

DEVELOPING A STRUCTURED MEDIATION FRAMEWORK FOR ELDERLY RIGHTS PROTECTION IN INDIA WITH REFERENCE TO MAHARASHTRA

Adv. Varsha T. Kumare

Ph.D. Research Scholar, Department of Law, Suresh Gyan Vihar University, Jaipur, Rajasthan, India. Email Id: varsha.2450470@mygyanvihar.com

Dr. Venoo Rajpurohit

Designation: Associate Professor, Head of Department, School of Law, Suresh Gyan Vihar University, Jaipur, Rajasthan, India. Email Id: venoo.rajpurohit@mygyanvihar.com

Abstract

India, in recent years, is experiencing 12% in the elderly and ageing populations. An increase in longevity among the population demographics is considered to be one of the indicators of positive social development, but it is leading to emerging socio-legal challenges. The elderly individuals face emotional abuse, are financially exploited, face neglect, property-related disputes, abandonment, and are denied Healthcare and social support. There is the existence of the Senior Citizens Act of 2007 and Maintenance and Welfare of Parents, but many of the senior citizens still are not able to access timely, effective justice. The traditional litigation process in India is expensive, lengthy, and emotionally exhausting, making the legal system inaccessible for the vulnerable elderly population. The main aim of the article is to examine the nature of Elderly rights violations that are faced by elderly persons in Maharashtra, especially Mumbai, and it is going to evaluate the role of mediation as an effective way of resolving disputes. The article is going to prove that mediation is a more accessible, compassionate, and cost-effective approach that helps in resolving elderly-related disputes while there is preservation of family relationships by promoting restorative justice. The study is going to explore the legal framework, policy reforms, and institutional challenges that are necessary to integrate within the mediation process so that the elder justice system in India is enhanced.

Keywords: Vulnerable elderly, Elderly rights, Elderly rights violation, Mediation, Alternative Dispute Resolution (ADR), Human rights, Senior Citizens, Maharashtra.

1. INTRODUCTION

Background of the Study

According to the census of 2011, India has 104 million older people, and this is around 12% of the total population. This is going to increase to around 20% in the coming years¹. Longevity is considered a positive parameter of social and demographic attributes, but there are increased socio-legal burdens in countries like India, where the justice systems are lengthy and exhausting. Any district of Maharashtra, India, is reflecting on the change of this demographic shift, and it is seen that there are changing family structures. Traditionally, it was observed that the elderly family members were provided for, but as there is a gradual decline in the joint family system and emergence of nuclear households, the vulnerability of senior citizens who are financially dependent has increased. Ageing is associated with security, social inclusion, and dignity, but elderly citizens are facing various forms of Elderly rights violations, and these violations include abandonment, financial exploitation, property-related disputes, denial of healthcare, social

¹ <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2183196®=3&lang=2>

exclusion, and physical abuse². The elderly are abused frequently within the family environment, and the victims do not report the violation, as there is emotional dependency, social stigma, and concern about damaging the family relationship.

India has several socio-legal justice orders for protecting the rights of the elderly person, and the constitutional safeguard with statutory provisions, such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, exists, but still, there is inadequate implementation of the systems. These are followed by institutional weakness and procedural delays, and formal legal proceedings are often time-consuming, emotionally draining, and expensive. To combat these issues, Alternative Dispute Resolution (ADR) mechanisms, through mediation, can be considered viable against traditional litigation³. Mediation is considered a voluntary and confidential systematic procedure where a neutral third party helps in resolving the dispute by reaching a mutually acceptable resolution. There are no adversarial court proceedings, but resolution of disputes is done by preserving the family relationship, promoting restorative justice, and reducing emotional distress⁴. The Mediation Act, 2023, is used to increase the institutional recognition of mediation by understanding the needs of elderly persons to maintain humane decorum.

Statement of Problem

There is an increase in neglect and elder abuse, and this has become one of the Human Rights issues in contemporary Indian society. There is equal protection, but elderly individuals experience violations of their fundamental rights, including the right to dignity, equality, security, and access to justice. In the case of Maharashtra, there are changes in family structure, socio-economic conditions, and migration patterns, and the elderly parents are suffering. There are laws existing to look after the elderly person, but they are often characterised by complex documentation requirements, financial burdens, procedural rigidity, and delays. For elderly persons, there are legal redressals, but the elderly people have constraints such as financial dependency, mobility challenges, and a prolonged litigation process, which can be physically and emotionally draining⁵. Moreover, there is limited awareness about mediation procedures, which are more effective in bringing about resolutions.

Key Terminology

Senior citizens/elderly persons-For this particular study, senior citizens are considered as individuals who are aged 60 years and above and are recognised under the Indian law as an ageing population.

Elderly Rights Violation-This terminology is referred to as actions that omit and deprive elderly individuals (aged between 60 and above; it is identified under Maintenance and Welfare of Parents and Senior Citizens Act, 2007) of their freedom and fundamental rights. In the context of elderly individuals, Elderly Rights violation includes emotional abuse, physical abuse, financial exploitation, abandonment, neglect, denial of the healthcare system, restriction on personal autonomy, and discrimination.

² <https://www.who.int/india/health-topics/ageing>

³ Warren, A., Blundell, B., Chung, D., & Waters, R. (2024). Exploring categories of family violence across the lifespan: A scoping review. *Trauma, Violence, & Abuse*, 25(2), 965-981

⁴ Mediation as an alternative method of conflict resolution: a practical approach, 2020, A Benedikt, R Susło, M Paplicki, J Drobniak, *Fam Med Prim Care Rev* 2020; 22(3): 235-239.

⁵ Duskova, L., & Hola, J. (2023). The role of judges at the pre-mediation stage of court- annexed mediation: A case study of the situation in the Czech Republic. *Hungarian Journal of Legal Studies*, 63(4), 399-415.

Elder abuse-This is considered an act of violence or cause of harm and distress to an elderly person in a relationship that involves trust, and it may be in the form of physical, emotional, or financial abuse.

ADR-This is an alternative form of resolving disputes outside the formal proceedings of court, and these mechanisms mainly include arbitrations, conciliation, mediation, negotiation, and Lok adalats that aim to provide speedy and cost-effective resolution of conflicts

Mediation-This is referred to as a confidential, voluntary, and non-adversarial format of dispute resolution process in which the mediator, who is impartial, helps in the facilitation of communication so that the disputing party can reach a mutually acceptable settlement.

Access to justice-This is the ability of the individual to obtain and seek remedies by use of formal or informal institutions if there is any case of grievances in compliance with human rights standards.

Significance of the Study

The study is significant to research as it will help in understanding the emerging socio-legal issue that has received limited scholarly attention in India, as the elderly population is growing. There is a requirement for the protection of their rights, so there is a requirement for inclusive and sustainable justice development for their protection. The study aims to understand the existing knowledge, and it will examine the neglect and abuse that the elderly person faces, and it will look into the matter as a welfare concern⁶. Legal highlights will be taken into consideration, and the social and institutional barriers to accessing the legal systems will be comprehensively studied to provide practical solutions to overcome these challenges. Mediation as restorative justice will be taken into consideration, and this will provide valuable insights for the legal practitioners, policymakers, social welfare organisations, and mediators. Findings will help in bringing about legal reforms and awareness-building initiatives, so there are specialised mediation frameworks to address and understand the needs of the senior citizen. The study is going to promote autonomy, dignity, and participation, and access to justice for the elderly person in Maharashtra and beyond.

Research Objectives, Research Questions, and Hypothesis

Research Objectives

- To map elder rights violations in Maharashtra and explore legal/institutional frameworks on elder rights violations.
- To explore mediation for affordable justice in elder disputes.
- How to specialise mediator training for eldercare disputes.
- To create a "Single-window judicial facility" for senior citizens.
- To reframe elder justice with a rights-based lens and nationwide campaigns.

Research Hypothesis

- H1: Compared to formal legal processes, mediation reduces the time and severity of violations for senior citizens.
- H2: When the elderly rights are violated, older people who are more aware of mediation services are more likely to seek mediation.
- H3: More community-based mediation services available are linked to fewer reported cases of elder abuse and violations of elder rights.

⁶ Bows, H. (2018). Elder abuse and social work: Research, theory and practice. *British Journal of Social Work*, 48(3), 873-886.

- H4: Cultural views with conflict resolution can impact an elderly person's decision to engage in mediation to address rights violations.

Research Questions

- What are the barriers to utilising mediation in addressing elderly rights violations of senior citizens?
- How can dispute resolution processes be expedited to meet the needs of senior citizens?
- What are the financial implications of litigation for senior citizens, and how can mediation help reduce costs?
- What specialised training and expertise do mediators need to effectively address the unique needs and concerns of senior citizens?
- How can a dedicated, single-window system in courts for senior citizens improve access to justice?
- What legislative measures can be taken to hold accountable those who exploit and abandon elderly parents?
- What is the current level of public awareness about elderly rights violations of senior citizens, and how can it be improved?

2. LITERATURE REVIEW

Introduction

The ageing population is one of the prominent demographic shifts in India, as it is witnessing a surging population of elderly individuals that poses newer pressure on health, social systems and justice. In this chapter of the research, the legal rights of senior citizens are reflected in terms of the common abuses faced in healthcare, finances and properties. It has led to the recognition of older individuals as eligible right holders instead of being recipients. This assessment is grounded in recent studies on the violation of elder rights and law relevant to their protection, mediation as a cost-efficient justice system and institutional reforms that handled protection in India.

Elder Rights Violations and Existing Legal–Institutional Frameworks

Abusive behaviour towards the elderly is a recognised human right in India as well as for the whole world. According to the World Health Organisation reports, one in six people aged 60 years or above is subjected to some form of abuse, which led to a prevalence of 15.7%⁷. These biases are generally psychological, physical, financial, negligence and sexual abuse. In institutional settings like nursing homes or care facilities, the rate of abuse is higher, as 2 in 3 staff reported committing abuse. These facts are an indication that elder rights violations are not limited to the family environment, but rather are now a broad human rights concern.

Studies on abuse towards elderly individuals in India also expose relevant trends. In a study in India, it is found that the overall prevalence of elder abuse is 5.2% and 3% experience abuse in their households⁸. Elder individuals with multiple health issues are the most vulnerable group because of aloneness, impaired vision, mobility and functional limitations. This study also identifies some interstate differences in abuse, indicating the influence of economic, social and cultural dynamics on the prevalence of elderly abuse.

It is also defined that urbanisation, migration and increasing economic burden are common causes of reduced support for elders. Moreover, the transition towards a nuclear family structure is another

⁷ <https://www.who.int/news-room/fact-sheets/detail/abuse-of-older-people>

⁸ Sathya, T., Selvamani, Y., & Nagarajan, R. (2022). Elder abuse/mistreatment and associated covariates in India: results from the Longitudinal Aging Study in India wave 1, 2017-2018. *Epidemiology and Health*, 44, e2022017.

possible cause of increased elderly abuse in India, which was not prevalent in traditional family structures. Elderly people often find themselves in precarious situations of financial abuse that put them at risk, such as withdrawal from older adults' accounts, unpaid bills, gifts to friends and frequent purchases of unnecessary items⁹. On the other hand, their financial dependence on children also puts them in a position of property-related conflicts and abandonment. This reduced support trend in India, along with social isolation, collectively indicates the ageing population is a high-risk factor despite the presence of regulations that mandate support for parents.

There are several measures taken by the Indian government to support elderly individuals, such as the one influenced by the “Maintenance and Welfare of Parents and Senior Citizens Act, 2007”¹⁰. This legislation has outlined the rights of an elderly person to receive maintenance, protection and welfare from children or relatives as stated under section 5, although implementation gaps are present. As many people lack legal literacy and knowledge of elderly rights, the remediation does not benefit a larger part of society, which also indicates structural gaps and accessibility barriers in India. Poor usage of existing tribunals and legal benefits signifies that the capacity to deploy legal support is not optimal, because of the complex procedures and unwillingness of the individual to take action against family members. These existing trends call for a structured and synchronised system of resolutions to prevent the susceptibility of the elderly population in India by upholding their dignity, independence and right to access justice.

Mediation as an Accessible and Affordable Mechanism for Elderly Justice

Disputes involving an elderly person are best resolved with mediation as it is reported to be a feasible way of delivering justice against abuses, given that legal procedures are mostly complex, costly and stressful for elderly individuals. Involving in litigation pieces can be difficult for older people due to impaired mobility, monetary issues and emotional dilemmas. Hence, mediation is still the most effective way of resolving disputes because it is accessible and affordable in India. Mediation seems to have a positive effect on social health because of the third-party involvement in dispute resolution without any legal steps¹¹. It involves mutual agreements of an elderly individual and respective opponents, which is mostly visible in family-centred injustices.

Mediation is a flexible approach to resolving disputes involving elderly abuse or disputes like rigid legal procedures. It is also effective in dealing with communication issues that often lead to family conflicts, causing elderly abuse and neglect. The enactment of the Mediation Act, 2023, in India is a milestone in institutionalised mediation as it gives a coherent statutory basis that replaces fragmented and inconsistent frameworks, legislation and court rules¹². This mediation legislation acts similarly to the other court decrees to promote institutional and community-oriented mediation services that are easily accessible to people in different parts of India. Public trust in mediation is commonly observed in different dispute settings; hence, elderly people can seek mediation help to

⁹ Bambeni, N. (2022). Perspective chapter: social ageing challenges faced by older adults exposed to conditions of underdevelopment and extreme poverty. In *Social Aspects of Ageing-Selected Challenges, Analyses, and Solutions*. IntechOpen.

¹⁰https://www.indiacode.nic.in/bitstream/123456789/6831/1/maintenance_and_welfare_of_parents_and_senior_citizens_act.pdf

¹¹ Jiang, H., & Liu, Z. (2023). Community home elderly care services, multidimensional health and social participation of chronically ill elderly—Empirical analysis based on propensity score matching and multiple mediation analysis. *Frontiers in Public Health*, 11, 1121909.

¹² Bharadwaj, P. K., Pavan Kumar, K. I., & Podile, V. R. (2025). The Mediation Act, 2023 and Its Role in Resolving Healthcare, Laboratory, and Scientific Disputes: A Comparative Legal, Bioethical, and Policy Review. *Journal of Applied Bioanalysis*, 11, 148-159.

gain consensual outcomes without going through legal proceedings. It is also supported in international studies where restorative practices are denoted as pivotal to procedural satisfaction that prioritises problem-solving over confrontation.

With the digital assistance for elder justice in India, it is possible to avail mediation without cost through online mediation services that ensure access to justice with mobility sites or compromised lifestyles. These are highly beneficial for elderly individuals who cannot begin a legal journey due to physical struggles, but still receive justice through mediation.

However, there are some sites with mediation, as it is not a universal strategy for resolving disputes involving elderly individuals. Without instructional power, it is not possible to resolve disputes where severe abuse, coercion and power exertion are involved. Internal conflict over caregiving, and rigidity of older adult's demand dispute resolution with a nuanced approach where mediation may not suffice¹³. Therefore, mediation must be paired with formal legal proceedings to uphold the value of elderly justice.

Maharashtra-specific Judicial and Legal Developments and International Frameworks

Maharashtra is one of the leading states that has implemented a legal mechanism for the protection of senior citizens, and the state has established the Maintenance Tribunals under the Maintenance and Welfare of Parents and Senior Citizens Act of 2007(MWPSC Act)¹⁴. This enables the senior citizens to provide welfare maintenance and protection against welfare-related remedies and property rights without undergoing any kind of legal court proceeding¹⁵. The functioning of these tribunals has increased the overall awareness among the elderly citizens regarding their fundamental legal rights. The Maharashtra state legal services authority has taken into consideration numerous initiatives to access justice for the elderly person, and this includes awareness programs, legal aid camps, Lok adalats and other outreach activities that target senior citizens in both rural and urban areas. Such initiatives have helped to bridge the gap between actual access to legal remedies and legal entitlements¹⁶. The Bombay High Court has played an important role in developing the elderly rights by use of judicial interpretation, and the recent decision has shown that there is a requirement for the speedy disposal of cases that are involving senior citizens. This has become one of the important objectives of the MWPSC acts under Article 21, and the judicial interventions have clarified the rights with proper maintenance obligations and provided protections from abandonment and neglect¹⁷. The International Human Framework is taken into consideration, and this has included Universal Declaration of Human Rights (1948), fundamental rights such as social security, adequate standard of living and equality and helps in the protection

¹³ Murawski, A., Ramirez-Zohfeld, V., Schierer, A., Olvera, C., Mell, J., Gratch, J., ... & Lindquist, L. A. (2023). Transforming a negotiation framework to resolve conflicts among older adults and family caregivers. *Geriatrics*, 8(2), 36.

¹⁴ Petsche, M. (2021). The enforceability of mediation clauses: A critical analysis of English case law. *Journal of Strategic Contracting and Negotiation*, 1-17.

¹⁵ Jamaluddin, S. Z., Taher, M. A., & Siong, W. H. (2023). Application of mediation in resolving elderly family issues in Malaysia: Lessons from Canada and Australia. *Kajian Malaysia*, 41(1), 62-84.

¹⁶ Duskova, L., & Hola, J. (2023). The role of judges at the pre-mediation stage of court-annexed mediation: A case study of the situation in the Czech Republic. *Hungarian Journal of Legal Studies*, 63(4), 399-415.

¹⁷ Bows, H. (2018). Elder abuse and social work: Research, theory and practice. *British Journal of Social Work*, 48(3), 873-886

of the vulnerable elderly populations¹⁸. The other International Framework, such as the International Covenant on Economic, Social and Cultural Rights of 1966, also states that elderly persons are entitled to security, liberty and non-discrimination. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979, helps in protecting the rights of elderly women¹⁹. Moreover, the United Nations Principles for Older Persons (1991) have stated that there is a requirement of protection of the elderly person by maintaining their fundamental rights and protection against any kind of neglect or discrimination that is faced in their familial matters. These frameworks significantly established the Global standards and can guide India and Maharashtra to develop their comprehensive policies regarding elder rights based on mediation.

Research Gap

The existing literature has shown significant evidence in the study of the elderly rights violation and mediation mechanism in the case of Maharashtra. Most of the existing literature that is available does have information about ageing and fundamental rights of the elders and it is very limited information from states such as Maharashtra. There is less information on ADR and mediation mechanisms, but there is more information seen in legal proceedings, such as statutory remedies and litigation processes, and the empirical evidence about the mediation outcomes is very limited in the existing study. The issues of elderly people are considered as welfare schemes rather than being treated as legal matters in India.

3. RESEARCH METHODOLOGY

Research Design

The research method that is going to be used in the research study is based on a mixed methodology approach, where there will be consideration of doctrinal as well as non-doctrinal methodology that will help in examining the elderly rights violations against the elderly person. The role of mediation will be taken into consideration so that it will help in understanding the legal framework as well as the lived experience of the individual²⁰. The doctrinal component of the study will focus on the constitutional provision, judicial decisions, government policies, statutory enactments and international conventions to understand the mediation and the elderly citizen rights. There will be a particular understanding provided from the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the Mediation Act, 2023²¹. The non-doctrinal component of the study will take into consideration the investigation through stakeholder interaction and questionnaires, and this approach is going to help the researcher to understand the practical challenges that are faced by senior citizens by measuring the effectiveness of mediation.

Sources of Data

The primary and secondary methods will be taken into consideration for the research studies. For the primary data, structured questionnaires will be used, and approximately 300 respondents will be taken into consideration. The respondents will include 60 to 75-year-old elderly persons, legal aid lawyers, mediators, NGO representatives and social workers. The secondary data will be

¹⁸ Gutterman, A. (2022). Older persons' access to justice. Older Persons' Rights Project.

¹⁹ Omer, S., Khan, H., & Abbasi, M. S. (2023). Legal framework of alternative dispute resolution (ADR) mechanisms in Pakistan: A comparative study with Turkey, Malaysia, and Bangladesh. *Law and Policy Review*, 2(2), 37-57.

²⁰ Crampton, A. (2016). Escape from the laboratory: Ethnographic methods in the study of elder and family court mediation. *Negotiation Journal*, 32(3), 191-211

²¹ Hill, R. (1998). The theoretical basis of mediation and other forms of ADR: Why they work. *Arbitration International*, 14(2), 173-184.

collected from research papers, articles, journals, government reports, international conventions, policy documents and from organisations such as the Maharashtra Human Rights Commission, HelpAge India, MSLSA and NHRC.

Sampling Methods

The study is going to make use of purposive sampling, and the respondents are selected as per the relevance of the research objectives. The participants include elderly persons who have experienced disputes or abuse, and the professionals who are directly involved with elders and help them to resolve disputes.

Data Analysis

The quantitative data that will be collected through the questionnaire will be analysed using statistical techniques such as graphical representations. The qualitative data that is collected will be analysed by the use of thematic mechanisms to identify the patterns and issues faced by the elderly persons.

Ethical Considerations

The study considers informed consent from all the participants, and anonymity and confidentiality of the participants are maintained throughout the research process. Participation of the respondents in the research is voluntary, and the respondents have the right to withdraw at any stage of the research without any consequences.

Limitations

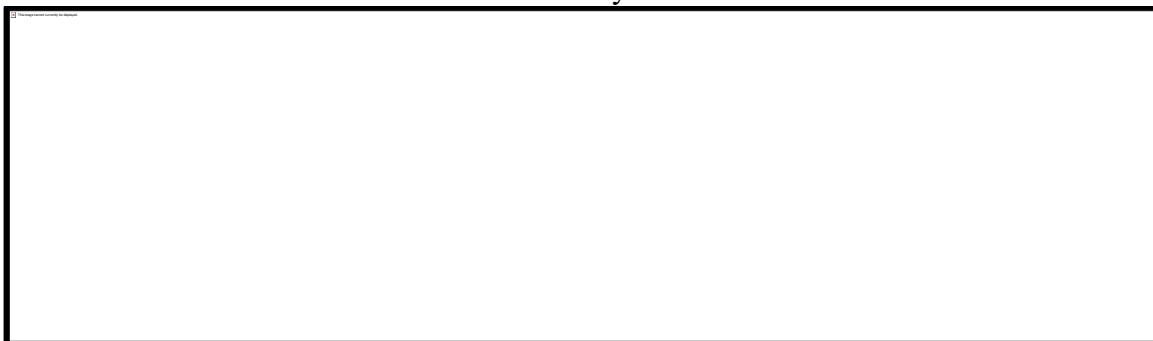
Certain limitations that are encountered by the research study, such as restricted access to the private records of the mediation process, and there was much more reluctance shown by the elderly participants, as they were not able to disclose any kind of sensitive information. There was difficulty in updating the district-level statistics.

4. DISCUSSION AND FINDING

Primary Findings

Reliability Test

Table 1: Reliability statistics test

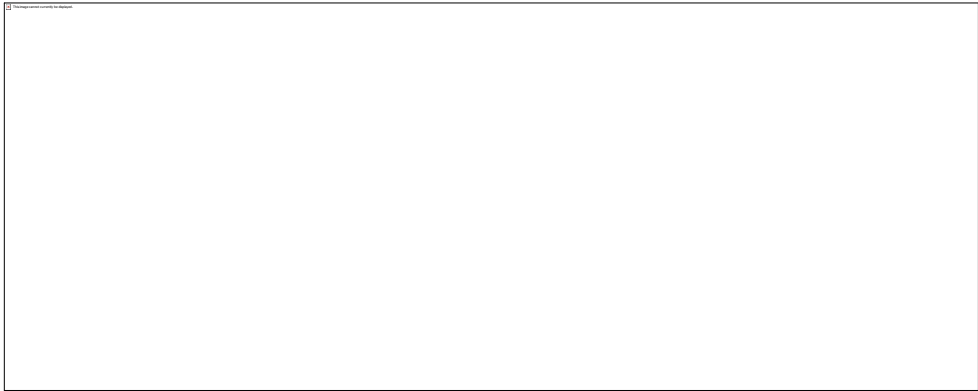


(Source: SPSS)

From the above test analysis, it is observed that r-value is 0.877 and this is indicating the fact that all the parameters that are included in the statistical analysis are relevant to produce statistically significant results. The findings from the research study have shown that the elderly respondents who are included in the study have experienced significant neglect and financial distress from their family members and have a certain degree of perceived understanding about how the mediation is functioning in these particular areas of dispute resolution.

Anova

Table 2: ANOVA test

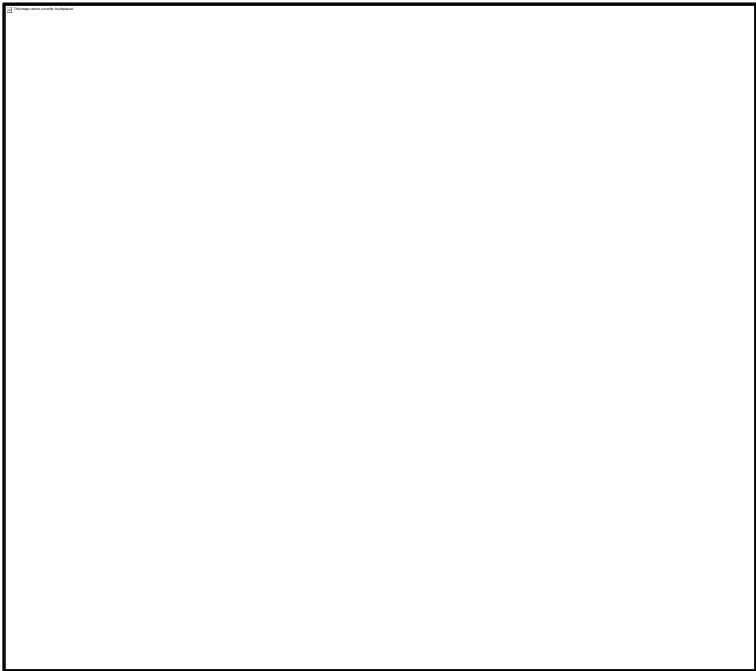


(Source: SPSS)

From the above statistical testing, it is seen that there is direct influence between the IV and DVs that are included in the research study and it is seen that p-value is less than that of 0.005 and this is indicative of the fact that the likelihood to seek mediation to resolve disputes through mediation among the elderly person in Maharashtra has increased owing to the demographics transition, awareness and changes in socio-legal infrastructure of the state with ADR mechanisms.

Hypothesis Testing

Table 3: Hypothesis Testing



(Source: SPSS)

H1: Compared to formal legal processes, mediation reduces the time and severity of violations for senior citizens.-From the findings of the research analysis, it is observed that formal legal proceedings are inaccessible and are mostly burdensome for elderly persons. The majority of the respondents have stated that Court proceedings are expensive, lengthy and emotionally stressful; therefore, the senior citizens have express there concerns regarding financial mobility and lack of

awareness, which has this courage them to continue the litigation process²². Therefore, the first hypothesis is supported, and it is seen that the respondents agree to that fact that traditional legal procedures are expensive and lengthy, whereas the process of mediation reduces the time and provides effective remedies for the elderly rights, as the p-value is 0.000, which is a statistically significant result.

H2: When the elderly rights are violated, older people who are more aware of mediation services are more likely to seek mediation.-Now looking into the findings, it is seen that awareness regarding mediation services is considerably showing variability among the respondents. The legal professionals and mediators have shown a stronger understanding of mediation procedures, but most of the elderly participants have limited knowledge about the benefits of mediation. It is observed from the findings that respondents who were aware of the mediation services were showing greater willingness to resolve the disputes through mediation procedures. These findings (p-value 0.000) show statistical significance, and it is supporting the fact that the second hypothesis of awareness is positively impacting the understanding of the senior citizens to choose mediation as a dispute resolution mechanism.

H3: More community-based mediation services available are linked to fewer reported cases of elder abuse and violations of elder rights.-The important findings have shown that community-based mediation services have provided greater access to mediation facilities, NGO support systems and legal aid centres²³. These have shown that local mediation strategies are used as early intervention procedures that help in the prevention of conflicts, and it stops the escalation into severe violations of human rights. These observations of p-value less than 0.008 (close to 0.005) support the fact that the third hypothesis is supported in the given study.

H4: Cultural views on conflict resolution can impact an elderly person's decision to engage in mediation to address rights violations. From the findings, it is seen that culture plays an important role in influencing dispute resolution, and many of the elderly respondents have wanted amicable settlement mechanisms, as there are social norms that resolve family disputes. It is observed that positive cultural perception of reconciliation, dialogue and community intervention helps in acceptance of mediation, and the social stigma and family reputation can be prevented by understanding the mediation process over the legal formal remedies. Therefore, this hypothesis is rejected that cultural views impact the mediation procedures.

Secondary Findings

Demographic Transitions

Secondary studies have shown that the institutional legal and social environment is becoming ineffective for the rights of the elderly in Maharashtra, as it is becoming more demanding in terms of legal compliance. This is due to the fact that there is an increased elderly population in Maharashtra, and this demographic transition is increasing the demand for healthcare facilities and legal, social, and economic development of the elderly people. The traditional family structure is weakened, and this is due to urbanisation and the socio-economic conditions that are changing, and it is leaving the senior citizens without any reliable networks of support. Studies have shown that elderly women are facing higher levels of vulnerability, and gender-based inequalities are seen

²² Imbrogno, A. R., & Imbrogno, S. (2000). Mediation in court cases of domestic violence. Families in Society: The Journal of Contemporary Human Services, 81(4), 392-401.

²³ Murthy, R., Sivaraman, S., Chandra, A., Bhandary, S., & Harbishettar, V. (2021). Unexplored needs of the older adults: Experiences from Elders Helpline in Bengaluru. Journal of Adult Protection, 15(2), 69-84.

and it has accumulated over the years and are transitioning into old age. The elderly women, in particular, widows are facing higher property deprivation, social isolation, and they are facing a higher amount of emotional abuse²⁴. They have limited access to resources, such as economic resources, and do not have any decision-making authority, which restricts their ability to seek justice in an independent manner. The research study has shown that the urban-rural divide is causing more inaccessibility to justice, and it is observed that urban elderly populations have greater awareness about the legal rights and mediation services, whereas the rural counterparts are lacking the resources. The rural elderly citizens are facing geographical barriers, and they do not have legal infrastructure or an adequate literacy level, so they will not have access to judicial information. These kinds of disparities are causing the rural elderly population to suffer more than the urban elderly population.

Existing Issues in Legal Frameworks

There are issues with the existing legal framework and its implementation procedures. These legal frameworks are providing formal protection with enforcement mechanisms, but these are inconsistent, and the legal aid authorities, maintenance tribunals, and welfare institutions are suffering from resource constraints, limited outreach, and administrative inefficiencies. This is resulting in unawareness among the elderly citizens, and they are not able to access the judicial system²⁵. The research has shown that there are legal awareness programs that are conducted by legal services authorities, NGOs, and community organisations that influence the empowerment of elderly citizens²⁶. However, it is observed that though the champions can create higher confidence in seeking assistance and they become better familiar with the dispute resolution mechanisms, there is a requirement for legal education and outreach programs.

Role of Mediation

Additionally, it is observed that there are preventive roles of mediation rather than providing any remedy. The mediation mechanism only functions as an early intervention tool, and it facilitates family counselling with community-mediated programs, and it helps in addressing the tensions when they can escalate into serious rights violations²⁷. A preventive approach might bring about an understanding of the restorative justice principles, and it will promote long-term stability of families. Research has identified that there is a substantial gap in the empirical data about the abuse that is conducted towards the elderly citizens, and mediation outcomes in Maharashtra remain limited. There is a lack of evidence-based policy-making strategies, and continued research is relevant in this particular law regarding elderly justice systems.

Discussion

The primary findings of the study have shown that elderly rights violations against elderly persons in Maharashtra remain a significant social legal challenge, and it is mostly reported that there are issues of financial exploitation, neglect, and denial of maintenance. There are issues of property-related disputes, and the elders are facing inadequate access to health care and social support

²⁴ Bagshaw, D., Adams, V., Zannettino, L., & Wendt, S. (2015). Elder mediation and the financial abuse of older people by a family member. *Conflict Resolution Quarterly*, 32(4), 419-436.

²⁵ Chodosh, H. E. (2008). The eighteenth camel: Mediating mediation reform in India. *German Law Journal*, 9(3), 251-283.

²⁶ Chokkanathan, S., & Natarajan, A. (2017). Perceived quality of life following elder mistreatment in rural India. *Journals of Gerontology: Social Sciences*, 1-12

²⁷ Ridley-Duff, R., & Bennett, A. (2011). Towards mediation: Developing a theoretical framework to understand alternative dispute resolution. *Industrial Relations Journal*, 42(2), 106-123.

systems. Revaluations have been seen within the family setting, and this is making them difficult to address and report. The findings have demonstrated that individuals are experiencing loss of autonomy, dignity, and security, though there exist constitutional reforms and statutory protections that are required under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The study has shown that traditional litigation mechanisms have become ineffective for elderly persons, as there are high costs involved, complex legal precedents, procedural delays, and emotional distress that are associated with the court proceedings²⁸. The senior citizens are lacking the financial, physical, and psychological capacity to be involved in legal battle, and this shows that the victims do not choose legal remedies, and there is a continuation of abuse and exploitation²⁹. This supports the hypothesis that formal and legal systems often fail to provide any timely justice to the elderly victims.

The major findings have shown that there is relevance of mediation as an alternative way to resolve disputes, and the respondents have shown that mediation has become more affordable and accessible, and it has less adversarial consequences. The creation procedures have become important to resolve disputes among family members, and this has helped in maintaining obligations. There are requirements for more types of mediation periods in inheritance conflicts and property disagreements. Mediation is a voluntary and informal procedure; therefore, the elderly individuals will be able to communicate their grievances respectfully and receive visual help in protecting their family relationships. The study has supported that awareness of mediation services has increased the likelihood of the elderly person to seek alternative remedies, and individuals are gaining knowledge about mediation as legal services, and there are implications of ADR institutions. Therefore, the adults are looking for a willingness to resolve disputes by means of non-judicial mechanisms³⁰. There is limited awareness among elderly individuals, and this is causing one of the barriers to the mediation services. Another finding has shown that awareness of mediation services by the community has provided better legal programs, and it has made mediation centres better report and listening to the issues of elderly individuals. There is a reduction of escalation, and there is encouragement to intervene before any conflict has intensified into severe rights violations. The research has shown that the importance of cultural attitude is important in shaping the resolution, and in many cases, it is seen that elderly individuals make use of mediation by aligning with the traditional values. This helps in maintaining family harmony and communities. The cultural norms have also discouraged the victims from reporting their abuse, as there is fear of social stigma and breakdown of the family³¹. The research findings have shown that there is a substantial gap in the capacity of the judicial system of Maharashtra, and the existing mediation form work is lacking specialised training for the mediators who deal with elderly

²⁸ Nyamweru, C., & Tsawe-Munga, C. (2018). Elders in modern Kenya: 'Dying institutions' or 'reinventing themselves'? *Journal of Eastern African Studies*, 12(2), 240-256.

²⁹ Vatuk, S. (2013). The "women's court" in India: An alternative dispute resolution body for in distress. *The Journal of Legal Pluralism and Unofficial Law*, 45(1), 76-103, <https://doi.org/10.1080/07329113.2013.774836>.

³⁰ Craig, Y. (1998). Intergenerational mediation: Its potential for contributing to the prevention of elder abuse. *Journal of Social Work Practice*, 12(2), 175-180.

³¹ Bhardwaj, A., & Kapoor, I. (2022). A diegesis of alternative dispute resolution in contemporary India. *International Journal of Law Management & Humanities*, 5(1), 675-689. Sherman, N., & Momani, B. T. (2024). Alternative dispute resolution: Mediation as a model. F1000Research.

regulations³². There is higher emotional dependency cognitive decline, age-related help challenges and financial burdens and it is among these populations; therefore, the effectiveness of mediation in addressing the elderly rights dispute becomes difficult³³. Overall, the study has shown that the mediation process needs to be more involved through practical and humane procedures, and there is a need for mediators who will help with integrating the elderly mediation procedures by use of a justice framework.

5. CONCLUSION AND RECOMMENDATIONS

Conclusion

From the understanding of the primary and secondary analysis, it can be stated that elderly rights violations are experienced by the elderly individuals in Maharashtra, and it is important to understand the role of mediation as an ADR procedure³⁴. The findings have suggested that elderly abuse is widespread, but it is a very underreported problem. There are legislative procedures, but there are substantial barriers to accessing justice.

Recommendations

- ***Specialised Elder Mediation Centres:*** There is a requirement for the establishment of specialised elder mediation centres by taking into consideration the district Court and legal institutions, and the elderly people will be only responsible for handling this kind of test, as seen in the UK³⁵.
- ***Mandatory Mediation Procedures:*** There is a requirement for the development of compulsory free litigation mediation steps for providing relief and welfare to the elders in district and rural levels in the state of Maharashtra, and this can be evidenced from case studies of the Australia³⁶.
- ***There is a Requirement for Specialised Training for Mediators:*** the mediators need to be trained, and it will cover certification programs of elderly abuse dynamics, gerontology, age-sensitive mediation procedures and communication skills³⁷.

Future Directions

The future direction of the study is focusing on comparative analysis of state-level studies based on longitudinal assessment of the mediation outcomes. The future studies need to be based on the gender-specific experiences of the elders, and there will be integration of technology-based mediation services. There is a requirement for further investigation to utilise international

³² Wamara, C. K. (2021). Social work response to elder abuse in Uganda: Voices from practitioners. *Journal of Gerontological Social Work*, 65(4), 361-381.

³³ Giacalone, M., & Salehi, S. S. (2022). An empirical study on mediation in civil and commercial disputes in Europe: The mediation service providers' perspective. *Revista Ítalo- Española de Derecho Procesal*, 11-54.

³⁴ Manthorpe, J., & Chen, J. L. (2021). Protecting vulnerable adults in Singapore: The creation of the Vulnerable Adults Act 2018. *Journal of Adult Protection*, 23(1), 32-44.

³⁵ Pareek, N. S. (2014). Enforceability of alternate dispute resolution clauses: Position in UK, USA, and India. *International Journal of Private Law*, 7(2), 175-195.

³⁶ Chesterman, J. (2020). "The abuse of older Australians (elder abuse)": reform activity and imperatives. *Australian Social Work*, 73(3), 381-389.

³⁷ Rynkowska, D. (2023). Family mediation: A manifestation of changes in caring for seniors. *Zeszyty Naukowe KUL*, 66(3), 27-46

practices, and the introduction of culturally-sensitive community mediation models is required to provide valuable guidance for the elderly justice framework in India.

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Appendix

Survey Questionnaire

Demographic questions

1. Age

- 60-65
- 66-70
- 71-75

2. Gender of respondents

- Male
- Female

3. Residence

- Urban
- Rural

4. Profession

- Legal aid
- Social Worker
- NGO worker

1 = Strongly Disagree

2 = Disagree

3 = Neutral

4 = Agree

5 = Strongly Agree

IV 1: Type of dispute resolution mechanism used (Mediation vs. Formal Legal Process)

- Mediation can achieve a faster resolution than the court litigation methods
- Mediation is more stressful than the formal court proceedings
- Mediation helps in the preservation of family relationships

IV 2: Level of awareness about mediation services

- I am very much aware that mediation can be used to resolve family disputes
- I know that mediation services are available in my area
- I am very familiar with the role of mediator

IV3: Cultural attitudes or perceptions towards conflict resolution and mediation

- The family disputes are to be resolved by the use of discussion rather than court actions
- It is important to seek mediation in any socially acceptable manner within the community
- Elders need to avoid any kind of conflict resolution methods, as it is opposed to my cultural values

DV: Likelihood or decision of senior citizens to seek mediation

- If my fundamental rights were violated, I could take into consideration mediation procedures
- I will choose mediation before filing any court case