolution in India" (2010) 44 Economic and Political Weekly 69.

⁷ United Nations Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 33 on Women's Access to Justice (2015).

⁸ Catharine A. MacKinnon, *Sex Equality* (Foundation Press 2001).

One of the key ideas of the feminist legal theory is the difference between formal and substantive equity. The concept of formal equality is founded on the premise that, people need to be treated equally before the law regardless of their social or economic status. Nevertheless, according to feminist scholars, such a course of action is inadequate when it comes to the structural inequalities that are deeply rooted. Substantive equality, in contrast, acknowledges that people might start in an unequal position and thus need to be treated differently or provided with extra protection in order to reach truly equitable results.⁹ This difference is especially important in the context of the matrimonial mediation. Although the mediation processes can seem to be formally equal, giving both sides a chance to negotiate and find a compromise, the unequal bargaining power of the two parties usually leads to the situation when women will be underprivileged. In this way, even formally fair process might have substantively unfair outcomes.

Feminist argument further extends to the concept of neutrality in the legal procedure, such as mediation in alternative dispute resolution. It is also said that the concept of mediation being a neutral, facilitator-oriented process is one of its main strengths. Nevertheless, feminist academics claim that neutrality may be a veil that hides the inequalities that exist between parties at hand.¹⁰ Despite the fact that mediators are formally neutral, they work in a social environment, which is heavily colored by gender expectations and conventions. Consequently, the procedure might subconsciously favour dominant voices and unbiased views, and discriminate women who might already be within a vulnerable situation. This problem can be further increased by the lack of formal procedure protection and informality of mediation which restricts accountability and control.

The other important aspect in feminist legal analysis is how the private and the public are distinguished especially in family law. Traditionally, the family had been regarded as a closed space, outside the influence of the state on its structure, which was based on the assumptions of control by personal relations and mutual agreement. This dichotomy has been fiercely opposed by feminist scholars who hold that the private realm of the family is in many occasions, an arena

⁹ Sandra Fredman, *Discrimination Law* (2nd edn, Oxford University Press 2011).

¹⁰ Martha Albertson Fineman, "The Illusion of Equality: The Rhetoric and Reality of Divorce Reform" (1991) 86 *Chicago-Kent Law Review* 727.

of considerable power imbalance, domination and even violence.¹¹ The legal system makes the situation even worse by placing matrimonial conflicts within the umbrella of individualized issues that can be addressed easily by mediation. It is particularly disquieting when it comes to domestic violence or economic dependency and where the absence of official adjudication can lead to an inability to enforce any legal rights and protection that women can claim under statutory provisions.

In this more general critique, feminist views of alternative dispute resolution (ADR) tend to point at the conflict between compromise and enforcement of rights. By definition, mediation is a process that is focused on settlement and mutual agreement, and usually, can tempt parties to compromise to get a solution. Although this perhaps suits well in conflicts among relatively equal parties, feminist scholars warn that in gendered settings like in matrimonial conflicts, compromising may result in the erosion of legal rights of women.¹² As an example, the rights to maintain, live and protection against violence and property could be dealt with and negotiated away so as to reach a swift settlement. This change of approach toward a rights-based system into a settlement-based one has solemn questions about whether mediation is going to provide justice to women, or whether it is just an efficient way to resolve the conflicts at the cost of the actual equality.

Therefore, the feminist legal theory does not only represent a critique of the prevailing legal frameworks, but it also includes a perspective in which the drawbacks of the mediation in cases of matrimonial conflicts can be interpreted. It highlights the necessity of going beyond the formal ideas of the neutrality and equality, and acknowledging the structural factuality that determine the experience of women in the legal system as well as in the society, in general. In the absence of this approach, mediation can create a risk of continuing the same inequalities that it is intended to solve.

¹¹ Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press 1999).

¹² Trina Grillo, "The Mediation Alternative: Process Dangers for Women" (1991) 100 *Yale Law Journal* 1545.

3. LEGAL FRAMEWORK OF MATRIMONIAL MEDIATION IN INDIA

The legal system that regulates matrimonial mediation in India has been developed as a result of interaction of statutory, judicial and policy based reforms in a bid to ensure that disputes are resolved in a friendly manner. The legislation provides a substantial basis of mediation in family disputes, the Family Courts Act, 1984, which was established to provide a quick resolution of family disputes by the use of conciliation and counselling. The Act also obliges Family Courts to strive to arrive at settlement prior to hearing a dispute establishing reconciliation as an initial phase in matrimonial litigation. This signifies a conscious change in theme of adversarial adjudication into a more cooperative and settlement based model of justice in family affairs.

Additionally reinforcing this, Section 89 of Code of Civil Procedure, 1908 gives legal status to alternative dispute resolution methods, including mediation. This gives the courts the authority to send pending cases to mediation whereby they can see the elements of settlement, and thus incorporate mediation into formal judicial procedures. Section 89 has been vital in operationalisation with the Supreme Court being at the forefront in setting the guidelines within which it can be applied and through which courts can effectively mediate as an effective means of resolving disputes.¹³ This has seen the evolution of court-annexed mediation centres as a part and parcel of the judicial system especially where reconciliation is usually of a high priority in matrimonial dispute.

The last development has been the implementation of the Mediation Act, 2023, which has been a milestone in formalising and standardising mediation in India. The Act is aimed at offering an overall legal framework in which court referred and also private mediation are regulated, procedures, binding of the settlement agreements, and the mechanism of mediation practice at the institutional level are outlined. It is important to note that the mediated settlement agreements are acknowledged under the Act as legally binding and enforceable with the result that the legitimacy and finality of the mediation outcomes are increased. Nevertheless, although the Act reinforces the procedural character of mediation, it still fails to cover the gendered aspects of matrimonial conflict and does not include the safeguards which are aimed at protecting the vulnerable parties in particular.

¹³ Salem Advocate Bar Association v Union of India (2005) 6 Supreme Court Cases 344.

Mediation has gained traction among the courts, and sets a broad and wide scope of role. The courts have continually reiterated the role of mediation in curbing lawsuits backlog and in maintaining family relations. Matrimonial disputes are often subjected to mediation by courts at different stages of a proceeding, where settlement is often seen as a better result than long litigation processes.¹⁴ Although this judicial support has seen many resort to mediation, it has also brought out the question of whether this will put the parties, especially women, under pressure to reach conflicts even in cases where they may be endangered by their legal rights.

This landscape is also worsened by the nature and enforceability of the mediation settlements. Mediated agreements that are approved by the court attain the status of a decree and they are legally binding on the parties. This gives it some finality and enforceability which increases the efficiency of the dispute resolution. Nevertheless, due to the informal and secretive character of the mediation proceedings, the process that results into the conclusion of such agreements is never subjected to intense judicial investigation. As a result, it is possible that settlements could indicate unequal bargaining power or coercive situation, especially in situations of an economic dependency or a case of domestic violence.

One of the main problems of the current legal system is the absence of direct gender-specific protection of matrimonial mediation. Although the provisions of the statute focus on settlement and efficiency, the statute fails to take into consideration the structural inequalities that define most matrimonial relationships. Screening cases of domestic violence is not compulsory before referring those cases to mediation, there are no established principles that guarantee that the statutory rights of women like maintenance, residence, or safety against abuses will not be undermined throughout the settlement process. The lack of these protection mechanisms is a very worrying issue as to whether the current design of mediation can be effective in providing substantive justice to women.

Therefore, although the legal system of matrimonial mediation in India is well-organized towards facilitating effectiveness and resolving, it is not well fitted to meet the gendered nature of matrimonial conflicts. The reconciliation and compromise focus without the relevant safeguards

¹⁴ Afcons Infrastructure Ltd v Cherian Varkey Construction Co (P) Ltd (2010) 8 Supreme Court Cases 24.

of vulnerable parties is prone to change mediation into a mechanism that objectifies dispute resolution other than enforcing the right.

4. POWER, CONSENT, AND GENDER DYNAMICS IN MEDIATION

Matrimonial mediation, though presented as a neutral and consensual process, operates within a socio-legal context marked by significant power imbalances that directly affect the quality and fairness of outcomes. These imbalances are not merely incidental but are structurally embedded in the institution of marriage itself, particularly in societies like India where gender roles are deeply entrenched. Women in matrimonial disputes often face economic dependency, limited access to resources, and social conditioning that prioritises familial harmony over individual rights.¹⁵ Such disparities create an uneven bargaining environment in mediation, where the ostensibly equal negotiating space fails to account for the unequal positions from which parties enter the process. As a result, the process may replicate rather than resolve existing inequalities.

A key assumption underlying mediation is that of voluntary and informed consent. However, feminist legal scholars have critically challenged this assumption, arguing that consent in such contexts is often shaped by subtle and overt forms of coercion. The notion of “voluntary consent” becomes problematic when one party is influenced by fear of social stigma, economic insecurity, or emotional pressure.¹⁶ In matrimonial disputes, women may agree to unfavourable settlements not because they genuinely consent, but because the alternatives prolonged litigation, social ostracism, or financial instability are perceived as more burdensome. Thus, what appears as consensual resolution may, in reality, reflect constrained choices rather than genuine autonomy.

Cultural expectations surrounding marriage further intensify these dynamics. In many instances, mediation is not merely a legal process but also a social exercise aimed at preserving the institution of marriage. The cultural emphasis on maintaining marital relationships often places disproportionate pressure on women to compromise, forgive, or reconcile, even in situations

¹⁵ Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press 1999).

¹⁶ Trina Grillo, “The Mediation Alternative: Process Dangers for Women” (1991) 100 *Yale Law Journal* 1545.

involving serious grievances such as cruelty or abuse.¹⁷ The stigma attached to divorce and the societal valorisation of marital endurance can lead to mediation outcomes that prioritise reconciliation over justice. This cultural backdrop significantly undermines the neutrality of mediation, as it implicitly shapes both the process and the expectations placed upon the parties.

The role of mediators themselves also warrants critical examination. While mediators are expected to remain neutral facilitators, their influence on the process and outcome can be substantial. Mediators often guide discussions, frame issues, and suggest possible solutions, thereby shaping the direction of negotiations. In the absence of strict procedural safeguards, there is a risk that mediators may consciously or unconsciously reinforce societal norms that favour settlement over rights enforcement. For instance, mediators may encourage compromise in the interest of resolving disputes quickly, without adequately considering whether such compromises adversely affect women's legal entitlements. The informality of mediation further reduces accountability, making it difficult to assess whether the process was genuinely fair and balanced.

The use of mediation in cases involving domestic violence raises particularly serious concerns. Domestic violence is inherently characterised by power imbalance, coercion, and control, which fundamentally undermines the premise of equal bargaining required for effective mediation. Referring such cases to mediation risks trivialising the severity of abuse and may pressure victims into reconciling with their abusers. The Protection of Women from Domestic Violence Act, 2005, provides legal remedies aimed at protecting women's rights and safety, yet the practice of diverting such cases to mediation may dilute these protections. Feminist scholars argue that mediation is ill-suited for disputes involving violence, as it shifts the focus from accountability and justice to compromise and reconciliation.¹⁸

These factors collectively support the argument that consent in matrimonial mediation is often not purely voluntary but structurally coerced. Coercion in this context does not necessarily take the form of explicit force; rather, it operates through systemic pressures, including economic vulnerability, cultural expectations, and institutional practices that favour settlement. This form

¹⁷ Ratna Kapur and Brenda Cossman, *Subversive Sites: Feminist Engagements with Law in India* (Sage Publications 1996).

¹⁸ Martha Albertson Fineman, *The Neutered Mother, The Sexual Family and Other Twentieth Century Tragedies* (Routledge 1995).

of structural coercion challenges the legitimacy of mediation outcomes, particularly when they involve the waiver or dilution of women's substantive rights. Therefore, a critical feminist analysis reveals that without adequate safeguards, mediation risks becoming a mechanism that legitimises unequal outcomes under the guise of consensual agreement.

5. IMPACT ON WOMEN'S SUBSTANTIVE RIGHTS

This reliance on matrimonial mediation is bound to impact substantively on the realisation of women substantive rights especially where issues concerning maintenance, custody, protection against violence and property rights are concerned. Although mediation is understood to be efficient and based on the amicable settlement, the implications of mediation when it comes to the actual enforcement of the legal rights is very worrying. Women financial security has been one of the most affected fields. Maintenance and alimony are often negotiated in mediation and not adjudicated and this can lead to settlements that are lower than women might be legally entitled to by statutory law in either Section 125 Code of Criminal Procedure or personal laws of matrimonial relief. Since most of the matrimonial relations are characterised by economic dependency, women might be willing to take low financial settlements so as to achieve instant settlement to compromises their financial stability in the long run.

The same trends of compromise depending on unequal bargaining power are also observed in custody negotiations in mediation. Although the legal criterion of child custody is the best interest of the child, mediation has the tendency of turning custody into a bargaining aspect that is influenced by family dynamics and external influences.¹⁹ To the extent that they are financially insecure or socially stigmatized, women can accept shared or joint custody agreements that are not specifically based on their preferences or the well-being of the child. The mediation process is informal thus permitting such compromises to be made without involving a minute examination of the courts and thus posing questions of whether such results are actually the best interests principle or just products of a negotiated settlement.

One of the most disturbing effects of mediation is the possible thinning out of domestic violence allegations. Protection of Women, 2005 Protection of Women from Domestic Violence Act,

¹⁹ *Gaurav Nagpal v Sumedha Nagpal* (2009) 1 Supreme Court Cases 42.

2005, offers a full fledged legal framework in the fight to safeguard the women and to have a remedial action on protection of women through provision of protection order, right to remain and monetary compensation.²⁰ When controversies about domestic violence are however directed to mediation, the centre of interest would no longer be on accountability, legal enforcement but on reconciliation and compromise. The withdrawal or undermining of complaints is one of the outcomes of this shift because women might be persuaded, either explicitly or implicitly, to resolve the issue in the name of saving the family. These consequences not only defeat the aim of protective laws but also pose a threat of breeding abuse cycles due to lack of prosecution of abusers.

Informal settlements can also be mediated and need not necessarily go through the legal entitlements especially concerning property and inheritance rights. Without the rigorous procedural safeguarding, parties can consent to the conditions that are not always indicative of their statutory or personal legal rights. As an example, women can give away matrimonial property rights or common assets in exchange of financial settlement now or quick divorce. Although such agreements can be legally binding once formalised, the procedure by which they are achieved can be rather non transparent and without sufficient legal supervision, their fairness and voluntariness are questionable.

These matters expose a bigger quandary as to the availability of justice and what can be described as forced settlement. On the one hand, mediation increases access to justice since it offers a faster, cheaper and less adversarial approach to litigation. Conversely, systemic focus on settlement may impose unspoken pressure on settling parties even in a situation where adjudication would offer parties greater protection to their rights. This stress is especially urgent to women, because the need not to go to court too long can be at the expense of condoning unequal results. Therefore, mediation can either be a facilitator or a hindrance of justice depending on the situation that it is being applied.

Nevertheless, one should take a middle ground and realise that mediation is not necessarily harmful to the rights of women. Mediation may also be a form of empowerment in some

²⁰ Sharmila Lodhia, "Negotiating Gender Justice: Women and Alternative Dispute Resolution in India" (2010) 44 *Economic and Political Weekly* 69.

situations, especially when bargaining power between the parties is relatively equal, the latter have access to legal counsel and are neither coerced nor violent. The mediation process can offer a system whereby women can be able to raise their issues, discuss terms that best accommodate their specific needs, and deliver results which could not have otherwise been achieved under strict legal systems.²¹ Mediation is flexible and allows the creative solutions to fit the situation, which in certain situations, may be more appropriate to the reality of matrimonial conflicts.

However, the possible advantages of mediation can not blur its structural constraints. The difference that mediation has on the substantive rights of women eventually hinges on whether there are some safeguards that will make things fair, voluntary, and free of any form of coercion. Without such protection, mediation is prone to emphasize efficiency and settlement at the expense of the actual realisation of rights, which is the very goal of justice that it is aiming to realise.

6. CRITICAL ANALYSIS AND CONCLUSION

The above discussion shows that matrimonial mediation, though it is placed in an efficient and humane substitute of adversarial litigation, has a very intricate interaction with the substantive rights of women. The main issue of this paper, whether mediation is weakening such rights, cannot be answered absolutely but should be contextual and structural assessment. Mediation, as it exists now in the Indian legal system, indeed has the capacity of negating the rights of women especially in instances where it is conducted without proper protection and in a deeply patriarchal society. The problem is not or should be the concept of mediation, but how it is done and the social-legal context it works in.

Critical analysis shows that medium orientation of mediation in marriage conflicts is inclined towards compromise other than justice. The statutory and judicial focus on reconciliation tends to lead to a normative bias towards closing of a dispute instead of enforcing a right. Such a settlement-based approach may unintentionally cause women to compromise, especially in situations where mediation is being sold as the most preferable or even expected resolution. This

²¹ Martha Albertson Fineman, "Dominant Discourse, Professional Language, and Legal Change in Child Custody Decisionmaking" (1988) 101 Harvard Law Review 727.

kind of pressure is seldom overt, but it is manifested by informal indicators of the institution, cultural norms and the design of procedures. Consequently, the mediation process runs the risk of becoming a normalising compromise apparatus, although the compromise in question implies the erosion of the legally safeguarded rights.

Among the most remarkable organizational issues is the lack of gender-sensitive protection in the framework of mediation. The existing legal framework does not oblige to conduct any systematic screening on domestic violence prior to the referral to mediation, neither does it entail the involvement of any legal representation or independent advice throughout the mediation process. This forms a situation where a women might be able to bargain under vulnerable situations without sufficient protection and without knowledge of their legal rights and claims. Moreover, the fact that mediation proceedings are confidential, although it is advantageous in some ways, curtails judicial control and diminishes the opportunity to examine whether settlements are fair and voluntary.

One should also critically reflect on the role of the judiciary in encouraging mediation. Although courts have continuously advocated mediation as a tool in the reduction of the backlog and also the ability to achieve amicable settlements, there is a necessity to strike a balance between the two goals and in the context of protecting the substantive rights. The fact that judicial support of mediation, in the absence of an equal measure of warning, in cases about balance of power or violence, can contribute to developing an impression that settlement is simpler than adjudication in any situation. This method is dangerous as it can lead to the neglect of the fact that some conflicts, especially those related to domestic violence or important economic inequalities, might be better addressed with the help of the legal system instead of other informal means.

Meanwhile, it should be noted that mediation can be not necessarily under the feminist assumptions of justice. Mediated when it is done within proper conditions that include equal bargaining power, informed consent, no coercion, and access to legal advice, mediation may be an empowering experience and situations wherein women are actively involved in the formulation of results. It may ensure flexibility, less adversarial hostility, and solutions to specific needs of the parties involved. Such advantages however depend on the presence of structural protections which guarantee there is fairness and equity in the process.

Considering all this, it is clear that the problem is not in denouncing mediation but in reforming. The rights-based approach to mediation should be assumed where some essential rights are considered as non-negotiable, e.g., the right to protection against violence, fair maintenance, residence right. There should be compulsory screening systems and detection of when it is domestic violence or coercion and these should not be included in the mediation process or specialised protection applied. Moreover, the mediators need to be trained in gender-sensitive operations and legal assistance provisions improved so that the women are fully aware of their rights during the negotiation process.

To sum up, matrimonial mediation in India is a two-sided process. On the one hand, it can be effective, flexible, and allow amicable solution; on the other it can bring about structural inequalities in case of an application without proper protection. In the lens of feminism in law, the mediation process cannot be considered an unbiased and universally positive phenomenon. The extent to which it takes into consideration the imbalances of power in the background is the one that makes it influential on women substantive rights depending on the terms of its operations. Thus, matrimonial mediation needs to begin transforming into a gendered and rights-sensitive process, that is, as one that does not just solve conflicts, but one that also does so in a way that maintains and promotes substantive justice.