

MEDIATION AND EMPOWERING OLDER PEOPLE
TO RESOLVE INTERPERSONAL CONFLICTS LEADING TO ELDER ABUSE
AND CONTRIBUTE TO ITS PREVENTION:
AN EXPLORATORY STUDY

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ABSTRACT

Can mediation empower older people to resolve interpersonal conflicts which may lead to elder abuse, and thereby contribute to preventing it? This thesis is introduced by pointing to the social convergence of concern about the demographic rise of elder abuse, and interest in the increasing use of the progressive process of mediation for resolving social problems, which has led to support for this present study, the first in its field. Social benefits of the research to older people are noted, and include the importance of adding to knowledge, the value of providing a practical pilot demonstration project, and contributing to building social capital.

The social confluence of theoretical perspectives in both areas is considered, showing that elder abuse has complex causes featuring conflicts, which mediation can contribute to resolving as a sensitive, voluntary process of self-determined informal justice. The social construction of empirical work as action research is discussed, as are its limitations. The triangulated methodology includes participant observation of mediation with older people in Atlanta, Kansas and San Francisco in America, where it was first established, ethnographic studies of the work of the British Elder Mediation Project (EMP for Empowerment), and a video survey researching relevant British social attitudes to mediation. The study is illustrated by individual case references and verbatim extracts from the mediations studied.

Research findings are then evaluated in relation to the study, its themes, theories and social benefits. These show that, in general, mediation empowered the older

participants in the study to resolve interpersonal conflicts and stop abuse, although prediction about it preventing future abuse is less strong, and its potential for challenging structural abuse is shown to be weak. The thesis concludes with discussing the present status and social value of mediation, the implications of the thesis for social policy, and raises questions for further research to offset limitations of this present study.

CHAPTER 1

THE SOCIAL CONVERGENCE OF ELDER ABUSE AND MEDIATION

Conflict equals challenge
but is gettin outta hand
started as complaining...
festerin and festerin
mego mego confrontation...
and feudin...and creatin fuss...
and threatening
and domination...
depersonalisation...

(Extracts from **Ironing It Out** 1995
Isha Mckenzie-Mavinga: mediator
Thanks to Greenwich Mediation Service)

Introduction

The 1999 United Nations (UN) Year of Older People, and its focus on elder abuse, coincides with the 50th anniversary of the Universal Declaration of Human Rights, the passage of the British 1998 Human Rights Act, and the 1996 Family Law Act giving legal recognition to the value of mediation in ironing out distressed interpersonal conflicts, as a progressive and remedial process in healing social relationships (Bush and Folger 1994).

These events reflect increasing contemporary concern for elderly persons harmed by elder abuse, the incidence of which in Britain is just over 3% of people over pension age, while its prevalence in the same population is much larger (McCreadie 1996). These findings are consistent with statistics from America and other countries (Kosberg 1992), although there are none which reflect the social exclusion of old people through ageism,

which denies them their human rights (Bytheway 1995).

It is timely, therefore, to consider whether mediation can contribute to stopping and preventing the abuse of older people. As Giles Darvill (1997) has shown, the convergence of events and ideas invites reflection about their significance, and provides practical opportunities for action research. Research has established that mediation results in resolving conflicts generally in about 80% cases (Wright 1991), so it is appropriate now to find out whether it can be of specific use to older people, especially in conflicts associated with elder abuse.

How far do they feel that it contributes to their empowerment and prevents the suffering of elder abuse? (Johnson 1989). How, why and when does mediation work? Is it an intrusive or minimal social intervention? What are its stages? In what contexts does it fail, and what happens then? Are its general effects on older people beneficial or harmful? What positive practical difference can mediation make to elderly persons' lives when confronting conflict or abuse?

Consideration must also be given to more critical aspects of mediation. Is mediation a fair and socially just process? Does it have the potential to reduce the initiatives of older people in asserting their political rights through alternative approaches to conflict or abuse? Can it be manipulated to suppress rather than constructively confront conflict? Is it second-class or genuine justice? (Abel 1982ab).

Although this study focuses on these principal questions in its literature searches and data collection, it also shows awareness of the potential and limitations of mediation

for challenging ageism and social exclusion and, despite not being within the scope of the research to examine these issues in detail, raises questions about them. Does the rhetoric of mediation as an empowering, non-coercive process of conflict resolution conceal any discriminatory or exclusionary practices? Does it strengthen or weaken old people's struggles against ageism and social exclusion?

An action research project designed to examine some of the principal questions through the spectacles of microsociology, 'a sociology of daily living' linked with 'a sociology of exclusion' (Phillipson 1998:138-9), is now introduced by this chapter. It explains the genesis of the research, indicating its aims and the reasons why the study was attempted. It describes next the social context and history of the study, outlining its legal, political and economic aspects. Definitions of some of the main concepts used in the research are then given, indicating how hypotheses were generated, and how the empirical work and methodology was constructed to test these.

The social benefits, themes and structure of the study are outlined, and a summary concludes the chapter. Throughout the study, its research has been conceptualised and operationalised as an attempt at positive social action (Scrutz and Walker 1995), but also as a systematic collection of narrative evidence which speaks for itself through the integrity of those who participated in contributing to it. The study was initiated from a concern to relieve the suffering of older people from elder abuse by an action research project based on empowering them through mediation to challenge it.

The Social Construction of the Research

Ageism can be conceptualised through a 'disaggregated set of world views' and 'politics of representation', a phrase borrowed from John Gabriel in discussing racism (1998:16-7), another aspect of discrimination. One of the ugliest faces of ageism is elder abuse, representing competing professional, practitioner and public explanations based on different political perspectives and cultural approaches towards elderly people. This study attempts to understand how these were socially constructed, while recognising that because there is competition as well as consensus, there is no aggregated model of how to represent these politically to produce remedial social action. One example of this came in a recent social visit to America where the environmental battle against light pollution has antagonised old people who want more nightlight for safety reasons, arguing that these green policies are structurally unfair and ageist (**Los Angeles Times** 14.12.99). Another example came from an elderly husband who adored his wife, but had to institutionalise her against her will with Alzheimer's Disease: he knew this was not ageism, but was it elder abuse?

The study also critically considers the social construction of mediation, represented as an alternative to civil and criminal law, and asks whether its theories have been manipulated for social and political purposes to suppress rather than challenge the mistreatment of old people (Freeman 1995). Another task was deciding on what basis the research project should be constructed. Its concern has been to learn from those 'studies likely to be successful when they lay emphasis upon the meanings and interpretations through which people make sense of their world' (Kelleher and Hillier 1996:4). Its aim was

to understand what older people themselves think and feel about elder abuse and mediation, and encourage them to participate in a research project designed to empower and benefit them.

Chris Phillipson, critical social gerontologist and co-author of a practical handbook, **Understanding Elder Abuse** (Phillipson and Biggs 1992), recently described the need for such research.

This type of research, then, is partly about developing 'a sociology of resistance', focusing on the way in which older people challenge situations they are confronted with, but in what is often private rather than public settings (Phillipson 1998:139).

Therefore this study has an emancipatory aim of assisting older people not only in resisting the elder abuse of private settings, but also in communities and institutions where financial exploitation and social exclusion are also suffered as aspects of ageism. It is aware of the question about how far mediation, construed as a progressive and empowering communication process (Wright 1982), can enable older people to resist social mistreatment coming from the 'structured dependency' (Townsend 1981) of the dominant political economy (Walker 1990). Unfortunately, it is not within the scope of the research to examine this adequately.

A primary aim of the research has been to examine mediation as a form of conflict transformation, or conflict management and resolution, also known as alternative dispute resolution or ADR (Mackie 1991), as applied to the issue of elder abuse. Here the study is believed to be the first in its field, thus aiming to extend knowledge in the areas of elder

abuse, and mediation. It also hopes to make original contributions to the two main discourses in which elder abuse and mediation theories are situated, namely that of critical social gerontology and ADR.

Reasons for research in these areas, linked with its aims, relate to urgent human needs for developing services of accessible and acceptable assistance to older people who suffer from, or who are vulnerable to elder abuse. Also the statistics show a demographic rise of the older population, especially in those over 80 years, suggesting that elder abuse may similarly increase, unless preventive and remedial social policies and plans are devised to avert this. The number of people over pensionable age in the United Kingdom (UK) is projected to increase from 10.7 million in 1996 to 11.8 million in 2010. In 2021 there will be four times as many people over 100 as in 1996 (Age Concern 1998).

Social trends 29 (ONS 1999) confirms UK statistics of the last decade, showing that in 1997 16% of the population was aged 65 years or over, this growth being projected to rise to 20% of the population by 2021, and outnumber those aged 15 and under by 2016. The number of people living beyond 100 will have increased within 70 years from 6000 to 95,000. By the 2080s, it is estimated that some will live till 123 because of rising health standards.

Another reason is the need to develop social attitudes and professional practices among stakeholders in human services which will encourage empowering and non-intrusive interventions in often sensitive and intimate relations within older people's

networks of families, friends and neighbours in the community (Wenger 1992). Despite the study's focus on older people, it is also concerned for relational justice between all age groups, linked to the common good (Burnside and Baker 1993).

What is the value of early intervention in potentially abusive situations? The concept of mediation as 'a minimal form of alternative intervention' (Roberts, S. 1986:25) introduces another reason for researching its reliability in coping with the conflicts which are often embedded in abusive personal relationships, before these escalate into violence. Can mediation protect vulnerable older people? Is police, legal and court action more helpful? Here it is recognised that elder abuse comprises a range of mistreatment from long-term systematic beating of an old mother by her alcoholic son, to that which occurs when people threaten elderly neighbours.

A compelling reason for this research is the importance of inquiring whether mediation has the potential to empower older people in developing safely a learned resistance to the learned helplessness (Seligman 1975) which can accompany elder abuse. The image of powerlessness, publicly projected and personally introjected, can 'pathologise all cultural deviations' in family relations, as noted in the area of ethnic minority relations by Gabriel (1994:45). Do old people from ethnic minorities suffer from elder abuse and lack of appropriate care disproportionately? Will they feel confident about confiding in multicultural mediation services?

Bill Bytheway (1995) describes internalised ageism contributing to many old people feeling oppressed, helpless and powerless. Can mediation distinguish between the

unintentional force with which a daughter toilets her difficult and doubly incontinent mother, and that of deliberately excluding her to a locked bathroom? How far is it possible for research to differentiate between changing perceptions of how old people experience elder abuse?

A concluding reason for the research, among others which will emerge in the study, relates to the powerlessness mentioned above. Critical research aims to expose areas of unequal power relations (Harvey 1990), and this mediation project aims to be emancipatory through encouraging and enabling older people in empowering ways to reclaim their powers (Guttman 1987), through participating in its action research.

This hopes to contribute to their self-identity, and sense of independence, participation, care, self-fulfilment and dignity, which are the main UN Principles for Older People of Resolution 46/1991. However, if such positive 'life-shaping conditions' are to be envisaged, 'there is a need to think about identity in complex, shifting and contextual terms, rather than in abstract, absolutist formations', as Gabriel says in relation to ethnicity (1994:47).

The Social Context of the Research

Research ideas were generated when the 1991 UN Principles for Older People were promulgated. Then the national voluntary network, Mediation UK, an umbrella community organisation formed in 1984 for resourcing multiple mediation services, had a secretary and other older members including the author on its management committee.

They suggested planning a multicultural peer project to empower other old people in coping with their relational conflicts (Craig 1992). This added to Mediation UK's established work in community, environmental and school mediation, as well as in victim-offender reparation working mainly with young offenders (Wright 1977;1982).

The committee supported this initiative, naming it the Elder Mediation Project (EMP). Its acronym, EMP, represented the empowerment of older people through encouraging and enabling them to cope with conflict. As suggested by a journal article entitled 'EMPowerment: not empire building' (Craig 1995), it was determined that the multicultural EMP developed with self-help grassroots ideas of community organising (Alinsky 1971;Castells 1983), committed to working with old people in vulnerable relationships or deprived areas. EMP volunteers had no fixed attachment to the project as they also actively worked for community mediation services, which often supplied their members to work on EMP cases, but a small core group of multicultural mediators emerged of which the researcher was the only white member. The others included an African-Caribbean Christian woman, an Asian Muslim Male, a Chinese Buddhist woman, an Indian Sikh woman and a West African agnostic male.

EMP wished to be less of a self-perpetuating project and more of a pilot demonstration model, encouraging other voluntary and statutory agencies, to which it subsequently offered training, in developing mediation work with older people. It followed ideas in **The Planning of Change** (Bennis et al 1984) which argued for the eventual practical implementation of research findings by social diffusion.

Based on EMP members' general experience of successfully mediating community conflicts involving older people which otherwise threatened to become abusive, it was suggested that the planned peer project might be similarly effective in preventing some elder abuse at early stages. This earlier experience grounded emerging ideas that EMP could contribute to researching the area, although neither it, nor its voluntary workers were to be the subject of the study.

A further factor contributed to the research initiative. This was a collective awareness that other grassroots groups and lay people were seeking to become more knowledgeable and active in managing their daily lives, and that EMP could play a part in this progressive social movement. For instance Judith Allsop and Annabelle May remarked in the context of healthcare changes in the 1980s, that '(P)atients are becoming less passive: self-help groups, community projects, pressure groups are all playing an increasingly important part in the field of health care...' (1986:39). EMP's hope was to play a part, through its social action research, in what Maurice Castells later called 'meaningful social action' (1996:4), in his survey of a network society, where change was increasingly promoted through grassroots community movements.

The Social Confluence of American and British Ideas

Mediation UK's networking with allied organisations in the United States of America (USA) led to EMP developing contacts with the American Bar Association (ABA) which was already involved in working for older people. Two American senior lawyers wrote a

seminal report, **Mediation: the Coming of Age** (Wood and Kestner 1989), whilst also working with the ABA's Standing Committee on Dispute Resolution, and Commission on the Legal Problems of the Elderly. The ABA recognised earlier than Mediation UK that mediation enabled older people to resolve disputes. However the ABA is the professional representational body for lawyers and had no resources for a specific study on mediation and elder abuse.

The impetus for a British study developed from an early literature search find of a major book edited by America's leading social gerontologists, **Elder Abuse: Conflict in the Family** (Pillemer and Wolf 1986), where respected academics and practitioners showed that unresolved conflict featured in most cases.

Supported by EMP, its voluntary co-ordinator, the researcher, consulted widely and informally with older people, their representative organisations, social gerontologists, relevant health and welfare workers and other stakeholders. They agreed that research here should be attempted, but also that the American social context should be studied as it had longer histories and more extensive literature of the subject, as well as elder abuse laws which were absent in Britain. This research would be similar to a 'study more of interest in relationship between two countries than a comparison' (Gabriel 1998:6): it would not undertake comparative investigations of American and British projects and legislation, but through collaborative learning expand and share knowledge through forming research relationships.

These positive consultation results encouraged the Centre for Policy on Ageing to

fund preliminary research, later followed by charitable grants, university funding when doctoral research proposals were accepted, and awards from the British Society of Gerontology and Mediation UK.

These developments coincided with advances made by National Family Mediation (NFM), the voluntary organisation founded in 1981 as the National Family Conciliation Council, which influenced the Lord Chancellor to incorporate some of their activities in the design of the subsequent 1996 Family Law Act. This legitimated domestic interpersonal mediation.

The Social Significance of the British Legislative Framework

Mediation had already acquired legislative status in the 1971 Industrial Relations Act, while the 1975 Employment Protection Act established the Advisory, Conciliation and Arbitration Service (ACAS). The 1996 Family Law Act provided for mediation being available for couples facing separation and divorce, and Part IV provided a single set of remedies for people suffering from domestic violence.

The regulation of complaints in the statutory, voluntary and independent sectors had developed variously, using mediation at early stages in resolving conflicts, and this was endorsed by the Citizen's Charter Complaints Task Force (1994:5.5). The recommendations of an influential government report, **Access to Justice** (Lord Chancellor's Department 1996), that mediation should be developed in many areas, suggested that its existing National Health Service (NHS) use for patients' complaints

should include those of medical negligence claims. This led to a related Department of Health two-year mediation pilot project involving 30 such cases (Allsop and Mulcahy 1996; Polywka 1997).

Despite mediation being legally recognised in these Acts, and used in regulatory procedures, there is no specific elder abuse legislation existing or currently intended (Ashton 1994), although a current government consultation paper, **No Secrets: the Protection of Vulnerable Adults** (Department of Health 1999) discusses developing multi-agency policies. So there was no official legal framework in which the research could be conveniently situated, although there was awareness of the legal discourse on the subject. Some academic lawyers (Griffiths et al 1990; Hoggett 1991), supported by representative organisations of older people (Greengross 1986), argued for specific elder abuse laws. As children were protected through the Children Acts of 1975 and 1989, some critical theorists viewed the legal lacunae relating to older adults as another form of social exclusion.

Practitioners warned that adversarial aspects of the law can be counterproductive in dealing with intimate interpersonal issues of elder abuse, and that constructive and conciliatory ways of preventing and arresting it may be more effective (McCreadie 1991). Critical theorists suggested that if old people are socially excluded from remedial and supportive services, this is a form of structural abuse (Phillipson and Biggs 1992).

Despite ongoing debates, the present social consensus in Britain is that approaches should complement each other, and that endangered older people should be able to choose

between easy access to general civil and criminal law, and the multidisciplinary services concerned with elder abuse which are beginning to develop. Mediators suggest that their service offers a free first step in resolving conflict; that it may be sufficient in preventing abuse developing; or can provide a gateway for older people to make other choices. However all mediators support people having free and greater access to legal redress, and regard their own services as complementary and not antagonistic to the law (Craig 1998).

Thus the research project seemed socially significant at a time when mediation, often construed as informal justice (Matthews 1988), had legal status in some spheres although, like formal justice, not yet being judicially recognised as a useful contribution to elder protection. How far could the study increase knowledge in this indeterminate area? Earlier relevant studies, entitled **The Politics of Informal Justice** (Abel 1982ab), suggested that mediation should be related to political contexts.

The Social Sites of Political and Economic Influence in Britain

As the EMP research project was situated at the microlevel of community life, its grassroots members were initially and experientially more preoccupied with poverty than politics. When research networks developed at the mesolevel of academics, and mostly middle-class professionals of the voluntary and statutory sectors, their interest in political influence developed, although there was no government involvement at the macrolevel of state agencies. As Phillipson noted in **Capitalism and the Construction of Old Age** (1982), dominant politics deals with unemployment, inadequate resources and financial

deficits, through early retirement policies and retrenchment in health, welfare, housing, pension and insurance provision. There is a political construction of ageist and familist ideologies projecting images of old people dependent on kin, although critical gerontologists point to elderly people's social exclusion in institutions.

There is also political valorisation of voluntary organisations as the best bodies for implementing new forms of community care for older people, through the 1990 National Health Service (NHS) and Community Care Act. Although critical theorists recognise that voluntary organisations are needed in building social capital (Wann 1995), there is reluctance to reduce government responsibility for providing essential services.

This reluctance is linked to population politics, or what Phillipson calls 'the politics of resentment', constructed with an 'apocalyptic demography' (1998:106), also called **Agequake** in a book of that title (Wallace 1999). Critical gerontologists expose spurious political accounting which suggests that population increases of older people make them social parasites on younger workers whose taxes fund retirement provision. Alan Walker, in **The New Generational Contract** (1996), criticised dominant political pessimism constructed to offset sympathy for old people. He edited rebuttals from leading British critical gerontologists who focused on higher financial costs of youth provision, while pointing to positive reciprocal family support in integrating generations, and to the intrinsic value of senior citizens.

Critical social gerontologists campaign for government policies to increase statutory provision for older people, while also supporting voluntary organisations which

show initiative and flexibility in pioneering services and showing interest in EMP's work and research. They stress that older people are increasingly active, and support self-help peer groups.

Mediation, as a progressive voluntary process, became recognised by some social gerontologists (Biggs 1993; Decalmer and Glendenning 1993) as having a potential for pioneer work in the area of elder abuse, although two lawyers called it second-class justice (Cain and Kulcsar 1983). This is because although it is ostensibly free for everyone in Britain, the poor are limited in having full access to the law. American poor old people suffer more restrictions to what they anecdotally call assembly line justice or Geezer Law, and the issue was popularised in **The Rainmaker** where it was said that 'they are as fearful of the lawyers as they are of the insurance companies, and the idea of walking into a courtroom and testifying before a judge is enough to silence them' (Grisham 1995:97).

Issues about the relation of mediation to legal justice re-emerge in the next chapter considering conflict resolution theory, but affected critical thinking about research limitations. Mediators have always been ethically restricted from legalistic interrogations into people's lives, from investigating their political ideas about wider social injustice, from recommending social action against it, or imposing their own ideological views. Mediation's essential aim is to understand and enable old people to challenge constructively and overcome the discrete situational conflicts in which they are involved. It was modestly hoped that the research might generate findings that could contribute to preventing the suffering of some forms of elder abuse in specific situations (Craig 1997). Mediators aimed to empower old people directly to deal with daily conflicts and abusive

situations so that later they might be enabled indirectly to challenge other injustices, but it was not within the scope of the research to test later developments. It was also realised that clarity was needed in using concepts like abuse and injustice, so definitions are discussed next.

The Social Construction of Definitions in Literature Searches

It was decided to define research concepts before developing a central hypothesis and methodology to test it. These were based on extensive literature searches, consultations with academics and practitioners working in the areas of elder abuse and mediation, and conversations with other stakeholders and older people.

A critical approach to social definitions implies awareness of how the 'politics of representation' and 'language of contamination' (Gabriel 1998:17,22) shape ideas. If elder abuse is given public images of victims' biological weakness, emotional powerlessness or carer stress, responsibility can be individualised, and make people feel guilty about personal failures. (Wolf and Bergman 1989). Elders internalise ageist ideas about being burdens and are politically represented as such (Walker 1990). Young taxpayers may represent old people as unproductive; doctors may represent them as excessive consumers of health care; the media often represents them as funny or pathetic. Thus another political aspect of social definitions is their widening for purposes of 'ideological marginalisation' (Gabriel 1994:41).

Elder abuse can be represented by victimological definitions, social attention being

focused on the pathology of the perpetrators (Wolf and Pillemer 1989). Here the politics of labelling, as conceptualised in critical criminology (Taylor et al 1975) may determine whether designated offenders, perhaps carers, are subjected to criminalisation or therapy. The former is often used for the poor, the latter being generally reserved for the rich, so Phillipson and Biggs (1992) prefer to consider people as survivors rather than victims.

However if more older people suffer from social exclusion through ageism than from the physical or verbal aggression which more overtly characterises it, should the former also be defined as abusive? This discrimination is similar to that experienced by other social groups, especially ethnic minorities, through structural injustice and inequitable social deprivation. There is an ongoing debate about this led by critical social gerontologists (Minkler and Estes 1991; Moody 1998a).

Another issue which complicates constructing definitions is accurately reflecting those of older people which are not reliably known. Perceptions, misunderstanding, words and categories have no fixed boundaries, and there is a complexity of perspectives from which people make sense of themselves and the world (Gabriel 1994:4). These problematics apply particularly in defining mediation as a progressive communication process. Literature searches through general linguistics and communication studies focused on selecting references to British work on ageing, such as **Language, Society and the Elderly** (Coupland et al 1991) and American research in **Communication and Aging** (Nussbaum et al 1989).

These show that mediatory processes of communication are essential in preventing

intergenerational conflict, and in ensuring that old people's views are generally heard and understood. They also show how misperceptions and misunderstandings develop through changing social attitudes and physical and mental ageing processes (Giles et al 1990). This study thus recognises ageing differences in communication capabilities of the old and young but, 'recognizing difference and turning it into a source of strength' (Kelleher 1996:79), suggest that mediation's everyday language may more empowering and less confusing to elders than that of the law.

It is because mediation flexibly adapts its social definitions and language to stakeholder and service-user needs that different concepts about it are continuously constructed by them and by service providers from their diverse cultural life experiences: all come from multiethnic groups and different income backgrounds (DeSouza and Craig 1998).

Another complication arises because academics also change definitions. **New Directions in Mediation** (Folger and Jones 1994) foretells changes in **The Promise of Mediation** (Bush and Folger 1994), which no longer defines mediation success as securing firm agreements between people, but in terms of transforming relationships amicably. Conflict resolution is increasingly replaced by the term dispute transformation (Felstiner et al 1980/81).

Thus it is difficult to box definitions neatly. What are the benefits to older people, theorists and the public of defining mediation and elder abuse narrowly or widely? How can changing, fuzzy social definitions be integrated into reliably rigorous research? Does

scholarly exactitude in contriving social definitions that serve methodological requirements diminish, rather than describe fully, the thoughts and feelings of its subjects, especially if they are old?

Qualitative research can explore communication processes such as mediation, but analysis of conversations can produce just one set of social definitions and one version of social reality, although failure to find and compare alternative interpretations (Kelleher 1996:6), leads to the dangers of imposing one's own assumptions (Gabriel 1994:4). These may limit authenticity in reporting respondent conversations, but are offset by the transparency and directness with which they argue out their difficulties. An advantage of mediation is that its methods tend to uncover the alternative narratives of older people's lives, rather than reproduce dominant ones about how wisely or well they perform.

Hence the consideration of social constructionist concepts in choosing working definitions for research is qualified by recognising the limitations of its own ideological stance which should not be restrictively advanced, overemphasised or used as a template for the research. This should be as open-minded, although as widely read as possible. The following sections attempt briefly to review seminal texts from literature searches before constructing definitional frameworks for the present study which contribute to its grounded theory (Glaser and Strauss 1967). Although this mainly refers to that derived from one's own data collection, others' definitions make important impacts on developing theory, contribute to secondary data, and suggest research strategies.

Social Definitions of Elder Abuse

Elder abuse is the professionally agreed short definition for the mistreatment of elderly people. Both terms will be used interchangeably throughout this research, as will others, such as old, older, elderly persons or people and elders, which are similarly described in the literature. Some critical social gerontologists (Biggs 1996) suggest calling elderly people older citizens to emphasise their political rights. How do older people define themselves? Earlier British surveys found that many liked the term senior citizen, while Americans are generally called seniors, but this inference of superiority, although empowering to elders, is considered potentially divisive by some British gerontologists concerned to promote intergenerational equity. There is no agreed correct way to describe people in later life, and this more neutral concept occurs in recent book titles (Brubaker 1990; Stephens et al 1990).

Elder abuse has been studied for 30 years. In Britain it was first defined as granny battering (Baker 1975), and as granny bashing (Burston 1975). In America the battered elder syndrome was identified (Block and Sinnott 1979). These definitions reflected the family setting of elder abuse and were promoted in the media.

Age Concern, the representative national voluntary organisation of older people, considered that sensational definitions should be replaced by more comprehensive descriptions, commissioning two studies in which old age abuse was named (Cloke 1983; Eastman 1984). This definition extended research beyond the family, and the concept of abuse linked the subject with other domains of interpersonal violence such as child and

domestic abuse (Gelles and Strauss 1988).

The British Geriatrics Society then produced a study, **Abuse of Elderly People** (Tomlin 1989) which gradually led to the general use of the shorter term elder abuse (McCreadie 1991). This was also used by American gerontologists (Pillemer and Wolf 1986; Quinn and Tomita 1986; Steinmetz 1987) during their theoretical work on the etiology of elder abuse.

Despite this consensus there is continuing debate as to what the definition means. In 1991 an American three-year survey of the views of 63 specialists showed failure to agree about its types, boundaries, causes and best forms of protection and prevention: some included intentional, accidental and self-neglect (Hudson 1991:1-19). Another expert urged definitional clarification as a priority for 'a national agenda for elder abuse and neglect research' (Stein 1991:91-107), reinforced by the title of an authoritative American journal entitled **The Journal of Elder Abuse and Neglect** (1989 -). In Britain, a major multidisciplinary initiative was established in 1993 by Age Concern, named Action on Elder Abuse (AEA). This widely representative body consulted extensively before arriving at its own social definition.

Elder abuse is a single or repeated act or lack of appropriate action occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person (**AEA Bulletin** 1995:1)

This definition incorporated ideas of neglect, without specifying it, through the phrase 'lack of appropriate action', which includes failure of care, although 'within any relationship' appears to exclude self-neglect, and points to another's responsibility for the

abuse. Responsibility for the act is not construed in criminal terms, thus leaving open questions about accident or intentionality for consideration in individual cases. As elderly people are being cared for increasingly by relatives who are also old, some mistreatment may be due to carer stress (Hudson 1986; Decalmer and Glendenning 1993). Mistreatment has been defined in an American typology as unintentional as well as deliberate harm, ranging from physical, psychological, emotional, mental, spiritual, verbal, financial, material, sexual, medical, social abuse and neglect to self-neglect in many forms, including suicide (Johnson 1989).

AEA's phrase 'expectation of trust' has also been critically discussed because it could exclude external relationships in the community where abuse takes place as a result of unresolved conflicts. Jacki Pritchard (1989), a British social worker who has written many books on elder abuse, describes cases of vandalism, harassment and neighbour conflict which are experienced by older people as abuse, although defined by police as crime (Craig and Woods 1993).

American gerontologists earlier identified conflict as contributing to elder abuse (Block and Sinnott 1979; Pillemer and Wolf 1986), while later British studies confirmed this (Bennett et al 1997; Biggs et al 1995; Decalmer and Glendenning 1993). British reports on institutional elder abuse also included in their social definitions references to conflicts as contributory factors (Bright 1995; Royal College of Nursing 1992). However there is additional dissensus about the process of social definition itself.

What is missing from existing literature and what is to be gained is a more fundamental vision of the problem of elder abuse, a vision that transcends

the fragmentation, a vision that precedes labels and classifications (Blanton,P. 1989:29).

Other gerontologists construct more experiential descriptions following much feminist writing on domestic abuse (Dobash and Dobash 1980), pointing to the importance of understanding the feelings and thoughts of those involved.

The comprehensive term suggested here which might put us on more common ground is 'unnecessary suffering'....The term 'unnecessary' is an important qualifier because sometimes suffering must take place to preserve one's quality of life. Suffering, rather than harm, has been selected because it implies a qualitative dimension (Johnson 1989:28-9).

Significantly Quinney, an American marxist sociologist, had similar ideas when arguing for a 'non-violent criminology of compassion and service (which) seeks to end suffering...' (1977:6). As noted earlier, elder abuse may have criminal causes, although few criminologists review the subject.

Concern for the suffering of old people in its social rather than personal dimensions is marked by critical social gerontologists who see ageism and social exclusion as structurally abusive (Biggs et al 1995; Phillipson and Walker 1986). However there is concern to differentiate between cases when elderly people need urgent and immediate remedies, and infrastructural inequities and inadequate social provisions when they deserve political attention. This research aims to narrow the gap between these personal and social dimensions of suffering by exploring whether mediation can empower old people in resolving microlevel conflicts of daily life so they are more able to challenge the macrolevel conflicts of structural abuse.

Surveying these social definitions of elder abuse through literature searches has led to constructing one for the present research. It excludes self-neglect but includes references to the hurt experienced by old people, and positively points to finding appropriate remedies for the complex causes of elder abuse. It focuses on conflict because those participating in the research will be seeking mediation to resolve their own.

Elder abuse involves acts which hurt older people, the prevention of which depends on appropriate social intervention to remedy its complex causes, including that of unresolved conflict

Social Definitions of Mediation

Mediation has a long history. In Biblical times Moses mediated tribal disputes. Later Jesus was called a mediator, its Saxon word being healend, one who heals and saves (Craig 1999). Anthropologists describe its tribal settlement procedures as peacemaking (Merry 1982).

Mediation has since been continuously redefined. Reinterpretations and recyclings of definitions are socially beneficial because they reflect constant common usage of mediation, but are irritating for researchers seeking analytically clear categories. For instance, as mediation is related to peacemaking in conflict, how can the buzz word, peace, be concisely constructed so as to incorporate all the social meanings represented?

The Latin word mediare is defined as aiming to 'form connecting links between; intervene (between) two persons for purposes of reconciling them' (**Concise Oxford**

Dictionary 1963:755-6). This definition recurs in literature searches where mediators are considered to have a universal role as facilitators in conflict resolution. Mediation is also used in cultural and social theory to describe the roles institutions play in bridging relations between the State and civil society; the processes of representation and how differences are constructed between different social groups, including the role of language in relationship to the real world; and also as a concept in data analysis.

Mediation is defined as shuttle diplomacy in international relations when supposedly politically neutral third parties offer conflict resolution to national groups (Mitchell and Banks 1996). Such diplomacy is also seen as a necessary process in health services, where in past professional conflicts the 'skilled manager played the role of diplomat' (Allsop and May 1993:7). Many mediators prefer to call themselves independent and impartial facilitators, as neutrality suggests repudiating the values of the process which are against discrimination, injustice and violence, to be discussed further in the next chapter.

Major books on conflict resolution defined mediation in terms of justice, while stressing its voluntary nature. Among the most influential are **The Politics of Informal Justice** (Abel 1982ab), **Justice without Law** (Auerbach 1983), **Managing Interpersonal Conflict** (Donohue and Kolt 1992), **Informal Justice** (Matthews 1988), **The Mediation Process** (Moore 1986) and **Justice for Victims and Offenders** (Wright 1991). These reflect defining mediation in relation to justice, also to be discussed in the second chapter. There are many practical handbooks about mediation processes and skills (Acland 1990; Fisher and Ury 1990; Mackie 1991) which also use similar social definitions.

In texts where mediation is defined as informal or alternative justice it often relates to ADR, the acronym for alternative dispute resolution, an umbrella concept for all processes of conflict resolution outside the courts. Disputes are often defined as conflicts, although most theorists recognise that conflict itself has wider social dimensions (Coser 1956; Simmel 1955). ADR includes arbitration involving informal judgement; negotiation means people bargaining together, possibly aided by advocates; mediation is a principal process. ADR is increasingly defined as appropriate dispute resolution, reflecting free choice for service users of whichever process they consider most suitable.

Mediation is often defined as conciliation, although some people reserve the second term to describe initial contacts made by telephone, letters and visits which may help inquirers to deal with difficulties on their own without mediation. Another definition refers to mediators as having expert knowledge and using directive methods, and conciliators as having lay knowledge and using non-directive forms of facilitation, but this referred to specific forms of medical negotiation (Debell 1997), and the distinction is not observed generally, nor in this study. The majority of facilitators recognise that direct mediation involves face-to-face meetings, and indirect mediation occurs when the mediators shuttle between the disputants.

Throughout this study general common practice will be followed in using interchangeably the definitions quoted, unless specific issues demand differentiating between them. As mediation will be the term most used in the research, the task has been to construct a working definition of it relating to the study's older participants and their conflicts. One model attracted attention because it was constructed by family mediators

subsequently recognised by the 1996 Family Law Act. NFM's training officer described mediation as practised by them.

...a form of intervention in which a third party, the mediator, assists the parties to a dispute to negotiate over the issues which divide them...The mediator has no power to impose a settlement on the parties, who retain authority for making their own decisions (Roberts,M. 1988:5)

The NFM 1992 annual report noted that the parties' power lay in their authority and responsibility for deciding the outcome of mediations, although mediators controlled the conduct of the process. This definition excluded the concept of mediation meaning that agreements must be reached, but included ideas of outcome to indicate that other beneficial results in relationships and situations could develop instead. That idea of outcome was incorporated into the methodology of this study, to be discussed later. A working definition of mediation specific to older people evolved, although only used as a general guide in the research.

Elder mediation is a voluntary process encouraging and enabling older persons to negotiate improved outcomes in relational conflicts, through empowerment by trained independent peer volunteers who protect participants' rights and interests

This age-descriptive definition identifies the encouraging, enabling, empowering and other aims of EMP, uses NFM's concept of improving outcomes, and points to peer group services offered on a voluntary basis. The prefix elder was used to reinforce traditional ideas of older people as wise social guides, and provide the acronym, EMP for empowerment. However there was no research aim to compare elder mediation with that

of other age groups and services, and the short form, mediation, is generally used throughout this study.

Social Definitions of Justice

Libraries are full of volumes defining justice, and this study cannot comprehensively examine these. Postmodern critiques of universalism and grand theories (Giddens 1990; Lyotard 1974) prompt research reliance here on constructing a simple definition of justice relevant to this study, fairness in personal and social relations: fair procedures. Other related descriptive definitions include informal justice distinguished from the formal justice of court enforcement (Abel 1982ab); relational justice, focusing on fair resolution of interpersonal conflicts, a term of special relevance to this study (Burnside and Baker 1993); restorative justice involving reparation between victims and offenders (Wright 1977, 1982, 1991, 1999); and social justice, that which maximises the good, involving structural equity for citizens and the advancement of their rights (Rawls 1971), and which can be conceptualised as macrolevel justice. Mediation offers opportunities for microlevel justice in challenging the conflicts of everyday events and interpersonal relations.

It empowers people to order their lives informally instead of being burdened by bureaucratic regulations, or endangered by vigilante attempts at social control, but can it contribute to advancing human rights? The social discourse on rights is as voluminous as that on justice (Freedman 1991), currently made prominent through the 1998 Human Rights Act.

Thomas Hammarberg, in a lecture on 'The principles and politics of human rights' (1999:6-7), stressed that human rights are about satisfying human needs and protecting the dignity of the individual, and that there are no rights without remedies. Although it is the State's duty to respect rights, prevent their violation and provide for their fulfillment, this generally takes place through the institutions of civil society. 'We are talking about a constant process of developing informed judgement ...' (Hammerberg 1999:7). In this respect mediation as a process of microlevel social justice relates to macrolevel social justice, in that it affirms people's dignity and rights to fair settlement of conflicts, satisfying human need for remedies, while aiming to prevent the violation of elder abuse.

This study consistently shows awareness of the links between mediation as microlevel justice, and macrolevel justice concerned with the social integration of old people; and is supportive of general political theory which suggests that building social capital and grassroots microlevel pressure for justice is the safest way of achieving radical structural change (Field 1989). However this research is necessarily restricted to detailed examination of mediation in relation to elder abuse, and although ageism and social exclusion recur as themes in the study, does not extend to examining these in any depth.

Social Definitions of Empowerment

The 'discursive power' (Gabriel 1994:185) of academic and social usage of the term empowerment in influencing public opinion has led to it becoming a popular word in the dominant political order, where statutory health and social service providers promote its self-help potential to their users, especially those receiving community care (Stevenson

and Parsloe 1993). The social definition of empowerment is that of increasing individual autonomy, choice, dignity, independence, participation and self-fulfilment, which also fits in exactly with the 1991 UN Principles for Older People (Resolution 46/1991).

Literature specifically concerned with empowering older people includes that of a major book, **Empowering Older People** (Thurz et al 1995), and studies with similar titles by Peter Lloyd (1991) and Daphne Nahmiash (1999). Ideas of empowerment echo throughout all gerontological literature as being necessary in promoting the well-being of older people, and helping them control their lives as long as possible (Myers 1995). Meredith Minkler, in an age-appropriate metaphor, suggests that definitions of empowerment should restrict, not expand the 'hardening of the categories' (1996:472).

It will thus be useful for the present study to explore whether mediation contributes to empowering older people. Does it increase their sense of well-being? Does it enable them to control conflicts in the relationships and situations of daily life? Does it contribute to increasing their autonomy, choice, dignity, independence, participation and self-fulfilment?

In the context of elder abuse, what is the relevance of empowering older people? Gerontologists point to unequal power relations in the etiology of elder abuse: generally it is the old person who feels helpless, although sometimes abusive actions result from the perpetrators' pathology, perhaps from their perceived powerlessness as addicts, especially to alcoholism, but also through family and financial dependency (Wolf and Pillemer 1989).

Is it possible to remedy interpersonal power imbalances through mediation? Is empowerment only short term? Is it merely superficial? Could this prevent deeper psychological healing of relationships, or obscure and delay essential protective services? From the standpoint of critical theory, how far are social definitions and policies of empowerment constructed to mask oppressive social structures? (Harvey 1990:11). Peter Beresford and Suzy Croft (1986) acknowledge this danger, and that the notion of empowerment can itself reinforce a sense of powerlessness. Nevertheless, as foremost British workers in social empowerment and 'the politics of participation' (Croft and Beresford 1992:20), they encourage both to promote active citizenship and social integration.

Another approach is described in **Liberation Theology: Empowerment Theory and Social Work Practice with the Oppressed** (Evans 1992) which is based on the conscientization theories of Paolo Friere (1970). It is suggested that there are three major enabling processes of empowerment: skill-building; enhancing feelings of self-efficacy; consciousness-raising. 'Taken together these processes have been described as developing a sense of critical consciousness' (Evans 1992:143). Mediation aims to do this through its empowerment processes. This study thus aggregates some of the definitions noted above to produce its own, incorporating ideas from the 1991 UN Principles for Older People.

Empowerment encourages and enables people to increase their autonomy, dignity, independence, participation, well-being and self-fulfilment, and aims to develop their critical consciousness.

Other Social Definitions

Identity, whether individual or collective, has been conceptualised as the result of the dialectical process between internal and external opinions about people, synthesised through the confluence or conflict between self-identification and outsiders' designations. Fundamental to the maintenance of identity characterised by feelings of self-actualisation (Maslow 1976) are the values of autonomy, defined as freedom for self determination; independence defined as being able to choose and give consent freely; and control, defined as capability in directing one's life, but sub-divided into self control as the ability to modify one's behaviour, and locus of control as competence in controlling one's physical and mental activities (Canary and Stafford 1994). Mediation aims to help people control the outcome of their conflicts. Control is also related to domination by others, the wider discourse on social control (Cohen 1985) and to debates about the benefits and restrictions of control in protective services for older people with mental health problems.

Mediators are trained, independent and impartial workers who confidentially collaborate with people to resolve their conflicts. They are often called bridge-builders, brokers or agents of reality, and facilitators. Judith Allsop, in the context of health service primary care, provides useful definitions which are equally applicable to general mediation. She quotes **Shorter English Dictionary** definitions of the aims of facilitation as promoting and helping forward social developments, suggesting that 'facilitators are change agents', acting as bridge-builders of relationships and networks (Allsop 1990:8). An associated description of this role in a similar context is collaboration, 'working together... perceived as the means for promoting a high degree of integration' (Allsop and

May 1995:199).

Many mediators work as volunteers although often being professional members of occupational groups in commerce, education, law, social work, etc. Some have certificated accreditation from college or community mediation courses; others are members of professional bodies such as the UK College of Family Mediators, the British Association of Legal Mediators, the Academy of Experts, and others. Mediators may or may not be paid, but none of these or other distinctions are considered to affect the work of mediators explored in this study.

Patients and residents are terms ascribed to older people in institutional care. The former has been used traditionally when people receive medical or nursing care, and the latter when they are in sheltered housing or registered care homes. Some old people resent being labelled as patients and are thus called residents. This study uses whichever term is in common currency in different contexts.

Process is defined as 'the unfolding of patterns'. Discourse is understood to 'comprise a repertoire of assumptions and beliefs, recurring images...' which contribute to the construction of knowledge and debate about its significance to diverse social groups (Gabriel 1998:4,8).

Professionals and practitioners tend to be variously defined. The former are generally members of professional associations with ethical codes and disciplinary requirements, while the latter are workers who may or may not have qualifications or

training, but who are expected to have practical experience of the areas where they operate. They often feel that they work professionally, without professionalisation. Professionals may also work as practitioners, and both may be in statutory or voluntary sectors, acting in retired, lay, paid or unpaid capacities.

Reflexivity is the foundation for critical self-appraisal about the effect of the presence and views of the researcher on the research process (Salmon 1992; Schon 1983) and praxis is defined as knowledge-based practical action resulting from the research activity. Thus both are important constituents of participative action research. Ideology is defined as class or power-based views tending to hide the interests of dominant social groups (Harvey 1990:1,23-4).

Theory is seen as 'little more than a set of working concepts or hypotheses by which observations may be classified and ordered' (Rex and Mason 1989:1-2), based on believing that there are 'many truths, many realities ...no monism or dualism... but dialectical exchange' between many theories (Downes and Rock 1979:61-4). After considering those relevant to this study in the next chapter, it aims to settle in the middle range of grounded theory.

The Social Generation of the Hypothesis and Empirical Work

It is a collective task in social gerontology to generate hypotheses asking questions about how the well-being of older people can be improved and elder abuse prevented. In Britain, the major discourse has taken place through the academic meetings of the British Society

of Gerontology, Age Concern and Action on Elder Abuse (AEA), supported by public debate in the press, and discussion with other stakeholders. The Gerontological Society of America, National Aging Resource Center on Elder Abuse and the American Association of Retired People conduct similar discussions.

In this context, through research networking with these bodies, through discussions in conferences, seminars and workshops, and by writing articles in academic journals and the practitioner press (Craig 1992,1994,1995,1996) the study's main hypothesis was constructed, criticised and continually reconstituted.

This process of continuous reconstruction was consistent with the recommended recycling aspect of most approaches suggested in the literature search of research methodology. **Naturalistic Inquiry** (Lincoln and Guba 1985), **Human Inquiry in Action** (Reason 1988) and **Applied Research Design** (Hedrick et al 1987) were texts that strengthened the study's framework.

The ongoing iterative process of recycling, linked with 'cybernetic thinking' (Phillips 1976), led to discovering Patricia Maguire's **Doing Participatory Research** (1987) which became a formative influence, as will be discussed in detail in the chapter on methodology. The important work of William Whyte (1984) on participatory action research was also noted, as was that on sensitive topics (Harding 1987;Lee 1993;Renzetti and Lee 1993).

Gradually the hypothesis was formulated:

Can mediation empower older people to resolve interpersonal conflicts which lead to elder abuse, and thereby contribute to preventing it?

Conflict was narrowly restricted, as social and structural conflicts were not being investigated, although concerns about these feature in the study. Further consultations provided advice and assistance about developing appropriate empirical work based on qualitative methodology and ethnography, using case studies of EMP mediation cases involving older people, which followed and was influenced by participant observation of relevant projects in America. This involved studying the work of specific mediation services there, and also that of mediation practised in multidisciplinary contexts.

In order to use multiple methods in the research as recommended in **Data Collection in Context** (Ackroyd and Hughes 1981), **Research Design** (Hakim 1987), **Social Research** (Phillips 1976), **Real World Research** (Robson 1993), and the transdisciplinary research of **Theories of Women's Studies** (Bowles and Klein 1983), it was decided to use a video as a research instrument in surveying British social attitudes to mediation. It was considered important to understanding these and their relevance here to affecting social policy in the real world, which is the aim of critical research. These three different approaches to data collection enabled the British research to learn from and be compared with earlier American observations, while the findings of both studies could be correlated with those resulting from the video survey. These different approaches aimed to strengthen the action research and promote its social benefits.

The Social Benefits, Themes and Structure of the Study

The Social Benefits of the Study

In making an original contribution to existing relevant research this thesis hopes to produce three main social benefits as well as having been undertaken for the reasons already given, in an attempt to examine another remedy for elder abuse, as well as to explore a less traumatic process of early crisis intervention. It aims to extend knowledge in the theory of academic literature, provide an innovative action research demonstration project for practitioners, and empower older people to challenge conflict and contribute to building social capital. This action research is particularly useful to society at this time because of increasing social concerns to prevent, and find remedies for, elder abuse.

The Importance of Increasing Knowledge

As shown in the next chapter reviewing relevant existing theories, this is the first study in mediation literature considering elder abuse, a gap which this thesis begins to fill. There is a similar gap in gerontological literature where no research has focused on mediation and elder abuse. Social gerontology can be advanced by new knowledge about the suffering of older people from interpersonal conflict and abusive situations, especially as the study addresses those of neighbour relations, which have not been researched before, as well as those arising in institutional contexts. The study also comprehensively supplements the few references in social work and social policy literature regarding the usefulness of mediation for older people (Craig 1998).

The Value of a Demonstration Mediation Pilot Project

EMP is not only a source of cases for the study's empirical work, but is also a new British social model, influenced by projects observed in America, for practitioners and stakeholders who have not previously considered using mediation for helping older people in relational and abusive conflicts. This fills a gap in social action research, which is of current importance as statutory and voluntary agencies are seeking to expand their use of volunteers, many of whom are retired, and to promote self-help groups.

These are part of wider new social movements which are valuable because they empower people to understand life and its conflicts, in relation to their own experiential knowledge as an alternative to professional frameworks of knowledge (Castells 1983; Habermas 1987). EMP is a group member of Mediation UK, which advertises the socially progressive process of mediation as part of a new social movement towards alternative dispute resolution and community justice (Marshall 1990). EMP's contribution through involving older volunteers in associated activity is doubly valuable because most come from multicultural communities, areas in which social policy is encouraging progressive positive action.

Similarly research in America explores mediation working in wide cultural contexts and practised by multidisciplinary workers, thus raising awareness among British service providers about the value of using the process themselves instead of always referring cases to external mediators. This fills a gap in practitioner experience through the social diffusion of mediation ideas into areas of public concern for older people and

elder abuse, for which facilitators have responsibilities.

Building Social Capital

An associated aspect of the research is its basic concern that older people, through empowerment by mediation and its self-help processes, should be encouraged and enabled to communicate more effectively about their rights to social integration, and to challenge ageism and social exclusion. Older citizens have valuable contributions to make in building social capital through their stores of life experience, time-tested knowledge, abilities and skills, and mentoring care of younger generations.

Mediation aims to encourage, enable and empower them in managing interrelational personal conflicts constructively, and to prevent, resist or overcome elder abuse in as many situations as possible. Elder abuse is especially erosive of social capital because old people have traditionally been its most respected age group, supplying many temporal and spiritual leaders: mistreating them discredits and detracts from democratic society.

Although governments try to achieve a healthier social capital through mitigating the biological deficits of ageing, and prolonging the welfare of old people through multidisciplinary services, there is a gap among these which mediation could usefully fill, especially as empowerment is central to it, as is its commitment to promoting social dialogue. The gap exists mainly because British social attitudes to mediation, especially that for older people, have been so far relatively unformed due to inadequate knowledge of

its potential, consequently leading to little public demand for it. Hence the value of the video survey in exploring how far these attitudes are positive towards mediation in the contexts shown.

Although it is recognised that the mediation project with older people is situated within the less publicised area of self-help groups, critical theory has pointed to their value in complementing academic frameworks of knowledge 'because they create an alternative way of helping people to understand what has happened to them, and to address moral and practical questions which concern them' (Habermas 1987:138-39). This encourages people, especially the old, to feel that they are able to be partners in building the society they want.

An even more vital task for future healthier, older people in building social capital is in contributing to the challenges of millennial society. Here the global informational network society of cyberspace, online retailing, mobile telephony and digital technologies will depend on good communication, long-life experience to make connections with the past, and time-tested ways of resolving conflicts constructively in order to maintain personal identity despite automated anonymity (Castells 1996). Elders, as active home-based mediators in the electronic continent, could resume traditional roles as sources of wisdom and peacemaking, in the social collisions between the old millennium and the new.

The Themes of the Thesis

As the main themes of the thesis have already been identified, they are here summarised as questions on which the research will bear.

Mediation Leads to Empowerment? Empowerment is of overarching significance because it is through emancipation from feelings of powerlessness, or being ignored as helpless, that old people are enabled to take stronger steps towards struggling against the social injustices which threaten them. These steps often include being encouraged to work their way through mediation processes of confronting or naming conflicts, apportioning elements of blame, and claiming their rights to fair resolution of contentious issues in what has been called the transformation of disputes (Felstiner et al 1980/81). However empowerment of one person is not based on disempowering others, and unequal power relations are balanced in mediation through ensuring that none dominates: aggressive people are encouraged to assert their views and rights without domineering; destructive energy can be transformed into creative activity. Can mediation contribute to this mutual empowerment of people?

Mediation is a Fair but Minimal Social Intervention? It has been noted that mediation aims to be a just process, a subject further explored in the next chapter, which can offer an immediate, voluntary and confidential process where older people can participate actively in challenging conflict and abuse. The process is non-coercive, non-intrusive and non-paternalistic: an intervention which is minimal compared to deeper therapeutic examinations, or longer health and welfare investigations. However necessary these may

be at times, there is a concern that social interventions should be as restricted as possible in sensitive human relations (Darvill 1997;Donzelot 1980). Does mediation fulfil these criteria?

Mediation Resolves Interpersonal Conflicts Leading to Elder Abuse? This is a problematic theme in the study, as each case is uniquely different, and generalisations are speculative. However research aims to explore how far mediation intervention can stop abuse, and empower old people to resist or overcome it in the future. Do they experience mediation in this way?

Mediation is Informal and Relational Justice? This is a central theme in the study, already noted, and to be discussed further in the next chapter. Old people can experience mediation as informal and relational justice when it is offered to them after, too often, the formal justice of legal and police services fails to respond, or do so inadequately. Mediation can also be a form of restorative justice for old people, returning respect and a more peaceful life to those who feel they had lost it (Wright 1999). It can also contribute to social justice if settlement of microlevel conflicts empowers them to challenge macrolevel conflicts, such as the structural ones of ageism and social exclusion. Justice is thus placed at the interstices between the three main themes of the research and those of ageism and social exclusion which cannot be adequately studied here. Does mediation enable old people to challenge these?

Mediation is Anti-ageist? Ageism, based on negative, prejudicial stereotyping of old people, discriminates against their interests and needs, whereas

mediation aims to affirm their autonomy, choice, dignity, independence, self-worth and self-determination and empower them to assert their rights to full citizenship. EMP's work with older mediators exemplifies this. How far can mediation reverse internalised ageism and enable old people to struggle against external ageism?

Mediation is a Challenge to Social Exclusion? Social exclusion can be linked with the social isolation about which older people anecdotally complain. This can be due to the selfish behaviour of others, or their own, when they seek survival in offputting ways. Mediation can arguably decrease isolation by enabling them to communicate more constructively and promote dialogue over problems but can this thereby empower them towards greater social integration?

These themes have emerged from considering the social convergence of ideas about elder abuse and mediation and, as will be seen in the next two chapters, from the confluence of theoretical perspectives which contributed to grounding the empirical work of the study. The themes were not constructed apriori with the aim of selecting cases to illustrate them, but derived from the study's narratives.

The Structure of the Study

Following this introductory chapter the next deals with the theoretical perspectives of the study, to which literature searches contributed, with particular attention being given to those of elder abuse and mediation. The legal framework is briefly noted, as is the relevance to the research of communication and relationship studies.

The third chapter describes the empirical work of the study, and how its methodology has been chosen, adopted and adapted to fit the subject of the research. These initial three chapters form the first part of the study, showing how its various elements have converged and combined to offer opportunities for a socially useful piece of participative action research based on grounded theory.

The second part of the study begins with the fourth chapter focusing on the participant observation of specific mediation services involving older people in America arranged by the Justice Center of Atlanta and the Kansas Mediation Service for Older Adults.

The fifth chapter considers the Californian social context of the participation observation work carried out around San Francisco in multidisciplinary settings. These included a long term care ombudsman's (LTCO) office, nursing home, public hospital and community agencies where mediation processes and skills were used.

The sixth chapter deals with the work of the British project EMP, and has ethnographic studies of selected mediation cases involving some of the 50 older participants in the research, 25 of whom complained of abusive situations. The mediation process is outlined, as is the role of the mediators, and verbatim extracts of discussions are given. The third part of the thesis starts with the seventh chapter which analyses the data produced by the study, describes its findings, how these relate to the theories and themes discussed in the study and whether the results of the action research benefit its participants as well as substantiate the thesis. It evaluates the research in terms of how far it justifies

the thesis, adds reliably to knowledge, is useful to policy makers and contributes to relieving the suffering of old people.

The eighth and final chapter widens the evaluation to review social attitudes to mediation in relation to social policy and planning on elder abuse in the current political context. It suggests where theory, especially that of critical social gerontology, needs to advance by further study, and indicates the many questions which remain for future research to answer. Appendices, including agency contact addresses, references and a bibliography complete the study.

Summary

This introductory chapter described the social convergence of ideas about elder abuse and mediation, and the history, aims and reasons influencing the action research study planned to contribute to the increased well-being and social integration of vulnerable older people.

The social construction of the study was discussed, as was its location in EMP, a multicultural grassroots group of older people who were volunteer mediator members of the national voluntary organisation, Mediation UK. Critical social gerontology was briefly introduced as a background to developing the construction of the research.

The social confluence of British and American ideas and experience about elder abuse and mediation was indicated, and the context of the legislative and politico-economic framework in Britain was discussed.

The construction of definitions was considered and the main terms used in the study were defined, followed by an outline of how the hypothesis was generated and the empirical work and methodology chosen to reflect its participative action research aims.

In conclusion the social benefits of the action research were suggested, the themes recurring in the study were discussed and a short survey of its structure of the study was given. It should be pointed out that although critical perspectives have been a feature of the study, the limitations of the principal research question of the thesis have minimised the focus on critical theory.

These limitations have been stressed throughout this chapter, pointing to the study's narrow focus on the interpersonal conflicts leading to elder abuse rather than the structural ones, and that it is not within its scope to examine closely many of the themes and problems noted, nor study the work of EMP, its volunteers or mediation services in general, including those in America. Another limitation is that the research findings can only be evaluated in relation to their implications for British and not American social policy. A more serious concern is that the empirical work was time-limited, so the reliability of the research would be greatly enhanced by a long-term study of the effects of mediation, and the variables not here considered in depth. However the study is an original and initial attempt to explore hitherto uncharted areas, and constructs useful social markers for future research concerned to relieve and safeguard older people from the suffering of elder abuse in later life.

CHAPTER 2

THE SOCIAL CONFLUENCE OF THEORETICAL PERSPECTIVES

Introduction

Elder abuse, a pathological process in interpersonal relations, and mediation as a remedial communication process of conflict resolution, have so far been mainly theorised in different discourses. This present participatory action research is the first in the field to relate these discourses in theory and praxis, and thus attempts to extend knowledge in these areas.

Which theoretical perspectives can contribute to exploring views about elder abuse and mediation? How are the relevant theories constructed, deconstructed and reconstructed? Do any or all of these offer the necessary and sufficient support for suggesting that mediation may contribute to the prevention of elder abuse? What is the general critical research perspective on which this chapter is based?

Its perspective is based on David Kelleher's view of social research which 'can help identify what people see as their problems, and what they see as relevant in the day-to-day management of their relationships, and contextualising these within the political and economic structures which shape their lives' (1996:88). It considers the 'discursive power' of social constructions by asking how far older people's lives and identities have been shaped by ideologies of old age, similar to the ways in which those of racism affect attitudes to others (Gabriel 1994:185).

As elder abuse theory is situated in the domain of critical social gerontology, this chapter focuses first on trying to identify and outline some of the main relevant sites of this discourse. It asks: why have these been constructed? It also aims to make deconstructive attempts to ask: what has been the impact on older people of any sociological 'contested interpretations' and 'public, pathologised versions' (Gabriel 1994:45)? As Kelleher notes, this helps to 'deconstruct the certainty which is implicit in categories used in most epidemiological research' (1996:76).

The chapter then focuses on elder abuse theory in more detail. After this it considers at greater depth the subject of mediation, which is prominent among theories of conflict resolution or alternative dispute resolution (ADR), all of these being situated in the wider discourses of justice. This leads on to indications of how some British legal theorists have responded to the social problem of elder abuse, and notes the importance of communication and relationship studies to the present research.

The chapter concludes with a brief summary of how the literature search has resulted in the adoption and adaptation of ideas useful to the theoretical grounding of the present study. However the literature search for this survey has been necessarily restricted because of the wide dimensions of its subjects.

The Limitations of the Literature Search

There is no examination of the relation of these discourses and theories to the concept of postmodernity (Bauman 1992;Lyotard 1974). Apart from seeing the study as situated in

what has been called 'the periodicity of postmodernity' especially in gerontology (Day 1996:677), and while supporting postmodern critiques of universalism and essentialism, this present research will be merely mindful of these dangers in developing its own theoretical perspectives. It does not attempt to join the wider debate about postmodernism and its implications for social policy (Hillyard and Watson 1996).

Similarly, there is no review here of specific theories of ageism (Bytheway 1995) and social exclusion (Levitas 1996), although the discourse of critical social gerontology is closely linked with these concepts in the context of the suffering of older persons from discrimination when powerlessness threatens their human rights. However ageist and social exclusionary practices are discussed in the empirical work of the study and referred to in the next part of the chapter on critical social gerontology theory.

There are also shortcomings in integrating the language of theory, and its formal references to academic studies, with attributions to knowledge gained from continuous conversations with old people in the context of participatory action research. Can the conceptual language and dialectics of sociological and gerontological learning be related to the lay language which they perceive to be based on everyday commonsense use?

Although the relation between lay and expert knowledge has changed, and increased value has been attributed to the former (Giddens 1990), is it possible to use commonsense language without it becoming a contaminated and naturalised form of ideology (Oliver 1990)? Or is it misappropriated by theorists 'imposing or projecting both a history and a political outlook onto others whose experiences and perspectives are very

different from (their) own' (Gabriel 1990:4)? How can academic discourses be incorporated into lay discourses, while validating and discerning the different values, sources and objectives of each? What is the relation of professional gerontological knowledge, however 'critical', to 'ordinary wisdom'? (Davies et al 1999).

Thus this research recognises the problematics and discontinuities of style in a study which attempts to explore old people's experiences of elder abuse, and practitioners' descriptions of mediation, when described by them in everyday language. In researching the explanatory potential of mediation, as a commonsense communication process, with an emancipatory aim of contributing to 'community strategies of resistance' (Gabriel 1998:10), similar linguistic difficulties arise, especially in the participant observation and ethnographic studies.

Nevertheless, despite these disclaimers, the chapter now briefly considers the construction of relevant research sites by critical social gerontologists. It then makes a deconstructive attempt to identify, unpick and analyse some of the ideological influences which have affected research in the area, and older people themselves. Subsequently it looks at ongoing reconstructive theorising in the discourse, and suggests that the present research can contribute to this.

Constructing, Deconstructing and Reconstructing Critical Social Gerontology

Gerontology is 'the sociology of old age', and Phillipson in **Reconstructing Old Age** (1998), describes its development from the postwar medicalised theories of geriatrics, to its

current concern with establishing critical social gerontology and its exposure of elder abuse, ageism and social exclusion. The early medical theories of old age, like those of ill health described by Judith Allsop, were followed by critical research involving a 'professional dominance critique... political economy critique...Marxist critique...socialist feminist critique' (1984/95:141-148).

Chris Phillipson's **Capitalism and the Construction of Old Age** (1982), together with the structured dependency theory of Peter Townsend (1981) and the social construction of welfare theory of Alan Walker (1981) developed into an influential deconstructive discourse which was joined in America by Carroll Estes (1981), Meredith Minkler and Carroll Estes in their **Critical Perspectives on Aging** (1991) and Harry Moody (1992b) in his study of gerontology and critical theory.

This discourse showed how capitalism had tried to solve its unemployment problems by early retirement policies and retrenchment in health, welfare, housing, pension and insurance provision, constructing an ageist and familist version of old age as elders dependent on their kin. The economic migration of young families, their dispersals and departures from nuclear lifestyles with increased separations, led to growing numbers of old people living alone (Healy 1997), or becoming homeless (Hawes 1997). This can contribute to their being vulnerable to elder abuse, and to their suffering from social exclusion based on ageism, with the additional 'triple jeopardy' (Norman 1985) of class, gender and race affecting poor women from ethnic minorities who endure the worst housing, health and welfare provisions. Phillipson et al (1998) add that even though 60% of older people are home owners (Age Concern 1998), their housing stock tends to be

poor, too costly to repair, and now at additional jeopardy of being sequestered by local authorities to pay for residential care.

Intergenerational Conflicts

However age differentiation and social stratification mean that constructing age as a unitary concept is stereotypical, and that generational equity can be maintained, as reflected in the title of Walker's **The New Generational Contract** (1997). This shows that despite extremes of poverty and riches, health and illness among older people, their generational propensity for saving, and supporting their families through parenting and grandparenting, attracts reciprocal caring from younger cohorts, even if they live apart, as noted above. This standpoint offsets the oppositional discourse which politicises the increasing longevity and declining birthrate forecast in recent population projections (ONS 1999), in which 11.5 million pensioners will outnumber 11.4 million children in 2008, and are said to be increasing financial burdens on tax-paying workers.

Even this limited selection from critical social gerontology's long list of the dominant negative representations of old age indicates the similar effects they have on older people who resent feeling disempowered and disposable (Kuhn 1977). This discourse also has its critics. **Selfish Generations?** (Thomson 1996) asks: what about the gerontocratic power of older leaders, the financial power of some, and the tyranny which a few elderly parents exercise over their children?

Phillipson (1998) agrees that retirement is a publicly contested issue, in which it is

argued that the reduced employment of what Maurice Castells (1996) calls the informational society suggests that the common good is best constructed by giving jobs to young people. In response to this, and to the critical lobbying of Age Concern and the National Pensioners Convention, major representative bodies of older people, the British government produced guidelines (Department of Education and Employment 1999) though not legislation, recommending discretion in reducing early retirement requirements. This fell short of demands that ageist retirement practices should be regulated by law.

Critical social gerontology is also criticised by some voluntary organisation fundraisers and stakeholders. Government privatisation of welfare has unloaded onto them increased responsibilities for the community and residential care of older people, and they are now anxious about the critique of capitalism offending rich donors. Another concern is voiced by some elder abuse workers who resent 'very derogatory comments about "practitioners who cannot theorise or conceptualise"' (Pritchard 1999:9). Further reliable research is needed to illuminate these and other issues, which are raised but not directly dealt with by this present study. Nevertheless the reconstructive aim of this present research, as already indicated, is to base it on the integration of the main discourses.

Social and Spiritual Exclusion in Old Age

Moody, in his **Aging: Concepts and Controversies** (1998a:15) extends the discourse of critical social gerontology by discussing dying and death adding to the 'multiple jeopardy' of old age, sometimes in abusive situations. He states that suicide is one of the top ten causes of death in old age, and argues that this not only results from the social exclusion of

many old people from material necessities and comforts, but also through spiritual exclusion from the social environments which confers meaning and value on their lives.

An example of the former is discussed in Daniel Callahan's **Setting Limits** (1987). This argues for the age rationing of health interventions to improve or save life, in the prolongation or compression of morbidity, but which is being vigorously contested by Age Concern (1999) which says that such deprivation is unethical and harsh. Moody contributes to the discourse by deconstructing earlier disengagement theory (Cumming and Henry 1961) which suggested that age decline leading to a retreat from life is natural, and he argues that old people deserve health support to maintain active lifestyles, re-evaluate and complete their life cycles creatively (Erikson 1982).

Moody stresses elsewhere that he is not 'arguing for any scenario', but just pointing out that 'resource allocations depend on different ideas about the meanings of life' (1995:181). He believes that there is a need to have shared social understandings about legitimating old age, so that the greater use by older persons of health and welfare resources is not manipulated by 'those forces which distort free communication, such as advertising, professional hegemony and the elite control of technologies' (Moody 1992a:38). Moody's stress on conditions of 'systematically distorted communication, which serves to frustrate free and open deliberation' is connected with his support for mediation which aims to encourage 'the "ideal speech" condition...(to)...empower older people to make decisions about their lives' (1992a:39). He borrows further from Habermas (1975).

Instead of freedom, we have the "colonization of the life world" of old age...The control of health care decisions by third party payers...rather than social support for patient decision-making (Moody 1992a:39).

Moody is concerned that old people are excluded by poverty from care homes and hospices where they can enjoy their life world memories, and peacefully conclude their experiential search for fulfilment and serenity. He also considers that elder abuse occurs if elite survival technologies are imposed, or withdrawn, against their wishes (Moody 1995).

Moody believes that reconciling conflicts with kin is often a final heartaching task in the spiritual growth of old people with which the gentle communicative potential of mediation can help. Extensive references are given to research studies which show the beneficial effects of enabling old people to resolve these, their conflicts with health and social care providers, and their own spiritual conflicts (Moody and Carroll 1998).

Thus Moody's own reconstructive contribution to critical social gerontology has been to provide its materialist base with existential foundations. His 'future forecast' about a 'Wisdom Corps' of older people mediating conflicts (Moody and Carroll 1998:359) provides a link with this present research. Moody appears to see mediation as contributing to the 'cognitive prosthetics' which some older people may need to prop up their autonomy, 'enabling them to negotiate their conflicts, and affirm their rights', especially at the end of life when they are most vulnerable to mistreatment (1998b:124). A final quote from Moody illustrates his wider concern that old people are empowered to develop fully and freely throughout the ageing process and that this should be the aim of critical social gerontology.

(This) must also offer a positive idea of human development, that is, ageing as movement toward freedom beyond domination...Without this emancipatory discourse (ie an expanded image of ageing) we have no means to orient ourselves in struggling against current forms of domination... Moody (1988:32-3)

A Sociology of Exclusion

Phillipson sees the most urgent task in expanding images of ageing as developing 'a sociology of exclusion' (1998:138), which also points to the emotional needs of older people for social integration as has Moody (1998b), but especially stresses their ideological, economic and political exclusion. In a salient article, 'Community care and the social construction of citizenship', Phillipson (1994) deconstructs exclusionary ideological images of the aged and dependent who are scapegoats for rising welfare costs. He argues, as do other critical social gerontologists like Simon Biggs (1996), that older people should be represented actively as citizens, because, as young taxpayers, they paid for their retirement costs.

Phillipson (1994) allies ageist ideology to economic exclusion, through deconstructing long-term care and pension policies which stage-manage demographic crises to promote reliance on the private purses of older people rather than the public purses of the State. He argues that government policies promote private pension plans to supplement State ones and avoid public funding of long-term care of increasing duration. These are accompanied by political rhetoric representing the virtue of independence rather than the image of welfare status for old people.

Political exclusion takes various forms of social restrictions, as when old people

are compelled to leave public office at certain ages, but is also linked to what he calls the curtailment of civil rights in zones of separation from the social world by isolated living, institutionalised care and retirement communities. This, he argues is why social exclusion needs to be studied in a 'sociology of daily living...the world of micro-sociology', as a 'sociology of resistance', as noted in the introductory chapter (Phillipson 1998:139-40).

Here again it can be seen how the present research project can extend this area of knowledge by exploring how far mediation as a process can empower older people to resist elder abuse through the challenging to which Phillipson (1998) refers. Moody's 'positive idea of human development (1998a:32), and Phillipson's 'reconstructing old age' (1998:106) to include emphasis on their human rights to full citizenship, equally point to the need for the empowerment of older people in confronting the challenges of old age. These, with recurrent associated concepts of independence, choice, participation and self-determination, are the essential elements of critical social gerontology in its formation of positive projections of ageing, as they are in critical perspectives of elder abuse.

Critical Perspectives of Elder Abuse

What kind of concepts of elder abuse have been constructed? Have academic and professional definitions of elder abuse served the interests of older people in general, and the victims in particular? How reliable are the research statistics which inform theory development?

In the introductory chapter to this study, which discussed definitions of the terms

used, it was pointed out that elder abuse has relatively recently become a special topic in gerontology. As a socially constructed problem it emerged and was professionally legitimated as an object of study in the 1980s, while mobilisation of resources and formulation of social interventions did not develop until the 1990s in Britain, although these came a little earlier in America. Views about elder abuse have developed in many directions, although there is a consensus that it has complex causes which continually change in various ways, and at different levels.

Debate about Different Levels and Types of Elder Abuse

It can be argued that the alleged fraud and theft associated with the inappropriate use of a dependent elder's pension money can be conceptualised as elder abuse at three levels. At the microlevel of personal financial deprivation and interpersonal relations, the old person's sense of trust and confidence can be fatally undermined and destroyed. At the mesolevel, old people in institutional care may have their pension entitlements wrongly sequestered by management staff, probably causing additional personal fear to the victim, who may dread retaliation if a complaint is made (Pillemer and Wolf 1986). However, at this level, there is an additional aspect to the abuse in that it is an act done by a member of a social agency accountable for good care. At the macrolevel, this same type of abuse can be conceptualised as connected with structural factors. Any relative stealing pension money may have had long-term unemployment, or an undiagnosed personality disorder or untreated mental illness. A culpable care assistant may be poorly paid, overworked and untrained in a private care home, registered under the 1984 Registered Homes Act, but inadequately inspected and badly administered. At this level, accountability for elder

abuse is even more complex, as owners, managers and senior staff may be ultimately responsible for mistreatment (Beech House Inquiry 1999).

While all gerontologists conceptualise elder abuse causes at micro and mesolevels, it has mostly been critical social gerontologists who have, in addition, written challengingly about its causes at the macrolevel. As has been noted above, they have pointed to the inadequate infrastructural care of vulnerable older people and their social exclusion from appropriate protective services (Phillipson and Biggs 1992; Walker 1996).

Other theorists, while generally agreeing about worsening effects of 'socially inflicted deprivations', do not conceptualise these as forms of abuse 'on the grounds that abuse is an action perpetrated by someone known to the victim' (McCreadie 1996:14). There is, however, recognition that older people living at home alone are potentially more vulnerable to abuse as referred to earlier, and that some writers (Pritchard 1995) include local harassment and aggression as forms of elder abuse. There is also general academic and professional agreement that the interests of older people in general, and victims in particular, are best served by primarily directing social attention and public resources to the prevention of actual acts of elder abuse, especially when perpetrators can be identified and stopped. Critical social gerontologists argue for additional priority to be given to general and structural remedies (Walker 1996).

The academic agreements and disagreements about levels of analysis, briefly indicated above in respect to one form of elder abuse, can be applied to its other main types. These are included in the five categories which are generally agreed: physical

violence, psychological abuse (including verbal aggression), financial abuse, sexual abuse and neglect, but not self-neglect which is regarded as having a different etiology (McCreadie 1996). There is also debate about whether elder abuse has to be systematic rather than a single act before social or legal action is taken.

What views do older people have about elder abuse? It is difficult to obtain reliable research results from those who suffer from abuse behind closed doors, and who do not speak about it for various reasons. People can break down in interviews. 'People have powerful reasons for concealment' (McCreadie 1996:23). In her report on the indirect research of professionals working in elder abuse, she points to their assessments of such feelings of the victims: they often feel strong attachment and loyalty to their carers, acute fear of removal from existing situations, and guilt about causing the breakup of relationships (McCreadie 1996).

Phillipson and Walker (1986) go further and say that elderly people may internalise, consciously or unconsciously, the social and political view that they are a burden on their families and the State. They internalise ageist attitudes about being in a second childhood, in which they should be neither seen nor heard. Ageism also includes processes of infantilising elderly people through patronising labels and talk, so that they prefer to retain their depleted dignity by suffering in silence, rejecting inquiries and help as their last struggle to resist social dependency (Elias 1991).

It has been suggested that, in addition, old people have a generational tolerance of their personal conflicts, and confusion about what constitutes abuse and what is accidental

or even intentional mistreatment by others (Pinderhughes 1983). It may be argued that this is less true now, after increasing public education about human rights, more recent media coverage of elder abuse, and the organisational mobilisation and advocacy of Age Concern and related peer groups in Britain, and the American Association of Retired Persons (AARP) in America. Psychogeriatric depression, resulting from biological decline, reaction to the sensory deficits of old age, and sadness at the losses of family and friends, can be additional factors in contributing to passivity about enduring and hiding elder abuse, and avoiding social intervention (Knight 1992).

These are among the main factors which contribute to the under-reporting of elder abuse, and the unreliability of research statistics due to confusion in victims' reports, and different interpretations by professional workers and stakeholders. It is significant that the 1999 Beech House Inquiry, studying the deaths and maltreatment of elderly hospital patients, clearly demonstrated the guilt of certain nurses who were dismissed by the National Health Service (NHS) Trust employing them. However, legal counsel of the United Kingdom Central Council (UKCC) for nursing staff, advised that intentional abuse could not be proved in a court of law, so that the UKCC had no grounds for de-registering those involved.

This example not only points to professional confusion and ambivalence in recognising, defining and interpreting elder abuse. It also reminds us that elder abuse, as a term, has no legal meaning in the UK (Ashton 1994), although most American States have passed legislation concerned with elder abuse, defining it variously. However, many American gerontologists are critical of their own research efforts, because of conceptual

inconsistency. If researchers do not ask the same questions, can results be compared reliably? If the cultural contexts in which elder abuse occurs are widely different, is it appropriate to ask the same questions?

Statistics of Elder Abuse

Despite the above disclaimers about reporting reliable statistics, it may be useful here to give a snapshot picture of the best recent general estimates collected by Claudine McCreadie (1996) of the Age Concern Institute of Gerontology (ACIOG), part of King's College London, although semantic confusion also complicates assessment. There is different usage of the terms 'incidence' and 'prevalence', although these are often combined in research of elder abuse (McCreadie (1991:23). Recently she defined the former as 'the number of new cases in the population in any given year', although their reporting is unreliable, and based on few British studies. Prevalence is defined as 'the number of cases in the population...as a percentage of the relevant age group' (McCreadie 1996:33,30).

In her earlier exploration of related research she defined incidence more generally as meaning 'how much of what kind of abuse there is throughout the elderly population' (McCreadie 1991:unpaged). The three studies mentioned below were then described by her as showing incidences of elder abuse estimated as just over 3% of older people in Great Britain (Bennett and Kingston 1993), in America (Pillemer and Finkelhor 1988) and in Canada (Podnieks 1990). Her later more comprehensive research (McCreadie 1996) led her to prefer attributing the term prevalence to the three studies quoted. Focus on the

prevalence of elder abuse is more useful in critical research, and in this study, which aims to raise social awareness of the widest dimensions of the mistreatment of elderly people.

The rates of elder abuse reported by 593 respondents of pension age and over in Britain in 1992, were estimated on the basis of physical, verbal and financial abuse being respectively admitted by nine, 32 and nine persons, their stated prevalence being 15.2, 53.9 and 15.2 per thousand of the elderly population (Bennett and Kingston 1993). However that study excluded people in institutions, or those too ill or unable to participate.

The 1986 Boston study reported prevalence rates of physical and verbal abuse and neglect at 20, 11 and four per thousand elderly people respectively (Pillemer and Finkelhor 1988).

The higher rate of physical abuse is thought to be related more to the higher rate of general violence in America than a greater propensity to abuse older people. The 1990 Canadian study similarly reported prevalence rates of physical, verbal and financial abuse and neglect at five, 11, 25 and four per thousand elderly people. These and other studies suggest that the prevalence of elder abuse is higher and increasing, despite uncertain reporting. Gerontologists have similar uncertainty in assessing the theories of elder abuse which are outlined next.

However gerontologists seldom identify themselves with specific theories, but consider and weight them variously in working with each individual in different social contexts. This present study cannot examine this theory differentiation in detail, nor consider critically the empirical work on which gerontologists base their views, as its main focus is on exploring the relevance of conflict as a cause of elder abuse. This is recognised in all theories, as will be shown after briefly introducing the principal groups where they

cluster.

Medical Theories of Elder Abuse

In Jordan Kosberg's compendium, **Abuse and Mistreatment of the Elderly** (1983), his contributors describe the findings of geriatricians who report that their medical diagnoses of elder abuse victims show them to be mainly physically frail, ill or disabled, mentally confused or demented and additionally suffering from malnutrition. Those over 80 are most vulnerable, and fragile bones, unsteady posture and little mobility can lead to maximum damage from perhaps minor acts of abuse.

These facts are also reported in research contributions edited by major American gerontologists (Ammerman and Hersen 1991; Block and Sinnott 1979; Filinson and Ingham 1989; Pillemer and Wolf 1986; Wolf and Bergman 1989). They point to the biological defects and deficits of the ageing process, although good care can ameliorate these. They stress that the majority of elderly mentally and physically frail people do not suffer from elder abuse, so that other causes must be identified.

Psychological Theories of Elder Abuse

As physical and psychological elements in ageing are closely linked, depression is recognised as having many causes (Biggs 1993; Knight 1992). It can result from natural sensory and relational losses in ageing, declining brain activity, changing social situations as well as from medical illness. Diagnosing differences between reactive, episodic or

clinical depression, which can be acute or chronic, and treating it appropriately, relates to its effectiveness in decreasing old people's vulnerability to elder abuse. Depression can lead to passivity in mistreatment (Decalmer and Glendenning 1993), and to helplessness (Seligman 1975) about possible remedial interventions.

Other psychological theories focus on distortions of the life course where older people have not completed maturation tasks satisfactorily (Erikson 1982), perhaps due to unhappy childhoods so that they still fear and attract abusive behaviour. Gerontologists describe the psychological importance of older people maintaining a sense of identity and personhood, self-worth and confidence if they are to develop resistance to abusive behaviour by others (Myers 1995; Sherman and Webb 1994). This relates to relational theories of elder abuse, often labelled as psychosocial.

Psychosocial Theories of Elder Abuse

Social exchange theories link with those of dependency theories and those of the intergenerational transmission of violence (Gelles and Straus 1988) when they refer to family relations where child/adult roles can be reversed destructively. A daughter who felt threatened or ill-treated as a child may later abuse her aged mother.

Dependency is reversed, or is no longer reciprocal, if old parents can no longer care for adult children, or grandchildren. Dependency theories also point to alternative situations when adult children have prolonged dependency on parents through unemployment, mental illness or addiction. They can become parasitic on their elders,

sometimes abusing them physically, verbally, financially or materially through depriving them of their property through conflicts of ownership (Pillemer and Wolf 1986).

Addiction, especially alcoholism, a feature of spouse abuse, is theorised as continuing into elder abuse (Wolf and Bergman 1989).

Intergenerational transmission of violence theories go further in suggesting that patterns of family conflict and parental abusive behaviour are internalised by children and later incorporated into their own mistreatment of their elders. Associated with this may be personality disorders or mental illnesses that recur in families, and where widowed, divorced or separated parents have only one adult child who is unpartnered and dysfunctional, with the entire burden of caring for them.

Stress theories of elder abuse point to the anxiety, exhaustion and conflicts that can accompany caring for older dependent people, especially if they are doubly incontinent, or, as is increasingly the case, when old people care for even older relatives, although only a few carers abuse their dependents (Wolf and Bergman 1989).

Equity theories are based on perceptual differences and difficulties between people in relationships concerning the expectations they have of each other, and resulting frustration, resentment and threats if these fail. Equity theories relate to stress and social exchange theories, and all can be linked with situational models which suggest that time and location are additional factors. An unemployed single son may resent the expected obligation of caring for a disabled widowed mother, and his frustration over this and not finding paid work, may lead to conflict and volatile situations in which he angrily shuts

her in a cupboard because she interferes with him watching televised evening football. This situation will be exacerbated if the family and housing are poor, and poverty is paramount in the social or structural theories of elder abuse.

Social and Structural Theories of Elder Abuse

'Little is known about the probable relationship between poverty and self-neglect' (McCreadie 1996:13), and there are no reliable statistics about the relation of poverty to elder abuse. Without repeating earlier references to the structural causes of social exclusion and ageism, which can contribute to the development of elder abuse, it should be noted that some gerontologists refer to sociological abuse. This describes the abandonment of old people, an ageist American practice which dumps them outside institutions, or accommodates them in disorganised households and unsafe environments in socially exclusionary ways (Johnson 1986).

The term social abuse (Hudson 1986) has been used to mean the deprivation of social contact, or what we now call social exclusion, in which isolation and loneliness can lead to the withdrawal and passivity of older people, making them easier targets for abusive behaviour.

Wider implications of the effects of poverty, poor housing, lack of health and welfare resources, inadequate pensions and social benefits have been discussed by Minkler and Estes (1991), but increasing awareness of the structural causes of elder abuse is reflected more in attempts to woo the dominant state apparatus into providing more

resources, than in challenging it politically. Although there has been general concern about socioeconomic causes of elder abuse, theories about it have too often been constructed in individualistic and personal relationship terms.

Phillipson and Biggs deconstructed this limited approach which tends to conceptualise older people as victims, by calling them survivors or citizens, saying that they 'are at the centre of conflicts about the distribution of resources and the value of expenditure devoted to them' (1992:11,20). Their reconstructive aim is to develop structural theories which relate elder abuse to the social and political context of old people's lives, and encourage practical programmes to protect and enlarge their well-being. This is because 'later life is a time of reconstruction, with older people active in the search for meaning', if governments provide improved environments (Phillipson and Biggs 1992:15).

Moody supports this structural approach to ensuring the well-being of older people in resisting and preventing abuse, and says that this depends on 'a civic model of communicative ethics' in which 'free and open communication does not suppress conflict or differences'. This is determined by a 'procedural ethic' to enhance their empowerment in decision making about their lives, comparable to that on which the mediation process is based (1992:10,13).

Moody is concerned to challenge structural abuse, especially by the American nursing home industry, through establishing constructive decision-making ethics and processes which ensure the participation of old people and safeguard their rights. He says that the structural theories of critical social gerontology 'remind us insistently, in the

tradition of Marx, to look more deeply at the practical and material conditions in which ethical ideals must be rooted...' (Moody 1992a:182). He also recognises that in dealing with elder abuse, there will be conflicts at all levels which have to be mediated appropriately.

Conflict as a Common Factor in Theories of Elder Abuse

It is not here argued that conflict has a regularly dominant role in theories and incidents of elder abuse, but these do suggest that unresolved conflicts contribute to its complex causes. Conflict is not seen as destructive in itself: the positive function of conflict is regarded as being to encourage change, although, if mishandled, this can be destructive (Coser 1956;Simmel 1955). References were made earlier to some of the gerontologists who specifically relate elder abuse to unresolved conflict, and these recur in the theories cited above.

Medical and psychological theories of elder abuse point to the declining physical and mental capacities of older people to face life crises and conflicts. A disabled person may be unable to cope with conflicts about disputed space for a wheelchair and be pushed around by a disgruntled neighbour. A sufferer from dementia may be verbally abused by young relatives during conflicts about expected pocket money.

Psychosocial theories are essentially relational in their focus, but conflicts in relationships are can be abnormal as well as normal. A couple may have to find space for a widowed mother who intrudes into their intimate privacy. Unresolved conflicts over this can lead to older persons being locked in their bedrooms.

Structural theories of elder abuse have been evidenced too often by press accounts of older people found dying or dead after past unresolved conflicts with neighbours, health and social services whose previous, sometimes insensitive, interventions have been misunderstood, and refused.

In all of these instances, attempts to help the older people cope with their conflicts constructively, might have averted the abusive situations from which they suffered. Advice, advocacy, counselling and practical help may often be the remedy needed, but this present research is exploring the potential of mediation, as a conflict resolving process, and it is the study of mediation that is considered next, and in greater detail as it is in this domain that the empirical work is to be constructed.

Critical Perspectives of Mediation

Mediation has been defined as one of several processes of alternative or appropriate dispute resolution (ADR), and is part of informal justice. These terms are used interchangeably by mediators, and will be here. Mediation theories evolved through academic discourse relating the principles of informal justice to those of formal justice of the law and courts. There was little empirical work, apart from statistical comparisons with litigation findings and costs, and anecdotal reports from community workers, often volunteers, in the early American neighbourhood justice centres. These were later endorsed in the popular newsheets of British mediation services, and **Mediation** (1984-), the quarterly magazine of Mediation UK. The critical discourse of mediation therefore focused on its theories, especially as service user satisfaction appeared positive.

An Overview of Mediation as Informal Justice

ADR has been linked historically to tribal settlements or 'palm tree justice' in which elders convened village groups to argue and reconcile their differences, and Jerome Auerbach's systematic review describes similar procedures by American pioneers promising 'communitarian justice' (1983:4), which they preferred to oppressive British colonial laws.

These early American community justice centres run by local citizen volunteers enabled individuals to mediate their conflicts at district level, and Auerbach shows that these were prototypes for the community mediation services which have since proliferated there and here. He points out that gradually lawyers and other professionals, serving their own interests and those of the State, coopted ADR procedures, reformatilising the early informal processes, and also relegalising them through making services adjuncts to the courts: 'the new programs represent the justice system more than the community' (Auerbach 1983:136).

At the same time there developed a powerful critique of ADR in **The Politics of Informal Justice** (Abel 1982ab), which Stuart Henry (1983) described as private justice and others called second-class justice (Cain and Kulscar 1983). This was followed by a review in **The Critical Legal Studies Movement** (Unger 1987), mainly composed of academic Marxist lawyers who, as well as being professionally defensive of their own rights to legal status, were genuinely concerned that ADR could not enforce the rights of contestants, which they said was only possible in courts. The fact that it was the past

failure of courts to give free access to poor people in disputes about their rights, and thus led them to prefer the free services of ADR, was recognised by most members of the critical legal studies movement, whose ambivalence to mediation varied.

Carol Smart saw 'the power of the law as a discourse which disqualifies other forms of knowledge', attacking its 'phallogocentric' focus 'produced under conditions of patriarchy'. She admitted its 'juridogenic nature', saying that 'the legal "cure" is frequently as bad as the original abuse'. Thus Smart recognised that 'it is important to sustain an emphasis on non-legal strategies and local struggles' (1989:86,161,165).

Richard Hofrichter took a conspiracy view of local struggles being mediated in what he called 'capitalistic justice' which subverted their revolutionary potential through individualising conflict instead of adding to class action against State oppression. Yet even he conceded that 'given its contradictions and paradoxes, NDR (neighbourhood dispute resolution) contains elements with a liberatory potential' (Hofrichter 1988:153).

Hofrichter's critique was influenced by Christine Harrington's earlier empirical research from 1978-9 into a Kansas community justice centre. She believed that 'the ideology of informalism' enabled the State to extend its network of power and social control through funding and referring legal cases there. She thought that 'alternatives offer a kind of shadow justice' (Harrington 1985:14,169), and that citizens were assured of the legitimacy of the status quo, but never in fact had their rights enforced, or redress given to their complaints. She argued that lawyers are the necessary gatekeepers to justice.

Maureen Cain was critical of ADR, saying that informal justice reproduced hegemonic state power, but she was also concerned about proletarian 'populist justice' for the revolutionary classes being corrupted by replacement authoritarianism, as had developed in communist countries. She proposed instead the ideal of 'collective justice' when 'clients are brought to a fuller understanding of their own class position and so of the political strategies necessary to counter the class oppression they experience' (Cain 1988:61).

However Henry critiqued Cain's advocacy of collective justice by saying that it 'is no less subordinate to a range of inherent contradictions than the official criminal justice system' (1984:158). He then developed a more pragmatically positive view of ADR by saying that 'change towards socialist legality is more likely to be fostered by mechanisms of community justice...than through the development of more radical conflicting institutions' (Henry 1985:324).

Some theorists reflected this ambivalence towards ADR. Some saw informal justice as instrumental to the purposes of the State in suppressing social conflict cheaply. They argued that in mediation, despite its stress on voluntariness and the principle that only the disputants have the power to make decisions, there is disguised coercion and covert manipulation (Abel 1982a). Other theorists concluded that informal justice has an important, if limited, role to play in revolutionary struggles, and that it can proclaim symbolically the autonomy and competence of people, and confer on those who participate in the struggle a sense of collective empowerment (Abel 1982b). It was admitted that ADR encouraged a greater quality in the solutions reached, while the

`adversarial conception of negotiation...tends to produce a competitive process' (Menkel-Meadow 1984:775-6). It was said that legalism exacerbates and stigmatises conflicts in a financially and socially exploitive way, that it only regulates symptoms, and cannot reconcile relationships (Turk 1975).

This view was supported by those who said that `(S)ettlement is a process of reconciliation in which the anger of broken relationships is to be confronted rather than avoided' (McThenia and Schaffer 1985:1664), as too often happens in court cases where parties are labelled and polarised as guilty and non-guilty.

British theorists later joined the discourse by arguing that ADR could offer `an extension of justice rather than its dilution' (Matthews 1989:18). Tony Marshall (a Home Officer principal researcher and subsequent director of Mediation UK) stated that `community justice is participative justice' (1988:46). Another view considering theories of power (Foucault 1980), argued for communal counter-power being used by local citizens to resist the State and courts usurping their roles: `the hidden terms of the engagement between such resistance and power are made explicit and subject to contestation...' (Fitzpatrick 1988:197).

It is useful to pause here and note two points. The critical legal studies movement, despite its concerns about ADR and mediation, always theorised it in terms of it being a form of justice: hence its main description as informal justice. The second point relates to the fact that many British theorists were criminologists concerned to find less punitive and prejudiced ways of dealing with community conflicts which escalated into crime,

especially as ethnic minority populations were unfairly treated (Gilroy 1987; Graef 1989; Wright 1991). These criminologists saw mediation as a community process which could prevent local conflicts being politically criminalised in order to control certain populations (Solomos 1988). Some theorists had idealist intentions of developing 'restorative justice', in which reparation was linked with mediation in order to reconcile relationships between victims and offenders, pointing out that 'some civil disputes, if unresolved, lead to criminal acts' (Wright 1991:48).

Ideas of Restorative and Relational Justice

Martin Wright (1977;1982;1991) in Britain was foremost among those who saw the potential of mediation for healing social relationships in conflict situations, although he acknowledged the pioneer work of American Quakers and Mennonites whose non-violent philosophy led them to develop mediation and reparation services (Zehr 1985). These were conceptualised as aspects of social justice, and later as restorative justice.

Wright also traced a British heritage of restorative principles in Anglo-Saxon, Irish Brehon law and developing practices of common law which culminated in the development of community service for people convicted of minor offences, so that they could make reparation to those they had wronged. He also stressed, from the perspectives of critical criminology (Taylor et al 1975), that restorative justice not only includes social attempts to make reparation to victims, but also aims to restore offenders to society through constructive rehabilitation. This avoids incarcerating them in the destructive

social exclusion of criminal or mental institutions (Goffman 1961), unless the seriousness of crimes or the safety of citizens and themselves necessitated this.

Wright integrated theory and praxis by being a staff member of the representative national voluntary organisation, Victim Support, and also a co-founder and management committee member of Mediation UK. He supported the formation of the Elder Mediation Project (EMP), and has made influential world-wide contributions to the discourse on mediation and restorative justice through his publications and conference work.

However neither Wright, nor any of the other theorists mentioned above, considered relating the subject to elder abuse. This reinforces the claim of this study that it is an original piece of work which extends knowledge in mediation as well as elder abuse theory, and links ideas of relational justice with those of informal, social and restorative justice. The concept of relational justice was first made prominent in the title of a book concerned with systems of justice (Burnside and Baker 1993), but not linked by the authors with the specific subject of elder abuse or gerontology as does this study. Relational justice is considered here to be an apt term for describing the fair resolution of interpersonal conflict, which is what mediation attempts to offer.

Continuing literature searches to find theoretical approaches to mediation which would be of special relevance to the British research project led to discovering the work of Simon Roberts, law professor at the London School of Economics, and his wife, Marian, a barrister and training officer for National Family Mediation (NFM).

Concepts of Mediation as a Process of Minimal Social Intervention

How far does the theory of mediation as a minimal form of social intervention (Roberts,S. 1983,1986,1988) meet the needs of elders seeking to resolve their conflicts? Quite apart from the reluctance of many old people to request or welcome social interventions, there have been shifts in public perceptions about intrusive health and welfare services. Despite the increasing demand for rights to good services, there is decreasing confidence in bureaucratic, heavy social engineering (Speirs 1997).

In marital mediation there has been a concern to move '(t)oward a minimal form of alternative intervention' (Roberts,S.1986:25), so that sensitive and complex family dynamics are respected, and coercive social manipulation avoided to prevent 'the policing of families' (Donzelot 1980). There has been suspicion of interventions which 'provide a cover for value-laden tampering with family life' (Roberts,S.1983:139).

Simon Roberts (1983) pointed to four models of mediation, the first being simple bilateral negotiation which the mediator arranges, but is not present at the meetings. The second, supported negotiation, relies on the activities of 'partisans' (Davis 1988), who may be lawyers or other professionals taking opposing positions as advocates of their own clients.

some of the power over the decision-making process enjoyed by disputants...is lost...Thirdly, the universe of meaning within which negotiations proceed is extended and changed by the presence of partisans...their interpretations, their understandings ... inform the process to a greater or lesser extent (Roberts,S.1983:545)

The third model is that of mediation.

This limited role of the go-between, under which the third party constitutes no more than a conduit, a channel of communication, is of crucial importance (Roberts,S. 1983:546)

This third model of mediation is his preference, because it maximises the participation of the service user and minimises the power of the service provider. The fourth method was conceptualised as judgement made in arbitral and adjudicative procedures generally associated with civil and criminal law, but which may be indicated for family violence or elder abuse cases.

The third model of mediation was considered more closely and it was argued that mediation should not be directive or therapeutic, as directive mediators actively influences the decision-making, persuading the participants to reach agreements. In therapeutic intervention, it was argued, mediators use 'openly or covertly, professional therapeutic techniques to reveal and correct pathological elements in the relationship'. Family systems theory was said to be 'fraught with serious hazards, and this is potentially extremely harmful' when practiced in the context of mediation (Roberts,S.1988:145,149).

These views supported Marian Roberts' contention that therapists often make determinist assumptions about family behaviour and emotionally pressurise people to correct diagnosed dysfunctions. She said this also raises 'grave ethical concerns within the field of family therapy itself' (Roberts,M.1990:15).

Both lawyers are concerned that power in decision-making rests with the

disputants, as in mediation, and is not undermined by the professional power of therapists. Neither of them denied that therapy, counselling and legal advocacy can be useful or necessary in conflict resolution, but argued that these are discrete processes, and should be used at different times, by differently skilled practitioners. They thought that mediators, generally trained voluntary workers, should not enter into other domains.

Lisa Parkinson, another barrister who pioneered family mediation, took a different view.

Conciliators can be catalysts for constructive planning during this crisis period...The crisis theory of mental health... suggests that if sufficient support is available, the crisis can be an opportunity for positive change (Parkinson 1986:127)

Parkinson considered that the mediation process, which explicitly offers people the opportunity to share their feelings, as well as the facts about their dispute, as they perceive them, offers a critical chance of crisis resolution. Therefore, in her own Family Mediators Association work, therapists or counsellors and lawyers are available during the mediation to give their assistance. She also believed in observing disciplinary guidelines, and the distinctive function of each professional.

In all of these ideas there was a recognition that the earlier people can confront conflict and deal with it through mediation, the greater is the chance that disputes can be resolved, before attitudes harden, and before anger and frustration can lead to abusive or violent situations developing. The stages of conflict resolution, or what has been called 'the transformation of disputes' (Felstiner et al 1980/81) is discussed next. However it is beyond the scope of this study to consider the specialised research literature on the wide subject of the regulation of complaints in public spheres, although recognising popular

conflation of words such as complaints, grievances, conflicts and disputes, which merge into one another with no generally agreed academic differentiation. This study simply focuses on conflicts as discord, while at the same time accepting them as grievances (Felstiner et al 1980/81), both of which have intrapersonal as well as interpersonal connotations, and which can escalate into disputes.

The Theory of Dispute Transformation

'Disputes are not things: they are social constructs'. This means 'studying a social process as it occurs...the conditions under which injuries are perceived or go unnoticed, and how people respond to the experience of injustice' (Felstiner et al 1980/81:632).

(This involves) the emergence and transformation of disputes - the way in which experiences become grievances, grievances become disputes, and disputes take various shapes, follow particular dispute processing paths, and lead to new forms of understanding (Felstiner et al 1980/81:632)...we start with the individual who has suffered an injurious experience. That is what the transformation point of view makes us do. It encourages inquiry into why so few such individuals get some redress (Felstiner et al 1980/81:652)

It is pointed out that 'social scientists have rarely studied the capacity of people to tolerate substantial distress and injustice...' although it may 'represent a failure to perceive that one has been injured; such failures may be self-induced or externally manipulated' (Felstiner et al 1980/81:633). Here, from the theory's critical perspective, it is suggested that those involved in professionally abusive behaviour, as in elder abuse by a nursing home manager, may prevent people from complaining.

Free legal access for poor people involved in disputes was not easily available at the time of his American study, nor were people as litigious then as they have since become, encouraged by developing legislation and the advertisement of professional legal services. From this perspective it can be seen that lawyers have benefited from the social construction of disputes, and being hired at their beginning.

The early stages of naming, blaming and claiming are significant, not only because of the high rate of attrition they reflect, but also because the range of behaviour they encompass is greater than that involved in the later stages of disputes, where institutional patterns restrict the options open to the disputants (Felstiner et al 1980/81:636)

Naming is seen here as the acknowledgement and confrontation of conflict, while blaming, the second stage in the transformation of disputes, describes the process by which causes are attributed to others, and claiming is the last stage in which redress is sought. From a critical perspective there is a concern that early confrontation and naming of conflict, with its subsequent identification and attribution of blame for its causes, has its claiming for remedies restricted by institutional, legal and social barriers. This is especially relevant to poor and socially excluded old people whose grievances are ignored by service providers.

This theory is important because its focus on the transformation of disputes applies to conflicts in which mediation involves the naming and blaming processes, and empowers people in claiming relational and restorative justice. It also points to the value of early mediation, or prompt legal action, in abusive situations.

Critical Legal Perspectives in Britain

It is not intended to catalogue the existing general laws affecting older people described fully elsewhere (Griffiths et al 1990,1992,1993), except to note that it is characterised by many ambiguities, inadequacies and lack of safeguards for their protection, although the current Government consultation paper **No Secrets** (DOH 1999) proposes new policies and guidelines about this, but without specific legislation. Sally Greengross, director general of Age Concern, had earlier pressed for protective intervention orders (1986:133), but these were only later made available in the general context of the 1996 Family Law Act.

In a critical study, **Sharpening the Instrument: the Law and Older People** (1992), it is pointed out that 'the existing framework makes little or no provision for their special needs' asking 'whether we should adopt a single codified system of law that applies exclusively to older people' (Griffiths et al 1992:7,42), although noting problems involved in this.

Law needs to be radically changed. But so do attitudes. Until society is prepared to abandon ageist attitudes and practices no amount of changes in the law will fully guarantee the rights of older people. In many respects the challenge for the law has much more to do with educating people and changing attitudes than it has with changing rules and procedures.
(Griffiths et al 1993:44)

It is the educative potential of mediation which offers to complement slower and sometimes abortive processes of law reform, as when the government first rejected relevant 1990-1993 Law Commission proposals for changing British law to take account of the needs of vulnerable elderly adults, although currently reconsidering these. Law

Commission Consultation Paper 119 proposed:

that people are enabled and encouraged to take for themselves those decisions which they are able to take;
that proper safeguards be provided against exploitation, neglect and physical, sexual or psychological abuse
(Hoggett 1991:n7,para 4.27)

The Law Commission publication on family violence suggested non-molestation and occupation orders to benefit those threatened, including elders, and exclusion orders to be made on perpetrators, but administered sensitively.

to seek to avoid exacerbating hostilities between the adults involved, so far as this is compatible with providing proper and effective protection... (and not) impede rather than assist communication, might well generate bitterness and animosity between the parties and hinder any attempt at conciliation or mediation (Hoggett 1992:16).

Ongoing critiques of inadequate legal provisions for older people in the context of elder abuse suggest that mediation as a process of informal justice may fill an important gap as it is available, free and based on encouraging improved relationships.

Theories of Communication and Relationship Studies

The self-evident role of communication in enhancing good relationships is central to the process of mediation in its work with older people whose special needs have been extensively theorised in **Communication and Aging** (Nussbaum et al 1989),

Communication, Health and the Elderly (Giles et al 1990) and **Language, Society and the Elderly** (Coupland et al 1991).

Biological attritions in hearing, speaking and conceptualising, linked to their fluctuating capacities in stress or crisis, are also associated with the material and psychic life histories of older people. Their potential for coping with current conflict can be intimately related to having been able to sustain earlier relationships in past problems, as noted in **Communication and Relational Maintenance** (Canary and Stafford 1994). Thus ongoing sensory deficits and habitual failings in managing relationships contribute to the ways in which old people approach conflict.

The voluminous work of Michael Argyle (1967,1973,1991) and Steve Duck (1977,1988,1991,1992,1993,1994) on personal and social relationships has been explored and mined for its explanations of problems found in mediating conflicts involving older people, and their perceptions of elder abuse. Throughout these theories there is a critical stress on examining the social construction of communication and relationships at all levels, although another limitation of this study is that it cannot explore the deeper psychoanalytical interpretations of behaviour as described in **Social Theory and Psychoanalysis in Transition** (Elliot 1999).

The brevity of these references to communication and relationship studies is inversely related to the great extent on which these were relied to provide background understanding of interpersonal relationships in the practical participatory action research, even though it will be impossible to refer to this in individual cases.

Summary

This chapter was introduced by showing that the study is situated in the domain of critical social gerontology, in which elder abuse is of current concern, and that of ADR of which mediation is a central process. The social construction of old age and the problem of elder abuse was reviewed through the deconstructive perspectives of critical social gerontologists pointing to political and economic causes needing redress. This was followed by noting the additional reconstructive attempts of Moody (1998) and Phillipson (1998) to link remedies with restoring a sense of significant personal identity to older people suffering social exclusion and mistreatment, and developing microsociological studies which research relevant sites of conflict and abuse.

Relevant theories of elder abuse were then outlined in terms of their medical, psychological, psychosocial, and social and structural perspectives, and indications were given about how the role of relational conflict was viewed in these and thus provided a useful source of knowledge for theoretically grounding this present study.

A critical discussion of ADR and mediation focused on its social recognition as either a form of second-class justice, or, in interpersonal relationship conflicts, as an appropriate form of relational justice and minimal social intervention (Roberts 1986). The aim of restoring relationships was then discussed in terms of Wright's (1991) theory of restorative justice involving reparation. The conceptualisation of dispute resolution as a staged process of naming, blaming and claiming (Felstiner et al 1980-81) was discussed, and this with related ideas noted have been influential in shaping this study.

A short section on some existing British legal perspectives on elder abuse pointed to proposals for legislative action which support the interests of the present research, but it was not within its scope to discuss the multiple provisions of American federal and State laws, and gerontologists' disagreements about these. An even briefer section referred to some relevant communication and relationship theories from their large specialist literatures.

In all of the theories noted there are gaps in knowledge due to lack of specific attention being given to the use of mediation in resolving interpersonal conflicts which lead to elder abuse, so this study should contribute to theory accumulation. However the confluence of theories discussed have substantially guided the research, especially by pointing to the importance of studying the social contexts in which mediation occurs and the various factors which influence old people in choosing to use its services.

The chapter has been limited by inability to examine the impact of these theories on older people, largely because there is little reliable research on how they do or do not evaluate these. In the next chapter on the methodology of this study, consideration for the views of older people, and ensuring the beneficial impact on them of the research envisaged, will be paramount concerns in constructing the empirical work.

CHAPTER 3

THE SOCIAL CONSTRUCTION OF THE EMPIRICAL WORK AND ITS METHODOLOGY

Introduction

This chapter begins by restating the principal and secondary research questions, and points to the aims of the study in devising empirical work of benefit to older people, and encouraging their participation in it. Brief explanations are given for the choices made in selecting from methodology theories, and the design of a qualitative study is discussed, basing it on theory grounded in empirical study. Data is collected through three different projects involving mediation and older people: participant observation in the American sites of Atlanta, Kansas and San Francisco; a British ethnographic study; and a video-based British social attitude survey.

The study's focus on participatory action research is explained, followed by describing a preliminary informal inquiry among a small but representative group of old people asking whether they consider the study to be worthwhile. This is described in some detail, as is the video survey which, unlike the other studies, has no further chapter focused on it, except for the penultimate one evaluating findings.

The planning of the participant observation work in America is described, followed by the history of the research visits there, and outlines of the projected empirical work. The British study is next described, and the video survey is then portrayed.

Limitations of the research are noted throughout. The chapter concludes with a brief self-reflexive focus on researcher aims and failings in attempting to make an original contribution to action research, critical social gerontology and increased understanding of mediation in confronting elder abuse.

The Aims of the Empirical Work

The principal question of this exploratory research was to ask whether mediation can benefit older people by empowering them to resolve conflicts which lead to elder abuse, and thereby contribute to preventing it. Secondary questions relate to asking whether mediation is a fair, non-oppressive and minimal social intervention, which can also challenge ageism and social exclusion of old people through processes of relational justice. These main questions are related to the themes indicated in the first chapter, and contribute to the analytical framework of the thesis and its evaluation in the seventh chapter.

The general aim of the empirical work was to learn what old people experience in the conflicts that confront them. How do they try to deal with these through mediation? Do their situations and relationships sufficiently improve to prevent them being or becoming abusive? Can mediation benefit them?

A second aim of the research was to explore how far the social agencies studied used mediation processes or skills to assist older people in coping with these conflicts. Were these considered to be beneficial? How did they work? What happened if they

failed?

The third aim of the research has been to increase understanding of the effect of mediation in general on older people's individual and social lives, as they perceived this. Was it of value to them, and, if so, why? There is an associated concern to explore how far mediation is a socially and politically progressive process. As the study, has been planned as a form of participatory action research, has it enabled older people to improve their decision-making and self-determination? Has it empowered them in resisting elder abuse, ageism and social exclusion? Is mediation a form of social justice?

Mediation can also act as a screening device for the identification of elder abuse, in the situations where service users complain of conflicts. This is because all participants in mediation are offered preliminary information about elder abuse and other services from which they may be able to receive specific advice and help.

Other questions include asking which groups of old people benefit most? In what social contexts does mediation appear to be most useful? How does this relate to the different types of mediation used? Do all of these involve processes of naming, blaming and claiming in the transformation of disputes? Can mediation be harmful? If so, why and how, and to which older people in what social and political contexts?

These and other questions emerged from early consultations with the academic, professional and practitioner groups already referred to in the first chapter, and from the ongoing experiences of Elder Mediation Project (EMP) volunteers working with older

people. Thus the rationale for the research was initially grounded in these collective practical experiences, and also in those of a small but representative group of old people from a local community with whom preliminary interviews were held to ask about their experiences about conflict, and who all agreed that wider research on the topic would be useful.

Developing Theory Through Empirical Research

The Discovery of Grounded Theory (Glaser and Strauss 1967) was an influential text read during early literature searches which guided the study towards a qualitative research project based on data collection beginning in American sites where mediation with older people first developed, so that experiences there would be instructive in progressing the British empirical work.

It was in Atlanta, the centre of the black south of America, in Kansas, its white heartland, and in multicultural San Francisco that pioneer projects of mediation with older people began, and where there were also elder abuse services, although these were not connected to the projects. It was considered that these three areas provided valuably diverse cultural contexts for data collection, and the three sites are discussed further later in this chapter, and in two subsequent detailed chapters. Discussions with American hosts indicated that participant observation as a research method was mutually acceptable.

It was decided that another research method would enrich the British empirical work, and an ethnographic study of mediations involving older people experiencing

abusive situations was scheduled to follow the American work, using the multicultural peer group services of EMP. A control group of people with conflicts but in non-abusive situations was planned to compare the effectiveness of mediation in severe and less serious cases.

A third method involving a video vignette as a research instrument was designed and scheduled to be used concurrently with the EMP project, in order to survey the social attitudes of 100 respondents from seven representative groups to the potential of mediation for preventing elder abuse in a simulated incident.

These research methods are discussed later in this chapter, and were planned to provide the multimethod approaches recommended in **Real World Research** (Robson 1993) and the methodology texts cited earlier in the study. This would check the consistency and validity of research findings in different social contexts and with diverse cultural population. It would also provide a balance between extensive and intensive fieldwork, in that the participant observation in America would involved the researcher visiting many sites in an interested but passive role, whereas the ethnographic study would depend on active participation in the mediations. The video survey would provide an even more objective element through testing social attitudes to a situation relevant to the research questions.

All of these methods were subject to research principles of anonymity, confidentiality and consent. These involved developing a qualitative approach based on planning the collection of specific data through purposive sampling. The aim was to

recycle information continuously in order to change or refine the research question, and check the reliability of the emerging research design (Hedrick et al 1992).

Naturalistic Inquiry (Lincoln and Guba 1985) and **Human Inquiry** (Reason and Rowan 1981) and shaped the research because both recommended qualitative empirical work based on heuristic and holistic values. This ensured that at all times the research was beneficial to its participants, and that its evolving findings were shared and discussed freely with interested people.

This approach recognised the validity of tacit knowledge, also described as 'pragmatic knowledge' and commonsense, the important result of 'discontinuous trial-and-error processes' (Baldamus 1984:283,279), and found a place for including background anecdotal experiences, provided these were noted as such. The importance of generating and recycling further knowledge through ongoing study of secondary data in continuing literature searches and participating in conferences was also stressed.

Theory was also continuously related to the real life events affecting older people through systematic coverage of media reports and programmes, regularly visiting an old people's club as a member sharing in their activities, and talking with elderly friends. Newspaper cuttings and field notes were kept which related to individual old people involved in the micro conflicts of daily life, and the collective issues of injustices, ageism and social exclusion which occurred in the macro conflicts of general society.

As it was realised that data about the interpersonal conflict and abusive situations

of older people was likely to be sensitive, the research also relied on **Doing Research in Sensitive Topics** (Lee 1993) and contributors to **Researching Sensitive Topics** (Renzetti and Lee 1993). EMP's stress on participation in mediation being done on a voluntary basis, with informed consent to its procedures, and freedom to exit at any time from the session, also fitted in well with the principles of doing research in sensitive topics, which is essentially concerned with safeguarding and advancing its participants' legitimate interests.

It was these methodological theories, and the supportive experience of EMP volunteers which led to the major piece of ethnographic research being fashioned on the principles of Patricia Maguire's **Doing Participatory Research** (1987), which are now described in detail. Her research and the present study shared a common concern that their findings should benefit vulnerable people in diverse cultural contexts.

Doing Participatory Action Research

Maguire introduced her research as being based on critical theory, which is an additional reason for following its ideas.

The inquiry should itself be educational and empowering for participants: outcomes should include action on attitudes and structures that inhibit self-worth, social justice or liberation (Maguire 1987:viii).

Maguire said that her work was based on the educational critical consciousness-raising (conscientization) work of Paulo Freire (1970). His 'concept of dialogue', enabled participants to 'name their reality' in a 'problem-solving process' (Maguire 1987:134,137).

This fits with the problem-solving process of mediation, where disputants discuss together their different views of situations which separate them.

Maguire argued that her critical inquiry into the conflicts of American Navajo women 'enabled the women to analyse issues as they talked' (1987:147) in ways which were beneficial to them, and which produced useful information which could have been gained in no other way. This mutual production of shared knowledge is also an educational aim of mediation.

Similarly, the multicultural membership and aims of EMP were consistent with those of Maguire's research, which was also supported by other research on the Navajo which 'recommended that a mechanism be developed in which intergenerational dialogue can take place' (Brown 1989:35). This, as was noted earlier, is a current concern of critical social gerontologists seeking to advance a 'new intergenerational contract' (Walker 1996).

Maguire followed Jurgen Habermas (1971) in developing a research model based on critical inquiry, which also has internal consistency with that of this present study.

Critical inquiry is structured to uncover the systems of social relationships and contradictions which underlie social tension and conflicts...Critical inquiry is used to help people see themselves and social situations in a new way in order to inform further action for self-determined emancipation from oppressive social systems and relationships...(Maguire 1987:14)

She then described the research purposes of her critical inquiry.

The purpose of research is shifted from constructing grand generalisations for control and predictability by detached outsiders to working closely with ordinary people, the insiders, in a particular context. The purpose is to enhance local people's understanding and ability to control their own reality (Maguire 1987:22).

Although Maguire's research purposes agree with those of the present study, this diverges from her apparent reluctance to involve outsiders in ongoing consultations and eventual evaluation of the work, as this research is based on consistently consulting with academic, professional and practitioner groups as well as with those of old people. However Maguire went further in comparing professional research design and control 'versus local self-determination' (1987:24). It is only the latter, she argued, which ensures that participants are affirmed as research subjects, not objects.

All participatory researchers stress a collaborative or participatory inquiry in which ...both the process and outcome should put more power and control in the hands of the oppressed. Research should give them a voice in articulating their perceptions of their problems and relevant solutions (Maguire 1987:24).

She went on to call this 'the participatory research principle'.

...we both know some things; neither of us knows everything. Working together we will both know more, and we will both learn more about how to know (Maguire 1987:37-8).

This research principle may also be said to be a founding principle of all mediation work, which shares Maguire's concern to 'help make people creative actors in solving their own problems' (1987:29).

a deep and abiding belief in people's capacity to grow, change and create underlies this democratisation of research ... (although) participatory research is a tool not a panacea (Maguire 1987:39).

Later Maguire provided an explanation for qualifying the potential of participatory research's potential for developing democratic change. She said that her participants did not 'gain a structural analysis of capitalism, patriarchy or racism' (Maguire 1987:188). Here she appears to suggest that the Navajo women had insufficient education to understand how infrastructural injustices shaped their lives, and how the microlevel conflicts and domestic abuse from which they suffered related to the macrolevel social conflicts arising from male unemployment and alcoholism. However she stated that they did benefit from the research.

(They) did gain experience and some skill in problem identification and solution building...They gained appreciation of the value of collective problem-posing and solving. The group experience built their feeling of confidence that they could be active problem-solvers, decision-makers in their own lives...which strengthened their belief in their collective and individual abilities and resources (Maguire 1987:188-9).

Maguire's research model was based on her concern to explore the potential of participative research for enabling her participants to resolve their conflicts in problem-solving ways. It can thus be seen to encompass principles which were a useful guide for the ethnographic empirical work of this present research which, like hers, shared the aim of encouraging the decision-making capabilities and sense of achievement of its participants, and empowering them in facing wider social struggles.

However this present study has also been designated as participatory action research (Reason 1988) to stress that an active social process, mediation, is being studied, with an objective of examining how far it offers a helpful form of social action in preventing elder abuse. Modelled on the personal participation in her research by Maguire (1987), British researcher practical involvement in the EMP ethnographic study, described in the sixth chapter, offered opportunities for specific action research.

Here it is useful to differentiate between the passive participant observation which took place in the American research, where others were primary workers and the researcher had the secondary role of silently watching and listening to events, and the active participation of the researcher in the EMP study. However as this research is not based on a methodological examination of various types of participant observation, it avoids repeated differentiating between these throughout the study, because there is no evidence that the findings would be affected by it, although the danger of filtering in researcher perceptions applies throughout.

Further discussion of the empirical work planned for the American and British research projects is now preceded by a more detailed account of the initial British fieldwork which prepared the foundations for the study and its grounded theory, as this preliminary informal inquiry will not be discussed further in the thesis.

A Local and Limited Informal Inquiry

This preliminary inquiry was the third part of an initial triangulated approach to assessing whether the research would benefit older people. The first part involved national consultations with gerontologists and old people's representative organisations, as described earlier. The second resulted from discussions with EMP and Mediation UK members about the social value of the study.

The informal inquiry was quickly planned through the snowball methodology of asking local community leaders in the London borough where the researcher lived, if they knew any old people who would give an hour of their time to research interviews asking about their experiences of ageing, and then asking these volunteers if they knew others who were interested. As the inquiry was in a multicultural inner-city area with mixed income populations it was hoped to obtain a fairly representative small sample of 10 older people.

Ten interested participants were easily found, five women and five men. The women included a single parent, a retired hospice nursing tutor, an American retired lecturer, a Czech Jewish holocaust victim and a community activist. Two were single, one was married, one was divorced and one was widowed. Through their comments, though not through direct questions, it was apparent that one had a low income, another a high income and the other three had middle incomes. The men included a tradesman, a business executive, a Nigerian British rail worker, an editor and lawyer. all were retired and appeared to be of middle income status except the black railway ex-worker. One man had

a physical disability, and a woman had a minor mental one.

Each participant was contacted by letter or telephone, explaining the purpose of the research with the assurance that any contributions made to it would be confidential, anonymously recorded and socially valuable. Participants were asked about their preferences for interviews that were tape-recorded or had notes taken for transcripts. Three agreed to being taped; three resulted in full, and four in shorter notes taken and transcribed.

The participants had received prior questionnaires, as shown in Appendix I, and were invited to comment on as many questions as they wished, in whatever way they preferred, during the hour's interview which each was given. Here it should be noted that this questionnaire was the second to be constructed, as it was felt that the first, too negatively focused on conflict and elder abuse, could depress and bias responses, while the second one introduced general issues about health and welfare, family life and friends and neighbours and only later asked about abuse. Participants were finally asked if they saw any relation between the problems of ageing, its conflicts and elder abuse, what services they considered were dealing with these, and whether it was worth researching if mediation might be useful.

The interviewing was done in accordance with the principles of sociological research (Bulmer 1984; Kahn and Cannell 1957; Oppenheimer 1992), and on the basis of many years' practical experience in counselling, social work and mediation activity. It was this past experience in general unstructured or depth interviewing (Banakara 1971), which

often took hours or even days, that led to a preference for structured, short-term meetings focused on the questionnaire mentioned above. This was also because the purpose of the interview was not to encourage old people to give their life histories, or views about the social world, however interesting this might have been for them and for other research.

However, care was taken to welcome, thank and listen attentively and reassuringly to participants, without making comments or causing them embarrassment through pressurised probing. From a reflexive perspective, it was later considered that either in the questionnaire, or through guiding interviewees, their views might have been elicited more specifically about attitudes and experiences involving ageism and social exclusion.

All ten local older people agreed, to varying degrees, about the usefulness of a research project, and this was the major finding from the fieldwork which the interviews had been designed to explore. The participants said that they had enjoyed and learned from the interviews, which added little to general gerontological knowledge, although some of their comments illustrated this. For example, the single parent in her 70s spoke of the discrimination and social exclusion which she had suffered 50 years earlier because of her status, and how this led to many conflicts, while the American widow said her husband, a professor, had physically abused her because of their continuous conflicts over his alcoholism. The informal character of the fieldwork also meant that it was limited as a form of rigorous and reliable research, but it served its purpose.

Participation Observation in Atlanta, Kansas and San Francisco

Detailed chapters about the research work in America follow this present one on the empirical approaches to it. However these are now introduced briefly by describing the history of research visits, preceded by a brief description of the principles and practices on which participation observation was based.

Participant Observation in Practice

These involved the verstehen approach (Andrews 1991), whereby the researcher is placed, as much as possible, in situations where people and their problems can be observed and studied. This meant accompanying mediators and those concerned to develop it to sessions and interviews where cases took place or were described.

Following the precepts of **Researching Social Gerontology** (Peace 1990) and the methodology theorists already quoted, participant observation for this study followed set practices in each case which, stated here, will not be repeated throughout the research descriptions which follow. Participants were met, all were greeted courteously, the researcher being introduced. They were thanked for agreeing to the observation, and again at the end of it; they were assured of its anonymity and confidentiality, that they were valued for contributing to knowledge, and that they would not be interrogated. Permission was asked for taking notes, which would eventually be destroyed.

The participants were in three main groups. The directors and staff of projects

formed one; they set the conditions for the research and received its reports for their comments. The second group were colleagues of the former, who had arranged interviews with them, and who would have the results of the research shared with them indirectly. The third group were the older people involved in mediation, mostly involved in conflict themselves, although some were volunteer mediators. Directors stipulated that participant observation with the elderly and often distressed disputants should just be on the basis of attentive listening, with no research questioning, and that it would not be possible for directors to share with them individually the results of the research.

Participant observation in America was thus limited by these conditions, and the fact that volunteer mediators did not follow standardised procedures in mediations, especially when these were spontaneously arranged to meet urgent needs. Another limitation was that no home visits were made, as in Britain, so only brief explanations were available about the development of specific conflicts. It was also only possible to study cases as they occurred during the research visits, without dividing them equally into those which did, and did not feature abuse, as was done in the British research. Thus unavoidable inequalities in data collection from both countries inhibited developing integrated codes and tabulation for the analytical framework of the study, which developed a narrative status with thematic evaluations. These differences were not considered to damage the research, which had not been initiated as a comparative project, but had intentionally focused on the narrower British ethnographic study for providing the detailed data with case controls, while the American participant observation provided important complementary information from wider sources.

It was decided that information collected for the major research findings could be usefully linked to the six main themes of the thesis, by grouping it under similar headings at the beginning of the penultimate chapter evaluating the study. This would be followed by specific detailed findings from the American and British research, and finally readdress the issue of the social benefits of the study by evaluating how far the findings contributed to these. It was also decided that in the American and British research, references to cases would be recorded in this thesis by giving disputants anonymous names, starting with the initial A, and that direct quotes from people would be indented.

The History of the Research Visits

It had already been established through networking with the American Bar Association (ABA) that it had contributed towards the funding of the first two American mediation projects focused on elderly people. This new area of work was supported by the American Association of Retired Persons (AARP), and the National Institute of Dispute Resolution (NIDR) which had promoted a 1988 conference on Mediation and Older Americans held in the United States (US) House of Representatives, which in 1990 held a federal meeting on elder abuse.

The ABA arranged introductions to the directors of these mediation projects in Atlanta and Kansas. Through correspondence, visits to them were planned for the autumn of 1992 for the purpose of one week's participant observation work in each of their projects, with 12-hour daily activities. A third week was spent at the annual conference of the Gerontological Society of America in Washington DC, contributing a paper and

attending seminar discussions, while a fourth week entailed visiting AARP, the ABA and NIDR, as well as federal agencies in the city concerned with the care of old people, and issues of elder abuse

Following this initial study in America and the consultation and networking done with American research colleagues met then, arrangements were made for a further month's participant observation to take place during 1993 in four research sites in San Francisco. These included a week each in a long-term care ombudsman (LTCO) county office, an Oakland nursing home, a 2000-bedded long-term care hospital for mainly elderly people, and a final week's visits to relevant San Francisco community agencies, and a gerontology seminar.

Atlanta, Kansas and San Francisco were considered to be prime sites for the research because each has distinctively different cultural histories and populations. The former is centred in America's poor black south, with its past traditions of slavery and recent campaigns for civil rights inspired by Martin Luther King. Kansas is situated in the white heartland of America, with a tradition of Civil War involvement and recent growth as a major city. San Francisco is one of America's largest multicultural cities, and its State of California is popularly known as a Costa Geriatrica because of its many old people, as is Florida.

Each site had well-respected mediation services, and the managers were mainly older professional women with personal experience of ageing problems, determination to help poor old people find socially just ways of resolving their conflicts, and a concern

about elder abuse. They welcomed British research concerned to explore the relation between unresolved conflict and elder abuse, which had not been theorised before in America, nor specifically considered in their own projects.

They also appreciated the fact that the British research was not going to evaluate their services, but only aimed, through participant observation, to study actual mediations and their social context, this being done in co-operative consultation with them, and by deference to their wishes.

They saw reciprocal benefits in learning from British experiences, and sharing in the eventual findings of the research, the draft reports of which they would be shown for correction, before being finalised. Thus the participant observation work in Atlanta and Kansas was constructed on the basis of it being a shared enterprise of mutual ongoing learning. In this way the research reflected the principles of Maguire's model (1987).

The Atlanta Mediation Programme

The director was a lawyer who supported in her home an adult sister with extreme mental and physical disabilities, but whose mother, in her eighties, was one of the project's most able mediators. The director knew President Jimmie Carter whose Carter Presidential Center was located next to the mediation project and the Martin Luther King Center, all deliberately situated in one of the poor black areas of Atlanta.

This neighbourhood's mediation project was first established in 1978, and was later specifically named the Justice Center of Atlanta (JCA) because it aimed to give poorer

people the free and speedy justice which they could not get from the law courts. However, the director, as a lawyer (although also qualified to practice and train in mediation), tried to facilitate and support access to the law for disputants if this was necessary.

In 1989 the JCA was asked and funded by NIDR to develop a mediation programme involving Atlanta's LTCOs. Subsequently, in 1991, out of their experience of focusing on the needs of older people, the JCA developed an additional mediation project from which referrals would come from the State Community Care Program (SCCP).

The JCA director had trained many older, mainly retired, volunteers for her general mediation programmes and considered that work with elderly disputants should best be done on a peer basis. Also, Georgia generally only funded part-time LTCOs, so many were retired, or even unpaid older volunteers. These also assisted the JCA with the SCCP, as they had been trained earlier for the NIDR mediation project.

The participant observation was planned to include seeing this work and participating in LTCO professional seminars, Stage agency discussions with welfare workers, lawyers and police, as well as consulting with Atlanta community activists concerned about elder abuse.

The Kansas Mediation Programme

The director was a qualified teacher, counsellor and mediation trainer with paralegal training as a staff member of the Kansas Legal Services (KLS) office dealing with all

aspects of civil and criminal law. Its lawyers were keen on free legal assistance services and their office was situated in a downtown area, Olathe, with a mixed population of poor and prosperous white people. The lawyers were asked by the Olathe Human Rights Committee, which received about 400 cases of conflict and complaint annually, to start an Olathe Dispute Resolution Service (DRS) in 1985, and their paralegal staff member organised this.

She was 60 years old and had suffered from a stroke, although she was not paralysed by it. This experience, combined with noticing that the office dealt with increasing numbers of older people having conflicts, made her suggest a specialised mediation project, as part of the KLS and DRS. This would enable case-screening staff to offer people a choice of legal or mediation services, while assuring them that they could change to either at any time.

A proposal for a pilot project was put to the ABA in 1989 on the basis that the KLS had assisted 761 old people that year, and that Olathe county had a population of 42,000 people over 60 then, estimated to increase in numbers. The proposal was accepted and the Kansas Mediation Service for Older Adults (KMSOA) was established, with her as director.

She devised special training's for older people acting as KMSOA peer group mediators, and also for local multidisciplinary workers, including LTCOs, who wished to use mediating skills in their own services.

As KMSOA influences and practical activities were well spread in Kansas,

participant observation was planned to take place in wide social contexts, including cases being mediated under the aegis of a local court, where judges regularly referred disputes which they considered unsuitable for the adversarial legal process. As at Atlanta, research participation was subject to the same conditions.

The San Francisco Mediation Programme

San Francisco is one of the most culturally diverse American cities, with large black Asian and Latino populations whose older people suffer from a wide range of social conflicts and oppressive experiences which will be noted in the chapter on the empirical work in California. All the sites were within the boundaries of the greater San Francisco Bay area, and research was subject to similar conditions as noted above.

The LTCO County Agency

The first research site planned was a LTCO office in a low and middle-income county just outside San Francisco, whose director had taken a NIDR mediation training, after which she became convinced of its value. Thereafter she continuously trained her paid LTCO staff and voluntary LTCOs in mediation, so that they could use its skills when appropriate when visiting local nursing homes.

Although the statutory role of LTCOs was to represent patients' interests, and act as their advocates when necessary, it was often found that patients, as well as the staff, had

contributed to the unresolved conflicts behind the complaints. Consequently, mediating and problem-solving skills were often more useful than taking sides, as in advocacy.

The director and staff offered the hospitality of their small office for a week to enable a research trawl through its hundred of case records to take place, with opportunities given for accompanying the LTCOs on their nursing home visits and observe any mediation work done there, and to the multidisciplinary meetings they attended, including one on elder abuse.

The Oakland Nursing Home

The next research visit was planned to take place in the poorest black county of California where an elderly owner of a nursing home ran it with her son and daughter-in-law. They were all registered nurses, but believed in running what was called a skilled nursing facility, in a social rather than medical way.

The son had done a NIDR mediation training and welcomed the British research visit in a qualified way, saying that participant observation was to be done inconspicuously to avoid impacting on the mentally and physically frail residents.

The Public Hospital

It was planned to visit the San Francisco public hospital last. It was formerly an historic asylum, one of the largest in America, and its medical director had begun an innovative refurbishment and rehabilitation programme which included an interest in introducing

mediation into its services.

Her invitation was for a participant observation week in the hospital, visiting its many different departments and talking freely with staff and patients about their experiences of conflict and mistreatment. She asked that a research paper on mediation should be planned for a staff seminar for staff on the benefits of mediation.

Visiting San Francisco Community Agencies

The last week of the research was planned to be spent in visiting the elder abuse, police and mediation agencies in the city as well as others, to listen to and discuss cases of conflict leading to abusive situations involving older people which service providers had encountered.

These multiagency discussions, and others in the American research visits, and at a gerontology seminar, were expected to be useful in that they provided opportunities for listening to views on critical social issues. These included the rights of old people under the 1990 Patient Self Determination Act, ageism and social exclusion, and some of the structural constraints on productive ageing experienced by many old people who lived outside the privileged areas of the rich matriarchal and patriarchal elite senior citizens of America.

However it was realised that all the American research was limited by not being able to question old people directly about their lives, conflicts and views about society,

and by the impossibility of tape-recording the participant observation work. Another serious limitation was that it was not within the scope of the study to plan follow-up studies over a period of years to test the durability and spreading of mediation effects in old people's lives. A more serious methodological concern was that of working out how to minimise biased perceptions by the participants that they should express satisfaction with the fairness of mediation as a way of showing appreciation for its free, prompt and attentive service. It was planned to offset this by always assuring participants that they had choices about using other services, and providing information about these, although it was recognised that these had often already been tried and found wanting. It was also considered, from past practical experience of mediation, that it was gratitude for the 'transformation of the dispute' (Felstiner et al 1980/81) which led to participants' genuine feelings of justice being done, even though not all their claims were met. These constraints also affected the ethnographic study to be discussed next.

The British Ethnographic Study

The main aims of the ethnographic study of mediations involving older people were consistent with those of the rest of the empirical work discussed above, but its detailed approach was planned to produce opportunities for examining the mediation process itself, its various stages and types, and more comprehensive findings about the social contexts in which conflicts develop and escalate into abusive situations. The research planned to explore the process of mediation as an early and fair social intervention, and it was hoped to offer explanations of why and how it worked or failed in the cases studied, and its potential and limitations for preventing future elder abuse, and challenging ageism and

social exclusion.

Although the study was based on cases referred to EMP between 1994-96 using older volunteer mediators, there was no aim to test whether peer group work influenced results, as this would have meant designing a completely different comparative study with other mediation services having voluntary workers of all ages. There is also no evidence that age differentiation is a significant variable in predicting mediation success, although traditionally service co-ordinators try to match volunteers with disputants of the same gender and age group whenever possible, to ensure the easiest and earliest rapport between them.

The real significance of EMP work, outside the terms of the research project, was in using older volunteers to demonstrate that elderly people can actively deal with conflict in constructive ways as a model to their peer group whose life experiences they often share.

The Population Sample

The research sample was gathered in an opportunistic way (Robson 1993), which has been said to have the effects of a random sample (Lincoln and Guba 1985), in that it was not selected on any specific basis, but relied on referrals from the many diverse statutory and voluntary agencies who knew of EMP through its advertised services and organisational networking. These agencies worked with broadly representative groups of older people, so it was hoped that the research sample would be similarly representative, as it later

appeared to be.

Referrals mostly came from the community mediation services in which EMP volunteers worked, and as these were situated in poor, multicultural inner-city communities, there appeared to be a fair weighting of older people from low-income and diverse cultures to offset any domination by numbers of middle-income elders. These represented only two-fifths of the sample, coming from sheltered housing in country and suburban areas. Direct self-referrals from old people were also included.

In **Applied Research Design** (Hedrick et al 1992), it is pointed out that is legitimate to trade off strengths against weaknesses in planning empirical work. The weakness of the study in gathering a representative population sample without rigorously testing it, was balanced by its strength in planning a social action research project whose participants sought mediation services, rather than being found during the methodologically correct search for appropriate subjects.

The main methodological principle was to include the first 25 old people referred to EMP who complained of conflict which had become abusive, and the first 25 who complained only of conflict. This second group was planned to be an informal control group, so that comparisons could be made about the relative successes or failures of mediation in abusive and non-abusive conflicts. It was important to understand if mediation could be effective in abusive cases, and it was planned that the role of the control group would be to see if mediation was more successful when no threatening incidents were involved. The control group might also indicate that had conflicts not been

mediated, these would have probably escalated into abuse, although it was recognised that such predictions would be speculative. A complication of this method was that although the study focused on 50 older people, they were involved in just 33 cases, and there was a danger that data analysis would confuse these in evaluating findings. This was another reason for not tabulating them or attempting a quantitative analysis less applicable to a qualitative narrative study.

Data Collection

It was hoped that a social analysis of the backgrounds of the participants, and any comments which they made about these, would provide limited knowledge of the structural and socio-economic conditions in which they lived. These would be relevant to subsequent evaluations of the extent to which old people felt they suffered from ageism or social exclusion.

Social indicators were developed describing participants and their social contexts in terms of their age, gender, marital, household and occupancy status; their income, employment and sources of referral to mediation; their physical and mental health, disability and dependency status; and their cultural, religious and social networks. In order to assess the effects of mediation, data collection showed the type of conflict, type of mediation, outcome and personal effects experienced by the participants.

The principles governing relationships with participants were planned to be

consistent with those of the American research, and will not be repeated now, although the chapter on the British ethnographic study describes in detail the conduct of mediation sessions and how these were discussed with the participants. The ethnographic approach to mediation was planned to follow the ideas of unstructured interviews (Banakara 1971) in that disputants would be given unlimited, uninterrupted time in which to give accounts of the conflict in their own words, and then discuss their stories together. Mediators would exercise no power in influencing the way these conflicts were perceived, but impartially enable the disputants to adjust their understandings in the light of the explanations given to each other. The mediators would empower participants to search for practical, problem-solving ways of improving their situations and relationships, but would have no power to determine any eventual decision making and agreements made about these.

The ethnographic research would not only describe these processes, but also initial home visits prior to the mediation, which generally followed British referrals. These home visits produced additional impressions of the social backgrounds of the participants.

It was recognised that this qualitative ethnographic work, although central to the research, would be difficult to analyse rigorously because of the methodological problems of researcher objectivity in estimating the significance of the subjective perceptions of the older participants involved. It was realised that the reliability of the data would be limited, as it would be mostly constructed from the older participants' perceptions which were expected to fluctuate and change. This would probably particularly affect their perceptions and social definitions of elder abuse, and whether, when and how it might have affected them. It was recognised that the research findings would be limited by the perceptions of

the participants, who were less aware of these than the mediators and researcher trained to self-monitor objectivity and neutrality.

As mediation is a listening and communication process in which interrogation is avoided, checking information given would be restricted to clarifying their subjective accounts, and not investigating allegations of abuse objectively. After much consideration it was decided to record as abusive situations or relationships those in which the participants complained of suffering from physical, mental or emotional, racial, sexual or financial threats or actual harm.

The reliability of the sample could also be criticised for being atypical, in that a relatively new service like EMP might attract people who want to assess rather than need it, although it was decided to check that the referrals were genuine. Another concern was that mediation at the grassroots level was more popularly known for its success in resolving neighbour conflicts, so it was expected that many referrals would involve these. However this probability was not considered to be disadvantageous as it would balance the larger number of cases in institutions which the American research was expected to produce. In addition there was a positive British research concern that its ethnographic approach and findings might be of special benefit to old people who suffered from neighbour conflicts while living alone, as is increasingly the case (Garrod 1993).

It was expected that there would be fewer family referrals as old people tend to avoid report conflicts with kin for reasons of loyalty, shame and guilt respectively (Pillemer and Wolf 1986). As Britain has no services comparable to those of the American

LTCOs, it was also not expected that there would be many institutional referrals. There was no manipulating of the population sample to equalise numbers, as it was not empirically intended to make strict comparisons between the different social backgrounds of neighbours, family members or institutional residents, although it was recognised that these often contributed to the conflicts, and old people's perceptions of them.

Despite these limitations, those implicit in the American research indicated above, and others which were expected to emerge in the empirical work, it was considered that the non-selected but referred population sample would be sufficiently representative and reliable. It would observe the ethics of confidentiality and respect for all participants already planned in the American research, and similar limitations on its methodology. However there was no aim to make a methodological comparison of the American and British studies, as the ethnographic approach of the latter provided a wider data collection for social analysis, while that of the former included explicitly tracing patterns of empowerment by mediation in individual cases through dispute transformation (although these also happened in EMP's work). These variations in analysis were considered to enrich the research.

The British research was situated in EMP, which had initiated it, supported by Mediation UK and all its member mediation services, so that it would be possible to relocate, replicate and refine it in future research. It was also hoped that the British research would produce positive findings that could contribute to improving social policies for older people, and social attitudes to the usefulness of mediation. The third piece of research planned to study these is considered next.

The Video as a Research Instrument

The success of real world research is often based on multi-method approaches: 'it is in effect what is happening when initial exploratory work is done by means of unstructured interviews, and subsequent descriptive and exploratory work employs a sample survey' (Robson 1993:290). These views are supported by old and new studies of research methodology (Allen and Skinner 1991; Bales 1951; Phillips 1976).

The use of vignettes for situational analysis of sensitive topics, has been recommended (Lee 1993), referring to 'the use of vignettes in survey research' (Alexander and Becker 1978:94). Vignettes can portray situations through cameo narratives shown in print, film or video.

(They are)...short descriptions of a personal or social situation which contains precise references to what are thought to be the most important factors in the decisionmaking or judgementmaking processes of the respondents

(Alexander and Becker 1978:94).

The use of a video ensures objectivity because it can be seen by many viewers, so that 'if multiple observers can agree on a phenomenon, their collective judgement can be said to be objective' (Lincoln and Guba 1985:292). Thus the use of a video as a research instrument was considered to be innovative as well as appropriate in increasing the objectivity of the study with reference to examining social attitudes to mediation.

When considering finding a research population for this aspect of the study it was decided to assemble these multiple observers in a similar way to those of focus groups which are used for attitude surveys. This resulted in a population sample of 100 respondents in seven separate social groups who volunteered to watch and discuss a video of a simulated and alleged incident of elder abuse. Participants of the groups then individually answered 20 questions in an attitude survey, asking if the incident might have been prevented, and by what forms of intervention, including mediation. A copy of the questionnaire is shown in Appendix II.

The Population Sample

The research sample provided was as diverse, wide and representative as possible, based on an opportunistic approach having the effect of a random sample because it was not selected in any specific way, nor defined in advance, but emerged as a consequence of invitations by different social groups to the researcher to speak about the study.

The first 100 members of separate social groups, which eventually led to seven in number, formed the research sample, and all seemed to be of mixed age, gender and culture. Their appearance, abilities in discussion and other personal details suggested that they also had mixed income and educational status.

The seven groups included an inner-city multicultural old people's club most of whose members said they were over 70 years, some admitting to 80 years. Another group was comprised of ethnically diverse social workers in an outer London local authority's

elder abuse workshop. A group of mainly white multidisciplinary workers, professionals and lay volunteers, attending a Midlands major hospital conference on elder abuse, chose to watch the video. Health authority staff, mostly nurses from a London teaching hospital, attended a study day on elder abuse, and also watched the video. Residential care staff, mostly black, from another health authority area in a multicultural inner city area came to a similar study day. Mediators from a southern county community mediation service provided another sample group, and the seventh group came from a conference on holistic medicine with multidisciplinary workers, including doctors, psychiatrists, counsellors and clergy.

All of these groups were asked to focus on the video and discuss it among themselves so that members were able to consider, develop and reshape their ideas. They were then given a questionnaire (see Appendix II) to fill in individually and anonymously. Its principal questions related to whether they thought that the incident had been abusive, could have been prevented, and, if so, what kinds of intervention might have helped. An inquiry as to whether mediation might be useful was listed half way in the questionnaire to minimise bias towards giving affirmative answers.

The Video as a Visual Vignette

A video illustrating a situation of possible elder abuse was obtained from a medical staff training centre in America, and was considered by gerontologists there to be without bias towards the nursing home industry. This was later found to have been used for research into a model programme for training institutional staff in conflict management and elder

abuse prevention (Pillemer and Hudson 1993:128-131). It had no social attitude survey comparable to the one attempted here, and only had one type of research population: the nurses they were training. This coincidence gave unexpected validity to the choice of the video as being appropriate for a study of elder abuse, although the present British research used the video for a different purpose.

The 24-minute video was called **Incident Report**, was made by the Massachusetts Department of Public Health in 1984, and was the only one of its kind available at the time of the British study, although others made here have since become available. The aim of the video was to raise awareness about elder abuse, and to increase understanding of the different experiences of the incident, as perceived by those involved in it, principally a nurse and old resident.

The video achieves this by visually recapitulating the incident as seen from the different perspectives of those concerned, although leaving discussion, analysis and any judgement to be made by viewers, without any correct solution being suggested. An outline of the scenario follows focusing on the context and incident on which the survey questions were based.

Marion, an elderly nursing home resident, refused the help of Phyllis, her nurse, in returning to her room, complaining that she was still waiting for her son to take her home, although not realising he had sold it. Phyllis reported Marian's increasing depression to the head nurse, who told Phyllis to work another shift following her 13 hours on duty. Phyllis then offered Marian her medication in bed, which was refused by raising her arm. In the next sequence, Max, a black aide, was called for help as Phyllis revealed her heavily scratched face, and Marian cradled her wrist, although taking her medicine. Phyllis was sent home.

The next day Marian's very painful wrist was X-rayed and found to be

broken. The registration authority officer came to assess whether abuse had taken place, interviewing everyone separately with their perceptions of the incident shown in different flashbacks. Phyllis maintained that she had to hold Marian's wrist to restrain further scratching. Marian said she had only resisted forced medication. The video ended with the manager asking if elder abuse would be recorded.

The Value and Limitations of the Video Survey

This video was valuable in many respects. It showed a vignette of an all-too typical conflict between elderly people and institutional staff (Decalmer and Glendenning 1993) involving issues of medication and restraint, which, unresolved, often leads to elder abuse. The issues raised are continuously subject to current debate in Britain and America (Counsel and Care for the Elderly 1997; Kapp 1992b) with regard to the necessity for both, and how these are to be safely applied, and the video showed all dimensions of the problem, yet being open and non-judgemental.

The video also showed how such incidents of unresolved conflict can lead to both disputants becoming victims, especially as Phyllis was forced to work for unreasonable hours, and that boundaries are blurred between accidental and intentional happenings. Its reference to the son who had sold his mother's house, apparently without her knowledge and possibly without her permission raised the suggestion that he might have been financially abusing her. It also raised the issue of current concern in Britain where old people's homes have to be sold to pay for long-term care. The video was valuable in that it is available for any future study which seeks to replicate and refine the present one with a different sample population, or for associated purposes such as researching the issues raised above, as this was outside the scope of the thesis.

However there were limitations to the survey, in that the sample population of 100 individual members was unevenly distributed in seven different groups, was opportunistically assembled, and could not be rigorously tested for its representativeness, although this was estimated at being acceptable.

There was also an element of bias in the research population as this was comprised of groups who had viewed the video while attending meetings where mediation was discussed. However, research presentations about mediation were always given in the context of comparing it with other social interventions such as advice-giving, advocacy, counselling and the services of lawyers, police, health and social workers. As general knowledge is greater about these, and that of mediation very much less, it could be argued that a negative bias against mediation might have been expected, but that, in any case, undue influence was negligible.

The fact that it was the group of mediators who were least confident that the use of mediation could have prevented the incident, is an indication of the objectivity of this group, and there is no evidence that the other group members had any specific biases. In terms of the general aims of study's empirical work, the use of the video was beneficial because it spread awareness to different social groups of the problem of elder abuse. It added to existing knowledge of methodology as well as the subject matter because the video was used in an innovative way. It gathered its research population in a simple way, based on existing opportunities. However possible researcher bias may have influenced the construction of the questionnaire, and the rest of the empirical work, so brief self-reflexive comments on this issue now follows.

Developing Self-reflexive Approaches to Critical Theory and Praxis

The present critical social research standpoint (Harvey 1990) has evolved from a passage through feminist 'postmodern marxist social analytic' ideas (Hennessy 1993; Maguire 1987) to the praxis of 'critical research theory (which) assumes that the world is changed by practical reflexive activity' (Harvey 1990:32).

A reflexive approach to research principles must account for the changing social critique of seven decades, from early marxist sociology studies, through 'radical social work' (Jordan 1983) and community activism, to the praxis of initiating EMP. How far were these changes products of researcher ageing in retiring from the politics of protest, and moving into the domain of elderly people, which is seldom theorised as a site of resistance? In company with feminists (Hennessy 1993; Lather 1991), early marxist theory was found to be reductionist and determinist, and although neo and postmarxist developments later included gender and race as well as class, age was rarely conceptualised as also being embedded in an oppressive social structure. Ageism, as a form of social exclusion and discrimination, has only gradually begun to feature in academic studies (Bytheway 1995), as has disablism (Oliver 1990).

However, since the 1940s, Age Concern has played an increasing public role in challenging ageism from its perspectives as a national voluntary organisation whose members are social practitioners, professionals, and, more importantly, older citizens involved in self-help groups. It was situated within this evolving social context, occupying each of these roles in a reflexive if minor capacity, that began the ongoing construction of

a critical standpoint in respect to ageing. This was associated with a critique of the mistreatment of older people, as a form of abusive and exploitive power relations with still undetermined causes and consequences.

Despite working with critical social theory's understanding that knowledge also is structured by power relations (Bauman 1976; Foucault 1980), practitioner and service user experience resisted dogmatic opinions that dominant social relations are always oppressive conspiracies. Ageing and elder abuse, like other forms of family and interpersonal violence (Gelles and Strauss 1988), are experienced by the rich and poor, men and women, and people of every race. Variable social responses within the parameters of its acceptance or denial have not been evidentially determined by class, gender or cultural status, and social action has largely been in the domain of the caring professions (Kingston and Penhale 1995) and initiated by grassroots collectives and voluntary community networks. What evidence is there that these are conspiracies?

A self-reflexive critique of critical research theory also links with that of postmodernism (Lyotard 1974) in pointing to the general inadequacies of universalist and foundational social constructions, and, specifically, to the exclusionary effects of some grand narratives in ignoring spiritual aspects of ageing. Day (1996) is supported in her post-modern feminist gerontology where she reminds us that the purpose of deconstructing theories is to disrupt conceptual frames. She argues that 'post-modern theories encourage researchers to attend to older people's interpretations of their own experiences' and existential concerns (Day 1996:675). How can we 'shift the role of critical intellectuals from being universalising spokespersons to acting as cultural workers whose

task is to take away the barriers that prevent people from speaking as themselves' (Apple 1991:ix)?

In addition, feminist standpoints and emancipatory empirical activities to benefit women (Nicholson 1997) have been replaced by what has been called **Human Inquiry in Action** (Reason and Rowan 1988), a broader humanistic approach to transformative change, concerned with men as well as women. This is consistent with post-modern critical social gerontology. It takes accounts of gender inequities (Aitken and Griffin 1996) and those of race (Blakemore and Boneham 1994), with an intention to avoid familism (Dalley 1988), but has an equal concern for male experiences of ageing, elder abuse and their legitimate needs in the social world.

Mindful of the danger that theory can reify, and that it is its positive productive and reproductive capacities which matter most (Hennessy 1993), it is hoped that the empirical work of the study will reflect the participants' views of events, rather than the author's ideas and interpretations, although all are subject to the serious limitations discussed earlier. Personal support of critical theory and its political concerns must be subject to a restricted stance similar to that which monitors mediator independence and impartiality. The aim of this thesis, in the words of Maguire (1987:14), is more of an attempt at a critical inquiry.

Summary

This chapter has described the aims of the study and the attempts made to find an appropriate methodology which will enable the research questions to be examined as well

as possible. Reasons were given for basing the study on qualitative empirical work, influenced by Maguire's **Doing Participatory Research** (1987). The research design involved prior consultations with a small representative group of old people, and initial individual interviews with them established their support for the study.

The triangulation of research methods was described. These were American participant observation studies in Atlanta, Kansas and San Francisco; a British ethnographic study of mediation with 50 old people, half of whom were in abusive situations, half being control cases of conflict only, referred to EMP; and a video survey involving 100 respondents. This was described in more detail than the other studies where plans for the research were outlined, but further discussion left until later separate chapters. The value and limitations of the empirical work and methodology were indicated throughout.

The self-reflexive research role was discussed, showing awareness that theoretical perspectives and subjective interpretations could affect the objectivity of the study, the aims of which are to encourage old people to give voice to their suffering from conflict, enable them to resolve it through mediation, and empower them to overcome elder abuse, ageism and social exclusion whenever possible.

CHAPTER 4

MEDIATING JUSTICE IN ATLANTA AND KANSAS

Introduction

This chapter links mediation and justice in its title because participation observation in Atlanta and Kansas revealed that this is how it was conceptualised by the community activists who developed dispute resolution there, with increasing concern that older people facing ageism and social exclusion should benefit. The director of the Justice Centre of Atlanta (JCA) described this.

Growing up as a white person in the black Atlanta of Martin Luther King, I was determined to improve our social justice. I took lawyer training at Georgia University, but courts seldom helped the poor, even if they could get access, and often made matters worse. In disputes between blacks and whites, it was blacks who were generally found guilty and given police records. So I helped start the JCA to give in Atlanta deprived areas, opportunities - equal opportunities to blacks and whites - to work out their own community justice, through mediation.

These words showed the director's awareness of the social exclusion which poor, and especially black poor people suffered in Atlanta, and as her later mediation programme for elderly persons demonstrated, a concern to challenge ageist attitudes there. The director of the Kansas had a different perspective, but the same concern for mediation as a form of social justice.

My early professional experience and training as a teacher and counsellor,

in which I mostly worked with teenagers, showed me how interpersonal conflicts which spoilt their lives, often erupted into violence and left them with criminal convictions. They needed mediation processes to sort out their problems practically, and reconcile not criminalise their relationships. They were not getting social justice. They were penalised for being troublesome adolescents. As I aged, I saw the same issues affecting adults, so decided to develop mediation qualifications, and became a staff member of the Olathe DRS (Dispute Resolution Service). This was located in the KLS (Kansas Legal Services) office, where all of its lawyers were dedicated to community justice.

These views reflected the American progressive perspective about mediation being seen as a form of relational informal justice which could empower older people to challenge ageism and social exclusion. This chapter describes mediation, and its interface with elder abuse, in two culturally contrasted communities. The social context of the development each service is noted. Cases and issues are discussed, and related briefly to how they reflect research theories. The summary includes evaluation of the significance and limitations of the participant observation research in Atlanta and Kansas, mainly because it was restricted to listening to, not questioning disputants.

The Justice Center of Atlanta (JCA) Mediation Programme

In 1978 an activist lawyer in the Carter administration initiated the Neighbourhood Justice Center of Atlanta to serve the needs of its poor, predominantly black population living in the slum area where Martin Luther King had his ministry. Shortly after the present director was appointed. In the following three decades she transformed it into an acknowledged world centre of mediation, where many American and international scholars studied.

JCA records showed that by 1992, 3000 people from 20 States and 20 countries

had been trained in mediation, 15,000 disputes had been resolved, and over 250 Atlanta citizens had each received over 40 hours training in mediation. Many specialised programmes had been devised for the Peace Corps, the US Defence Department, law schools, education, the environment, and for family, old people's and disability organisations. The JCA director discussed criticism that it should not work with military personnel.

They are the people who should understand the potential of mediation for solving conflicts peacefully! They should negotiate first! Better than guns! Mediation is the way to peace and justice!

Although this aspect of JCA's work is relevant in recording its commitment to social justice, the critical issues that it raises cannot be further discussed here, but must focus on the JCA's local work. It is also not within the scope of the research to make a comparative study of differences between the mediation programmes and trainings in America and Britain, as these are flexibly designed to suit various cultural environments, and are always being continuously revised and changed to deal with new social issues which arise. This is illustrated by increasing concern to develop specialised programmes for old people as will be described next.

The JCA Nursing Home Mediation Programme

In 1989 the JCA was chosen to develop a nursing home mediation programme by the National Institute of Dispute Resolution's (NIDR).

NIDR is a charitable foundation, established in 1982 to research and encourage alternative

dispute resolution (ADR) in all areas, with increasing concern to extend programmes into areas where there is social exclusion of vulnerable people, in order to challenge racism, sexism, disablism, and ageism.

During 1988 NIDR introduced nursing home mediation programmes in four San Francisco counties, and the State of Georgia. Elderly people were the main occupants of nursing homes. Reasons for selecting Georgia were because of the JCA's reputation, and as the State estimated a population increase by 2010 of 61.1% of its old people over 65 years; those over 85 years were due to increase by 147% (US Bureau 1992). NIDR was also concerned to fund anti-discriminatory projects, as noted above, and there was tacit knowledge that Atlanta was an increasingly prosperous town which socially excluded its poor black and white citizens.

The JCA became responsible for training 44 Georgia's long-term care ombudsmen (LTCO), 89% of whom were women, their ages ranging from 25-70 years. They were mostly paid college graduates, often working part-time, representing nearly a half of Georgia's 100 LTCOs, the rest being volunteers, with expenses paid. Some took JCA mediation training. Their experience as LTCOs ranged from about two months to over 12 years. The number of nursing homes each visited annually was between one and 250, with a median of 35. The average number of cases each LTCO handled in 1989 was 45. In Georgia LTCOs were officially described as citizens' representatives, although some other States called them advocates.

The general role of LTCOs (discussed fully in the next chapter) is responding to

complaints of people involved in long-term care, with the obligation to represent them when necessary in disputes. In Georgia LTCOs were officially described as citizen representatives, although some other States called them patients' advocates. Most LTCOs had never had dispute resolution training apart from minimal introductions to it in statewide general ombudsmen education, but Georgia's LTCO Office keenly supported the JCA initiative, as experience showed that the old people as well as staff contributed to conflicts, which thus needed more impartial resolution. The project included giving further training to 25 volunteer mediators of the JCA so they could assist in disputes, through independent social intervention, when LTCOs had conflicts of interests in mediating these.

The Social Context of the Programme

Although its primary responsibility was organising LTCO work in major institutions, which generally had 400 beds, the State LTCO Office and the JCA were particularly concerned about poor conditions in numerous board and care homes. The **Atlanta Ombudsman Newsletter** (1992) estimated that there were 350 licensed board and care homes in Atlanta, more than 1400 in Georgia, and many other unlicensed ones. These homes for four or five people had generally low standards, mainly used to warehouse (Goffman 1961) poor black and white old people, often previously homeless.

Searching local newspapers for secondary research data during the American study revealed sporadic episodes of public panic about these homes, but little reform and no funding. Visiting these homes, often old plantation slave shacks, in participant observation, showed many vulnerable old people being socially excluded from Georgia's

good life, Atlanta then being designated as an Olympic city.

In visiting a public long-term care home for 400 people, most of its elderly residents were seen slurping food without dentures, as there was no money for replacements. They were socially excluded from enjoying solid food although the administrator defended their policy.

They're happier without dentures. Most never had them. They lose them. They pinch each others. They swallow them. We haven't got a dentist ...

The social context of Atlanta has been popularised as the hub of a Coca Cola Country in a **Gone with the Wind** county, where its centre for industry, commerce, air and rail transport combines with tourism of Civil War historical locations to provide big business for its predominantly wealthy white citizens.

However the press then daily reported corruption in State politics, suggesting that it was the inappropriate use of public money, rather than lack of it, which resulted in scandalous care of its impoverished older citizens. **Southern Exposure** (9 November 1992) stated that those involved in financing 'nursing and rest homes... use their money and connections to block reform'. **The Atlanta Constitution** (10 November 1992) stated that 20% of the State's older people lived in poverty, black women forming 16% of the elderly poor: institutional care was more subject to conflicts involving abuse than in other areas.

The social context could then be anecdotally summarised as a city of skyscrapers

for rich whites, and shacks for the black poor. However, it had bred many reformers, including black and white people led by Martin Luther King, plus many LTCO and JCA members who were concerned to struggle against major social injustices, social exclusion, racism and ageism. An LTCO described her belief in the contribution which mediation could make.

Our mediation programme will provide immediate justice for older people trapped in conflicts and abusive situations about which nobody does anything...

The JCA director confirmed this.

An essential part of justice is for people to make their own decisions about matters affecting them, especially in conflicts. Older people have their voices suppressed by the powerful, who make decisions for them, often against their interests. They are excluded from choices, self-determination, democratic processes. ADR remedies this as mediators ensure fair play, empowering older people to argue for themselves and reach agreements about resolving disputes. Mediation helps prevent abuse.

This reflected a general view among mediators that they could at least empower old people to overcome the interpersonal conflicts of daily life, even though LTCOs, like general mediators, were bound by practice codes of confidentiality, which restricted them from using their work in political protests, and limited them to making anonymised recommendations through their central agencies.

The JCA appointed their special projects co-ordinator, experienced in family mediation, with a social work degree, to run two 4-day training courses of 30-40 hours,

for the LTCOs, included giving them a training handbook, with a video and ongoing material. Subsequently the JCA joined the State Office on Aging (OoA) in offering mediation to older people in its State Community Care Program (SCCP), home-provided services in which nurses and aides gave supportive care. This led to JCA's increasing networking with the Council on Elder Abuse and Neglect (CEAN).

Elder Abuse Work in Atlanta

Although Georgia had recent adult protective services (APS) like other States, its few statutory officers were minimally trained and minimally paid. They had to investigate allegations of abuse against adults, meagre resources being spread unevenly giving less priority to older people. The quickest remedy, relieving the APS of responsibilities, was to secure medical certification about danger, and remove old people into institutions, if only temporarily. Fear of this led many elders to conceal abuse, as indicated in elder abuse theory.

Alternatives for APS workers included referrals to CEAN, a voluntary organisation, initiated to take social action about suffering endured by elders being abused, and through drastic removals. CEAN was supported by multidisciplinary agencies because all agreed that a small dedicated pioneer group could gain the confidence of elders to work with them in such sensitive areas of human relationships. CEAN's founding director was a 72 year-old woman caring in her own home for a 90 year-old mother, although she found time to make personal political protests about the injustices of ageism and social exclusion through her stagework.

I know the problems of ageing! I formed CEAN in 1986 as a coalition of social agencies including police and clergy. I developed telephone helplines for the public, possible victims and their offenders ...I'm a playwright, having work performed in Georgia, and it's the drama of conflict and abuse in old people's lives that influenced me in starting CEAN.

The Work of CEAN

Her innovative programmes included Operation Red Flag, involving police and business bodies setting up schemes to prevent the fraudulent abuse of elderly persons through false advertising, insurance and mortgage scams. She created a Human Services Team, with a case conference format, offering support to APS and welfare agencies. She welcomed JCA's mediation services contributing to the SCCP. Her **Elder Abuse Forum Newsletter** published a JCA article saying that 'disputes arising in this area generally involve personality conflicts between the client and the aide and the payment of the fee required for the continuation of the services' (Blanton,D.1992:2).

These disputes referred to conflicts involving often unregistered, poorly trained and sometimes unscrupulous aides supposed to give daily care to housebound elderly people, some in wheelchairs, others suffering from psychogeriatric illnesses. Many old people had little money for the care, or relatives reluctant to pay for it. The CEAN director explained the situation of many aides.

Aides are often black, poorly paid, do several jobs to support large families without male breadwinners, who struggle for every penny earned looking after difficult sometimes doubly incontinent elders. As human beings, the clients and aides all suffer from social abuse - the abuse of society which ignores them.

She said she realised that old people and their carers were all victims of an unjust society which deprived them of appropriate social resources, and she described one of her cases that had been mediated.

Ann

Ann had been found dehydrated and starving lying on the floor; her daughter, a schizophrenic, neglected her; Ann was admitted to hospital. After medical treatment and nursing care revived her, she was recommended for nursing home care. The daughter and another sister had a Power of Attorney order, and would not pay nursing home fees. Other relatives asked CEAN to help, before intervention by the APS caused a scandal. During the JCA mediation Ann said she had wanted to die, knowing she was a family burden, but now she had a last lease of life, and wanted a peaceful, secure nursing home for her final days. The sisters said they preferred arranging 24-hour care for their mother in her own home, a cheaper option for saving money, but other relatives reiterated hospital advice about a nursing home. The mediators stressed Ann's rights to decide. She also wanted her money restored. A mediation agreement was reached, arranging for Ann's transfer to a nursing home, with her savings account located there.

This case shows that Ann had been almost excluded from life itself, from using her own money, from the care she expected from her daughters, and from adequate community care, but mediation prevented the abusive situation from recurring. The case raised another issue related to elder abuse theory (Wolf and Pillemer 1989), which says that people with disordered personalities, and the unemployed, are often made carers of elderly parents by relatives who retreat from distressing family situations. Responsibility is projected on to family members, who cannot cope, but who stay because of free board and lodging. The CEAN director saw this pathological mutual dependency as another result of social injustice.

Society treats badly both the vulnerable old and the mentally inadequate.
It's unjust! It's social abuse! But mediation made things better for Ann!
Had it been tried earlier it might have prevented her collapse!

Thus the mediation was considered just, it appeared to be an effective but minimal social intervention that improved not destroyed family coherence, and empowered Ann in naming and blaming the conflict's causes, and successfully claiming her rights. Mediation transformed Ann's situation as her safe future care was secure, and determined by her, as was her respite from social isolation. Further cases involving issues of elder abuse were seen as part of the LTCO programme.

Observing the Ombudsmen

Arrangements were made for observation to be done at a monthly meeting of the Atlanta LTCOs' professional association. They had speakers, and then discussed cases. Two of these are recorded here, as described by the LTCOs involved, followed by a further two which were directly observed in accompanying LTCOs on their nursing home rounds. This is preceded by a brief report of their discussion following their speaker, Susan Formby, who spoke about mental incompetence, which can feature in conflicts involving some elderly people.

The mental incapacity of old people is generally medically impossible to diagnose exactly. Few have proper psychiatric assessment. It is difficult to quantify what mental losses old people suffer. Too often, for convenience of categorisation and documentation, they are classed as mentally incompetent, when they really suffer from fluctuating mental capacity.
(Formby,S.1992)

LTCOs agreed that this fluctuation characterised the early stages of most dementias, so they should relate to old people on this basis, testing their understanding at each occasion of meeting them. They would thus respect patients' rights to being regarded as competent to make choices and decisions as long as possible. This could delay staff from attributing mental incapacity or deficiency, and making administrative, treatment and care decisions convenient to themselves, but unwanted by patients.

LTCOs said that they experienced genuine difficulties in working with staff, managers and owners, who insisted on problematic medical diagnoses being recognised, despite no psychiatric assessment. Some LTCOs said that they could advocate on patients' behalf, arguing that they were competent to make certain decisions in particular conflicts. Other LTCOs said that mediation more effectively demonstrated patients' rights to be heard, encouraging and empowering them to speak for themselves, while recognising that staff had rights and legitimate interests also.

The LTCOs agreed that they needed sensitive discernment in each case, to find which process patients wanted, especially as many, whatever their mental status, liked having an official third party acting for them. Residents needed encouragement to understand that speaking for them might confirm diagnoses of mental incapacity, while mediation could demonstrate their self-determination.

There was detailed discussion about the types of cases in which each process might be best to recommend. For example, typical cases of conflict involving their need for toileting or bedmaking outside routine hours could be dealt with through mediation. In

complicated cases about fees or actual mistreatment, legal advocacy might be more appropriate than that of an LTCO.

Abusive Situations in Nursing Homes

The LTCOs stressed that they were not judging most of the poorly paid and inadequately trained aides, often black, who did much of the hands-on caring with real devotion, despite having challenging patients, and by being tired from doing more than one job. These untrained staff found it difficult to assess when patients were competent, and when their minds had slipped. Constantly attending to too many patients in a too heavy caseload meant that good care was uneven, especially when some rang their bells repeatedly. The LTCOs had passed recommendations to the authorities demanding better conditions for patients and staff. Staff were often blameless in abusive situations from which they also suffered, and were often excluded from management decision-making about complaints.

In contrast, as mediation is an inclusive process, relevant staff were always invited to such meetings. As it is also a practical problem-solving process which avoids or minimises blaming, it was felt by many LTCOs to be especially appropriate for nursing home conflicts. Most also felt that mediation as well as advocacy could be useful in cases of alleged elder abuse, and the following two cases were described.

Betty

Betty was a 73 year-old patient suffering from arthritis and incipient dementia. As a result of her night wandering, bed rails were used to

restrain her, but, as a consequence of these, she fell, hurt her arm, began to scream and attack staff. The doctor increased her medication until she became sedated and sometimes comatose, but the patient's grand-daughter, who paid the bills, threatened legal action. The LTCO was invited by all to mediate the matter. The LTCO visited Betty frequently to assess the best time for her to speak clearly for herself, arranging for an afternoon session after the previous night's sedation had worn off. Betty said that she only walked about at night because then the ward was calm. The doctor said this upset the ward protocol and suggested that the grand-daughter's only concern was to decrease medication costs. He said the rails were necessary to protect Betty and his staff. The grand-daughter argued that Betty had not been assessed psychiatrically before the rails and medication were ordered, and that the doctor and management could be prosecuted for failing their duty of care and causing the accident.

The doctor countered that the management also had a duty of care to other patients and the staff, after which the grand-daughter said that if they could not accommodate Betty better, she would find another nursing home. Betty said she could not face another change, but just wanted the bed rails removed and medication modified. The LTCO intervened to say Betty's wishes should be respected, and asked about alternatives to the present regime that would please her, safeguard the staff from legal action, and enable the nursing home to benefit by keeping a fee-paying patient.

An eventual agreement was reached whereby psychiatric assessment was obtained for Betty. Meantime the rails were to be removed, and the medication modified. Betty apologised for behaving badly to staff, promising to abide by psychiatric recommendations, and to stop night wandering. The doctor apologised for appearing to subscribe to ageist views about Betty's presumed incompetence, for excluding her from specialist psychiatric assessment and for denigrating the grand-daughter. She withdrew her threat about legal action. The LTCO congratulated everyone on reaching an amicable agreement and asked if they would like a follow-up meeting to discuss the psychiatrist's report.

This confirmed that Betty was beginning to suffer from fluctuating mental capacity, which should be checked at regular intervals. All agreed, the doctor adding that

he would call the grand-daughter if bedrails and sedation needed reconsideration, so that she could consult Betty. The grand-daughter said she would encourage Betty to accept ageing limitations and to cooperate peacefully with staff.

This case shows the usefulness of mediation in supporting the rights of an elderly person to represent herself in resisting what she felt to be forms of elder abuse: restraint by rails, and forced medication. These are now accepted as indications of abuse by most British and American gerontologists (Bennett and Kingston 1993; Wolf and Pillemer 1989). However the difficulty of proving that institutional care has been abusive relates to continuing debates about when restraints and medication are justified.

Betty was enabled to name her fears about abuse by describing these in mediation. The doctor's account dealt with issues of blame. The agreement reached upheld Betty's claim to more informed and improved treatment, and the mediator offered further mediation to resolve any future conflicts before these escalated dangerously. The mediation process took a minimal hour on each occasion, and Betty was grateful for it and seemed empowered by exercising her self-determination. Unfortunately it was not used early enough to prevent the accident and LTCOs commented that often patients' complaints were not made until after such incidents.

From a critical perspective, it could be argued that legal action should have been taken, preferably on the basis of class action against physical and chemical restraints, but a lawyer anecdotally reported that one such case had taken 10 years to prove, during which the patient had died. Mediation provided immediate and informal relational justice.

Betty's case appeared to be typical of those American nursing home conflicts from which elderly patient suffer, and in which LTCOs said they could play a useful mediating role. The next one was atypical, and is briefly noted as the LTCO played a similar part to that just described.

Cath

Cath was in a nursing home where the manager was suspected of having an affair with her ex-husband. Her twin daughters and a brother complained about electric blanket burns on their mother, and her uneaten breakfasts. The LTCO was invited to mediate. The manager denied neglect and said that it was the daughters' fault for bringing in outside breakfasts, and dressing the mother's burn against medical advice. The mediation resulted in the manager apologising for the accidental burn caused from failing to check the electrical blanket's over-heating and agreeing to monitor the resident's needs more closely. The daughters agreed they had treated the burns wrongly, and promised to encourage their mother to eat the home's breakfasts.

In this case mediation was the most appropriate process for sensitively handling Cath's suspicions regarding a sexual relationship between her ex-husband and the manager. The LTCO had asked for permission to discuss these, not to pass moral judgements, but because of management professional responsibilities to avoid conflicts of interests in the care of patients. The manager replied that she was aware of these, and that a relationship which had only recently developed, would be terminated. This greatly relieved Cath, still suffering from her broken marriage, so mediation had a reparative function in restoring Cath's confidence in the manager.

Mediation enabled the naming of issues to be done fairly and discreetly, and the

blaming was fairly accepted by those responsible for care failures, while Cath's claims to a less personally prejudiced relationship with the manager, and for better treatment, were upheld in ways which empowered her. The mediation was a minimal intervention, with no authority to prolong it by speculating, without evidence, that Cath's admission to the nursing home was due to exclusion by her former husband to suit his own romantic interests.

The cases of Betty and Cath were discussed analytically at the meeting of LTCOs, followed by their emerging views that mediation was a useful process in their work, and this was later observed to be equally valuable in crises. LTCOs repeatedly said that they were continuously confronted with critical situations in which they had to give emergency band-aid immediately, having to make on-the-spot decisions about the appropriate use of their advocacy and mediation skills.

Mediating for Old People in Crisis

An example of this happened during a research visit to a long-term care public nursing home which had provided a cubicle for a man dying of AIDS. As the LTCO walked through the ward a distressed elderly couple sitting outside were arguing with a medical attendant. The father was shouting and sobbing at the same time.

Doug

Stop it! Don't you dare stick that needle in our son! You don't know how to do it properly! You'll cause him agony as you did last time! Let him die in

peace! That's what he wants... O my God! He's become conscious again... get a doctor...Doug...we're here .Mum and Dad are here... O he's gone again...

The LTCO introduced himself, and asked if he could talk with both parents, assuring them of his and his observer's confidentiality. Gradually the father shared their sorrows.

Doug's got AIDS...he's dying from it...but they haven't got enough proper nurses here... that one's a junior...they sharpen old needles instead of using new ones...they generally forget. Last time it gave Doug hell...he doesn't deserve to die in agony which they cause...he wants out...no more stuff.. just to die... if that's what he wants, we want it too...but O my God we don't want to lose our only son...

The old man broke down in tears again, the LTCO immediately offered him tissues, comforted both parents, and guided them to chairs. He then asked them if they would like him to help with the conflict and they nodded their assent. As Doug was still unconscious, the LTCO spoke to the male nurse in a calm non-threatening way, asking how he saw events. The nurse quickly defended himself.

I'm not incompetent! I've been trained to give injections. But the trouble is that Doug's had so many injections it's difficult to find a good vein. His folks don't understand that. The more they fuss and yell the more upset Doug gets and the harder it is to give him a good injection...They also don't realise we can't stop treatment because Doug has made no Advanced Directives... it's a mess and I'm being blamed for it! There's always a lot of blaming hanging around in AIDS cases!

At this point a senior nurse arrived and reinforced what the junior had said. Doug

then opened his eyes and the LTCO introduced himself and asked if the patient felt well enough to have a few words together. Doug nodded and began murmuring.

Just let me die...please stop all these injections... and tell my Mum and Dad to stop all the fuss...it breaks my heart...

The LTCO quietly explained that no-one could stop the treatment unless Doug signed a release form called a Living Will or Advanced Directives, otherwise the doctors could be held responsible for his death. Would Doug like a social worker and doctor to come and talk with him about what this meant so he could make clearer decisions? Doug nodded agreement. Doug was thanked and asked if he would allow the nurse to fulfil his duty in giving the present injection, while future arrangements were considered. Doug nodded again.

The LTCO helped the parents to understand the situation, asking the parents to calmly support this. The two nurses agreed that they would bring the first available doctor and a social worker as soon as possible to discuss future intervention, or its cessation.

This distressing case cannot be described at the depth it deserves, because there was no reliable authoritative information available about Doug, his medical history, his prognosis or the quality of the care actually being given to him on which to base accurate comments. It showed mediation principles being applied in a band-aid situation, and how the LTCO's empathy and sensitivity enabled the painful conflict to be addressed quickly. Through the LTCO's body language in keeping eye contact with Doug, despite the little

verbal contact possible, it was possible to assure him that it was his welfare which mattered most.

Although the mediation was informal and minimal, it nevertheless succeeded in a major way by dealing immediately with a very critical conflict, even empowering the dying man to make his wishes clear. The LTCO's gentle support of the distraught parents was a model for them when they eventually felt able to support their son calmly, although also reassuring them that they had identified, or named, the contentious issue of continuing intensive care procedures against his will. The LTCO also calmed the crisis arising from blaming the nurse, suggesting the practical course of discussing Alternative Directives (discussed further in the next chapter).

Although Doug and the parents felt that the nurse was being abusive, there was no evidence of this, although it may be speculated that, as an older AIDS patient from a visibly poor family, his placement in a public institution for the aged, had wrongly excluded him from better terminal care in an AIDS-specific hospice. If Doug's claim to be allowed to die was medically contested, the dispute might, if he consented, be mediated at some future meeting in the way arranged by some American medical ethics committees at the moment (Craig 1996; West and Gibson 1992).

Another opportunity came for seeing an LTCO doing emergency mediation work in difficult circumstances.

Eddie

The LTCO was visiting a board and care home for mentally ill homeless men which was no more than a doss-house situated in a small broken-down wooden plantation shack in a row of similar homes. Four or five dishevelled old men, dressed in rags, lay around a small room and its verandah. Eddie was an old black man, sitting in a wheelchair in a small room with several beds, whom the LTCO had come to see following Eddie's discharge that day from hospital into community care. Eddie was alternately screaming and swearing, but had tears running down his face.

Give me some water...I want a drink in this f...king heat...I'm not gonna be able to stand this sh..ting place...who's gonna look after me?

The LTCO shook Eddie's hand, reminding him they had met in hospital, but that now a confidential observer was present. The LTCO found a tin mug in which cockroaches were seen swimming in the water. He immediately took it to two black aides who were eating in a small cooking galley, but they began to insult and blame the old man for bringing the mug from the hospital, which he denied.

I f...ing well didn't! I found it here! I'm not gonna drink water with roaches in it! Do you wanna poison me? Do you wanna kill me? Get up off your fat asses and give me some clean water! That's what they pay you for, isn't it? You young niggers got no respect for your elders and betters...

The LTCO murmured that the other residents were so mentally incoherent that it was impossible to verify what had happened, and asked the aides if they knew the

regulations which said that residents must be supplied with clean water. They nodded, but appeared to have little education and even less training, still denying that they deserved Eddie's abuse, although one got up, tipped out the cockroaches and filled the mug with fresh water.

The LTCO told Eddie and the aides that he would speak to the manager and authorities to get improved help, and would call again shortly to check that the situation and relationships were better. He asked Eddie to think about not swearing at his carers who might then give him more attention, but he laughed cynically and shrugged his shoulders.

The LTCO said subsequently that if, alternatively, he had used his limited power to recommend the closure of the home, and the many others like it that he saw, decisions would be heavily and lengthily contested by the management, financially backed by city politicians, with the residents and staff being meantime put under critical and debilitating pressure. He said that if such homes were closed down, Atlanta's population of elderly homeless people, then assessed at 9% by **Southern Exposure** (9 November 1992) would greatly increase.

The LTCO addressed the need to prevent the incident from turning nastier by using mediation skills, and combined these with advocating Eddie's right to clean water, and promising to report the problem. He showed impartiality by also promising to try to get help for the aides. He identified and named the conflict as being potentially abusive; he avoided dealing with the blaming because there were no reliable facts about the source of

the cockroaches; he upheld Eddie's claim to clean water. The LTCO tried to deal justly with a situation that was unjust for all its participants with an intervention that was certainly minimal, although it was doubtful if the dispirited Eddie was empowered, even if he did appear comforted.

One critical issue here is whether it was culturally correct to give the hands-on care of very vulnerable elderly black mentally ill people to younger people from their own communities who had received little education and vocational training, or none, for their poorly paid work, which might be in terms of free board and lodging. One cynical defence anecdotally given about these arrangements was that many residents and staff at these homes were or had been, drug users, so were well matched for mutual understanding.

From a critical perspective also it could be argued that the structural abuse of all involved was more fundamentally wrong than the elder abuse, because Eddie's social exclusion and wretched care in the shack visited meant that he, and many others like him, suffered from the severe social injustice of being denied safe and hygienic housing and care. A similar example of deprivation was described at a State LTCO Office case conference, where an opportunity for participant observation was given, on the basis of this being restricted to confidential listening.

A Case of Structural Abuse

An elegant new nursing home complex had been built, incorporating a day centre, where the food, treatment and washing facilities were located. The residential quarter had been

built at such a distance that that a trolley had to collect the old residents and take them to the centre, several times a day, or whenever they needed these amenities. No provisions existed for them to be cared for in their bedrooms, and they had to dress warmly for winter journeys, then remove clothes in the hot day centre.

The LTCOs said that they knew that the residential block was regarded as a loss-maker for poor residents who could not afford proper en suite provision, so it had the full amenities omitted. Planning permission had been by-passed through political influence with the State government, which just wanted more sheltered social housing, and which would protect the owner from adverse LTCO surveys. It was decided that the choice lay between LTCO professional pressure on the State recommending the withdrawal of public funding of the project, which could lead to residents being made homeless if the owner said redesign would bankrupt him, or mediating with the owner on their behalf, with the aim of giving him a period of time in which to instal adequate facilities in the residential block. Another option was offering to mediate between the State and the owner about resolving the dispute.

The LTCOs discussed pragmatically the impossibility of making a direct impact on city corruption, especially as their status was not socially important. They were paid by the State and could not conduct political campaigns, and had a duty to protect confidentiality. They decided that they could not make a final choice of process until they had networked amongst their influential supporters and those who might informally persuade the developer to make changes on his own. Mediation might be considered because it would encourage residents to raise their voices and empower them to press for

their rights, while avoiding a stressful removal. Alternatively, strong LTCO advocacy on behalf of the residents might anger owners in the short term, but persuade them to do the necessary rebuilding in the long term.

From a critical perspective it can be seen that this was a clear case of the structural abuse of poor old residents, in which political and legal action should have been taken, but it was impossible to verify what resulted from the LTCO confidential consultations, and whether investigative journalism raised the issue on the public agenda. Tragically, the structural abuse observed in Atlanta was well known, but there was insufficient political, social and electoral will for reform. Many LTCOs said realistically, if anecdotally, that neither advocacy nor mediation made much impact on city politics, so their main focus should be on responding to old people's immediate practical needs. It was the police who had to make the most immediate response to old people when they felt threatened by violent abuse, and a participant observation visit to the Atlanta domestic violence unit was arranged.

Mediation in Atlanta Police Work

Atlanta had a designated police officer responsible for its elder abuse work. He gave what he called minimal training on elder abuse to all the police, basing this on an earlier domestic violence training manual. He said that he recommended mediation as a valuable option in diffusing domestic disputes, depending on the circumstances. This officer was a member of CEAN, had previously been a social worker, and had taken as well as given mediation training.

He saw mediation as an essential strategy with which police could control some abusive situations through structured negotiation and communication, and in which they could act as transmitters and interpreters of processes of dispute de-escalation. He said that police aimed to talk people down out of their anger, and, working in pairs talking with each other, model how to work out constructive ways of approaching problems.

He also felt that police should not interfere with any resolution of conflicts which disputants were deciding for themselves, unless any misdemeanour or crime was involved or threatening. Police should aim to keep a safe space for them, unless violence threatened. This had to be met by arrest and removal of the suspect.

He was aware of the ongoing debate about whether police should arrest immediately and avoid using mediation skills (Worrall 1990), but considered that it depended on the discernment of the police, and on the requests of the alleged victims. These were generally, but not always, women and they sometimes attacked or defended with knives and guns. Informal mediation was often the first remedy, and meant that police could then refer couples to counsellors, addiction centres etc, or to CEAN if elders were involved.

As he was considering designing a separate elder abuse training manual, because of increasing calls from old people, this last research visit provided an opportunity for the British research to become more practically participative, by forging links between the officer and the JCA so that they might consider producing a joint publication. The JCA director, chair and staff expressed appreciation for this, and for all the informal discussions

shared in comparing British and American experience. This appreciation was warmly reciprocated as were the many different observation experiences crammed into just one working week in Atlanta. The fact that the few actual mediations took place in crisis situations, which showed the social exclusion and structural neglect from which some old people suffered, enriched rather than restricted the value of the research.

The Kansas Mediation Service for Older Adults (KMSOA)

As described in the previous chapter, the KMSOA was situated in the Kansas Legal Services (KLS) office, and was a project of its Olathe Dispute Resolution Service (DRS), which had experience of mediating many different disputes, as their citizen information leaflet listed:

community, organizational, educational, correctional, business, landlord/tenant, consumer, family and old adult conflicts...parent/adolescent, divorce, custody, access and adoption... age and housing discrimination, nursing home placements, grandparent visitation, family conflict and work discrimination (DRS, 1992)

In 1990 the work of the KMSOA began, with its appointed director who considered that old people would be discriminated against if they did not have a mediation service dedicated to their needs. She had obtained a grant for a two-year pilot project offering free services, with four objectives.

- 1 to present informal programs about mediation throughout the county
 - 2 to train older adults to serve as mediators, in a voluntary capacity
 - 3 to offer a workshop on mediation to 'helping professionals' who work with older adults
 - 4 to offer mediation services to older adults to resolve their disputes
- (KMSOA, 1989)

The director recruited 16 senior citizen volunteers, 14 of whom became active mediators, receiving 20-hours training, mediation observation and supervision, principally in working together on cases as co-mediators. They were given mediation manuals and publications describing the special physical, psychological and emotional needs of older people. Her volunteers had an average age of 66 years; most were retired and were from trade or professional backgrounds; one woman, aged 75, said mediation was her most recent career, having taken a law degree when she was 65, after 40 years' work as an accountant.

One volunteer was a Latino, and a black assistant was employed in the office, but the director said that she had received no other applicants from Kansas diverse communities, and none who had been manual workers. Nevertheless she maintained that the background of mediators provided them with the confidence, knowledge and experience to deal with complex cases referred by the local small claims court judge. Participation observation was arranged for some of these, a valuable experience of American judicial use of mediation, pre-dating similar British court referrals formalised by the 1999 Civil Procedural Rules.

Court Cases

In these cases disputants who agreed to the referral by judges were required by the court to sign a form accepting that mediators acted confidentially, except when Kansas law required them to report any information about child abuse, or intended crimes. The form did not specify elder abuse, despite the 1985 Kansas Elder Abuse, Prevention,

Identification and Treatment Act. The director said the State had not allocated sufficient resources to implement the legislation, but she saw her KMSOA work as screening cases for elder abuse. If her mediators thought it was happening, they would warn the disputants, and report it to the State APS office. The cases observed were outside the pilot project period, but were said to be typical of these.

Cases using Co-mediation

The KMSOA, like many American and British services, generally used mediators working in pairs, who were matched to the disputants, although not taking their sides. Men and women, or both sexes together, worked on cases and, wherever possible, age cohort similarities were also considered. This encouraged disputants to feel that they were heard by people of the same generation, gender and culture, who also modelled calm and constructive communication. Mediations generally took over than an hour, and sometimes much longer. A woman and male mediator worked on the following case.

Freda

Freda was the elder daughter of a 90 year-old patient who had just died painfully and slowly after prolonged life support. Freda was in dispute with the nursing home, saying that her mother's Advanced Directive refusing life support had not been followed, causing consequent distress.

Freda had been billed for the extra costs involved. She refused to pay these, so to

the management took her to court, where she appeared distraught by her bereavement and the bill. The judge said the issues were too sensitive for legal judgement, and invited the disputants to allow him to refer the case for mediation next door. If they reached an agreement there, he would enforce it legally, unless the manager preferred to withdraw the claim. Both parties agreed to follow the judge's recommendations. The mediation took two hours and enabled the daughter to express her pain and anger.

It's terrible that my mother was caused so much extra suffering when she made plans to die peacefully. I have nightmares about it. I shall never get over it. She trusted people to follow her wishes, and I trusted her to what I thought was professional care. She suffered, and I suffered abuse of our trust. And then someone has the gall to charge me for this! I don't believe it and I won't pay! Even if I'm put in prison!

The woman mediator comforted Freda, and the manager apologised for losing the Advanced Directive, made many years previously, admitting that he had ordered resuscitation in case he was held accountable if his patient died. The male mediator said that the dilemma was understandable, but wondered if the manager had thought of consulting Freda first. He said that he had telephoned Freda to no avail; she admitted she had been away, and started crying again. The mediators maintained a respectful silence, then talked together quietly, and asked both disputants if there was anything either could do to improve matters.

The manager offered to withdraw the account for the extra costs if Freda paid the rest of the care bill which was still owed, but he wanted to know if she forgave him, as he greatly valued her mother. These words transformed Freda's hostility.

I'm so glad you said that. I needed to hear that you valued her, for she was happy with you until that last week...I suppose I ought to have seen she had an up-to-date AD...and I feel awful that I was away when it happened. But she knew I loved her and had always visited her... Now I don't want to spoil the good memories any more, so here's what is rightfully due...

She wrote a cheque, the manager shook hands with her, and mediators thanked them both for the having settled their distressing dispute so constructively. The mediation enabled Freda and the manager to share their feelings in ways not possible in court, and led to the dispute being transformed. The dispute was named through entering court lists, and mediation succeeded in defusing the blaming, helping the claims involved to be rightfully met. Justice was felt to be done by Freda who appeared empowered by the genuine apology she needed, and by the manager who received forgiveness and the amount owed for the past good care of her mother. Mediation was a minimal intervention, and probably prevented further distress which legal action might have caused. Any suspicion that the manager might have induced resuscitation to incur higher charges, a recognised form of institutional financial abuse, could only be speculative.

Geoff

Geoff had a doctor who employed a temporary receptionist. She became friendly with Geoff's wife who, with him, was seeking sexual dysfunction advice. The receptionist leaked information from his medical notes to the wife; Geoff was furious, and wanted to sue the doctor for breaching confidentiality. Male co-mediators spent considerable time in moderating a hostile atmosphere, asking Geoff and the doctor to consider whether such intimate matters could best be dealt with in a non-public constructive way, although

encouraging both men to express their anger and distress.

How the hell do you think I can make love again after what my wife learnt? It's an utter betrayal of my trust! Any time I do the recommended exercises, my wife laughs! What do you think that does to me? I'm worse now than before! My sex life is destroyed! I'm finished!

The doctor explained that a staff emergency led him to rely on an untrained worker, and he made a heartfelt apology for the serious professional error made, and the effect on marital relations. He begged Geoff to forgive him, reminding him of good medical services for many years. He promised to see the couple separately and together to acknowledge the mistake and also, without fees, to resume counselling that would help to remedy the harm done. He assured Geoff that his sexual potency would return. Geoff became quieter.

If there's a real hope that things will improve, I'll accept the apology as I've had good treatment over the years, and there's nobody who understands my body better. But that bl...y girl must go! It's wrong to have sloppy recordkeeping...but if we're going to get free treatment for the course, I won't sue.

The mediators could see that the doctor was still anxious, and asked him about this. He was worried that Geoff might report him to the medical council, even though he had already sacked the girl. Geoff agreed not to do this, but asked for a nominal \$300 compensation for the distress caused, saying it would pay for a new bed. The doctor agreed, and Geoff said this was a fair settlement and seemed obviously empowered by the success of his negotiation.

The mediation enabled two angry men to reach an amicable agreement in an acrimonious but intimate dispute which would have caused press headlines, and further distress to them both, had the case been heard in court, in a far from minimal way. The naming of the dispute had been done in an appropriate private way, the blaming was established and accepted, and the claim for nominal compensation to damaged feelings was fairly met. Had mediation taken place earlier even more distress might have been spared. Geoff may have had internalised an ageist stereotype of failing sexual performance in old age, but there was no evidence that he had been excluded from receiving appropriate medication, as is currently claimed by some older British men who protest that Viagra is being age-rationed.

Holly

Holly was a single parent with two handicapped sons, born late in life. Their father, Will, had supported them financially but suddenly payments and replies to letters stopped, so she took him to court. Will said he was unemployed, so the judge considered that mediation could provide a more reparative agreement improving relationships than could the adversarial and punitive processes of the law.

The co-mediators said they appreciated working with parents who had each showed past concern and care for their handicapped sons, and immediately focused on the boys' needs. Will apologised, saying that his firm now wanted younger men. He could contribute some benefit money, making the rest up when re-employed. Holly's anger disappeared.

I wish I'd known about the unemployment as we've never been let down before...I'm sorry I panicked and went to court but I needed to know what was happening...

Holly paused uncertainly, and the mediators prompted her to say what she felt.

We'll manage on our savings for a bit, but the boys would love Will visiting them while he's unemployed

He agreed, and the parents lightly kissed. The mediators said they would always help the parents re-negotiate family agreements, although avoided moralising about this, and thanked both for the satisfactory meeting. Holly said she would have asked for mediation earlier had she known of it.

Holly had named the substance of the dispute, and Will had named the cause of it. Her original blaming evaporated, but the claim to continued child support was upheld, enriched by Will's agreeing to visit his sons.

There may have been issues about whether Will had previously been excluded from visitation, but the couple did not raise these, so the mediators avoided intruding into the past relationship, and made their intervention as minimal as possible. The mediation appeared to be fair to both parents, and to empower them in a further attempt to improve family relationships.

Iris

Iris wanted to sue her partner who had left their flat after five years' joint occupation with

her, and refused to pay further rent. He had not signed the lease, so was not legally bound to continue paying. The mediators encouraged both to express their feelings. Iris began angrily.

It's not fair! I've slept with him, cooked, washed, tidied after him for years and now he's walked out! I'd saved money to buy a flat for us, but now it's gone on paying his rent share! He's a brute! I hate him!

Her partner walked out of the mediation...a failure. The mediators commented that unless children or owned property are involved, lovers' quarrels are seldom solved by professional intervention. Success depended on disputants having real investments in negotiation, because alternatives appeared worse. Observation of this failure, and of successful mediation agreements, showed that all mediators consistently applied the process and its principles and that disputants appeared grateful for the fairness of its results.

Observing KMSOA Outreach Work

Research visits were also made with the KMSOA director to nursing homes, whose staff and LTCOs she trained in mediation, so that they could review with her their relevant cases, as follows.

Kay

Kay was a resident with behavioural problems who hit anyone approaching her. The LTCO arranged a meeting with the staff, family and Kay, who

confessed she had failing sight, plus a past trauma when she had received an unwanted injection, which made her want to push people away. The agreement reached was that whenever staff wished to contact Kay, they would call her and their names loudly, giving reasons for their approach, and wait for her agreement before proceeding. She was relieved and the family said they would encourage her cooperation and pay for opthalmic tests.

The mediation illustrated the naming, blaming and claiming which had taken place, and was a minimal intervention, although not early enough to prevent Kay's initial challenging behaviour from developing. Mediation empowered Kay to deal with her problem and the agreement reached was thought to be fair. This provided a practical illustration of relational justice in that it was designed to protect staff as well as Kay from actions which had earlier been mutually considered to be abusive. It was expected that the mediation would prevent these in the future.

Many nursing home mediations took place between residents who shared rooms and quarrelled constantly. These were often residents with whom no other person wished to share, and mediations generally involved writing down detailed lists of each resident's complaints, and then enabling them to trade promises for improvement, with signed agreements about each one settled, for their future reference. A manager said anecdotally that these mediations kept the peace in what would be a continually quarrelsome atmosphere. Observation visits were also made to community mental health centres, where some staff were trained in mediation. A social worker described a case.

Len

Len was 80, had unexpectedly recovered from a major operation, and remarried as his former wife had neglected and verbally abused him. She found out that he had made another Will in favour of the new wife, and said this threatened their daughter's interests. He asked the social worker to mediate, and an emotional, angry meeting took place, as Len said he could not face losing his daughter's love. He agreed to change the Will so that his first wife and daughter inherited the property, and the second wife received investments and cash.

The family became reunited.

The director congratulated the social worker on an important mediation which prevented an unusual abusive family dispute from going to the courts, where lengthy proceedings could have used up the money, spoiled her patient's second honeymoon and even caused his death through stress. Mediation had gone through stages of the naming, blaming and claiming in the dispute, had been a non-intrusive intervention in intimate family life, stopped the first wife's threats, and prevented Len from being excluded from his daughter's affections. The mediation empowered the disputants to confront family problems amicably with an agreement judged to be fair, thus being another example of relational justice, which prevented any further emotional or financial manipulation becoming abusive.

Discussions were then held with a young APS worker who wanted mediation training. She was the only APS worker in a large county, had no supportive case conference system, and was overwhelmed by her first job following student placement. She referred to one current case.

Meg and Tom

Meg and Tom were an old couple visited by a community nurse for seven years, as she suspected that the woman's continual bruising was due to spousal abuse. One day the nurse found Meg unconscious, with a hammer nearby. After urgent hospitalisation, she insisted on returning home, refusing to blame her husband. They were both alcoholics, who had no kin, but only each other for love and support.

The APS worker wondered if mediation could help them work out some plan for either better home conditions, or joint entry into a care home. The KMSOA director said that mediation was always available, although she doubted if the old couple would agree to it, or keep any arrangements made. Mediation was rarely successful for people actively addicted, or suffering from severe psychoses, because their informed consent to the process, and any agreement was unreliable, especially if behaviour was abusive.

Elder Abuse in Kansas

It was because so many old people found the concept of elder abuse threatening, that a Kansas multidisciplinary coalition renamed itself, and its telephone hotline, the Elder Rights Coalition (ERC). The ERC published a good guide in which it estimated that the ratio of reported to unreported cases was 1 to 5.5, that 1 in 20 older adults were victims of abuse, and that most abusers were related to the victims.

The research visit to an ERC monthly meeting included meeting Kansas and neighbouring Missouri police who then had no special guidelines on elder abuse, although

being interested in starting a fraud control unit. Otherwise police dealt with elder abuse cases on the same basis as domestic violence, but said that, if the inadequate numbers of officers had sufficient time, mediation training would be useful for them.

Unreported abuse was a campaigning issue for an 80 year-old community activist who was concerned about its occurrence in nursing homes. She believed that neither counselling nor mediation could prevent this and started a pressure group, the Kansans for Improvement in Nursing Homes (KINH). She published monthly newsletters on about elder abuse, saying it was endemic in about 149 sub-standard homes of the Kansas total of 380.

One typical case reported was that of a man with bleeding bed sores tied to his bed, who had to be removed to hospital. The nursing home denied neglect, saying that the man had scratched himself, and, although the regulatory surveyors found nursing deficiencies, no penalties were imposed. In another case a resident was over-sedated, leading to tardive dyskinesia, and eventually died from gangrene. Many cases involved residents not having a call bell, nor being given water, or toileting when requested. Families were afraid to complain, and there were insufficient LTCO visits.

KINH also exposed the State's structural abuse, in that employment legislation then gave subsidies to nursing homes for providing work for the unemployed, in return for training them. Unmotivated people with social problems were taken on, never trained, and then discharged after a year when the subsidy ended. Then a new intake of cheap labour took place. It was also reported that although most LTCOs were highly motivated in

upholding elder rights, others used their status and training to struggle for upward career mobility, avoiding reputations as whistleblowers. A Latino LTCO, with mediation training, illustrated this issue in a recent case.

Nesta

Nesta was an elderly patient with challenging behaviour, whom the nursing home wanted to discharge. This resulted in the family threatening legal action. The LTCO refused to mediate in case it suppressed Nesta's rights to remain in the home. Despite hostility from the management, she referred the family to the KLS lawyers, supported by the KMSOA director, so they could assist the family in court action. Firmness about this, resulted in the home deciding against discharging Nesta, but criticising the LTCO, who resigned saying she felt her reputation was in double jeopardy because she was a Latino, and subject to racial prejudice.

The director said it was appropriate for the British research visit to finish with this case, as it reinforced her initial claim that the KMSOA, as a project of the DRS, was situated in a legal office which worked for social justice. She was concerned to know whether the participant observation had confirmed this, or whether in any instance mediation had been seen to subvert justice which could have been done in better ways. The reassurance sought was given to her, followed by a mutual appreciation party given by the office lawyers.

Summary

This chapter has considered the mediation work done with and for older people in Atlanta and Kansas, pointing to its potentials being realised in specific situations, while failing in

others. Although no attempt was made to compare the services, there were common features in that both directors were older people, as were most of their volunteers, who were keen to promote social justice for other old people in their relational conflicts. Both directors were well qualified to distinguish between the rights of older people to legal action and their need for more immediate, free but equally fair social interventions which remedied situations and relationships, without destroying them. Both directors said their services were integral to local justice systems, and that they believed that all their mediations agreements were fair.

Mediation was seen to be a 'minimal form of alternative intervention' (Roberts,S.1986:25) in comparison to that of the courts, which a lawyer anecdotally described as being too lengthy, too costly and too unsuccessful. The process of naming, blaming and claiming was seen throughout mediations, which had they been attempted earlier, could have prevented much distress. The old people appeared to have been empowered to deal with disputes which had previously frustrated and frightened them; where elder abuse had featured in cases it was stopped; and it seemed that agreements generally provided assurance that it would not recur, and that relationships might improve.

Meetings with lawyers, multidisciplinary workers, especially LTCOs, and many volunteer mediators were arranged as part of the participant observation, although inadequate space prevents them all from being described. At these meetings there was interested discussion of the British theory that mediation could contribute to the prevention of elder abuse, because although people saw with concern that this issue arose within cases, their services had not been started to challenge or analyse this specific

problem.

It is clear in reviewing cases that many of those involving LTCO mediators did have various instances of actual, potential or perceived abuse to older patients. The Atlanta nursing homes visited, and local press, provided evidence of the State's structural abuse, ageist and socially exclusionary practices, particularly of old black people. KINH references to Kansas State failures, and the fact that their police and APS had not been resourced in elder abuse work showed that structural abuse existed there. As the research relied on what was arranged and shown through passive participant observation, the study was limited in not being able to investigate whether mediators could campaign against these structural abuses without compromising confidentiality.

It was significant that the research showed that even in cases marked by structural abuse, mediation seemed successful, although it was impossible to test whether and how conflicts might better have been dealt with alternatively. Opinion here would be speculative, although future research might be able to measure old people's subjective feelings about fairness, structural abuse and future empowerment, against more objective criteria of mediation effectiveness as relational justice. Research in Atlanta and Kansas indicated that in the microlevel interpersonal conflicts observed, mediation was felt to be just, and suggests that their experience of empowerment might encourage old people in the future to challenge macrolevel conflicts associated with the ageism and social exclusion involved in structural abuse. Cases indicated that many old people suffered from social exclusion, either through deprived economic circumstances, or from being personally excluded from decision-making about this lives, especially in nursing homes.

Ageism was implicit in this, and derogatory views about old people's capabilities were often anecdotally expressed, and possibly internalised by them.

Another limitation to the research was the restriction placed on questioning old people about their views, so that only those emerging from their statements in the mediation were noted. Evaluations of the volunteers, existing and past pilot services was also proscribed. The greatest limitation was having fewer active mediations to observe than had been hoped, although the informative research visits to relevant sites of conflict and abuse enriched the empirical work considerably.

Despite these restrictions on the study in Atlanta and Kansas, it was rewarding because it provided the first American and British joint experience of participant observation research exploring the potential and limitations of mediation in relation to older people involved in abusive situations and relationships. It also provided significant surprises in its research findings. Although these will be discussed in the penultimate chapter of this thesis, there were immediate surprises in learning how deeply old people suffered through those interpersonal conflicts which initially seemed to be minor disputes, and also that their own behaviour contributed to these. An even greater surprise was seeing that old people welcomed mediation and appeared to appreciate the fairness and benefits of the process and its empowerment. It was also unexpected to see mediation skills used by multidisciplinary workers as well as mediators, and that these worked well, even in varied cultural contexts, and in very different cases.

This research provided a valuable knowledge base for the subsequent study in

California, discussed in the next chapter, and for guiding empirical work in the British Elder Mediation Project, where the main ethnographic work was planned.

CHAPTER 5

CALIFORNIAN LONG-TERM CARE AND INSTITUTIONAL ELDER ABUSE

Introduction

This chapter is divided into three parts. The first describes the social context of the structural, cultural and institutional conflicts affecting Californian long-term care of older people during the summer of 1993, the period of study. It notes the relevant reform agencies and their concerns, especially those in the San Francisco area where the study took place.

The second part discusses participant observation in a county long-term care ombudsman (LTCO) service, a district nursing home and a public hospital, in all of which mediating skills were used.

The third part describes brief visits to some of the community agencies in San Francisco which were also concerned with conflict resolution. In conclusion it raises relevant issues discussed at a gerontology seminar which was attended, and a summary identifies the value and limitations of the Californian study. The narrative accounts of this chapter are necessarily descriptive in order to report as comprehensively as possible the events observed. It is also important to provide social snapshots of the human suffering endured by the old people observed, and it is difficult to categorise this.

The Social Context of Californian Long-term Care

In California between 1920 and 1930 it was estimated that there were 20% more old people than in any other State (Putnam 1970). In 1993, with unrecorded numbers of migrants, 20% illegal, it was estimated that 20% of its population of 29 million were over 65 years old: 60% black elders lived alone below poverty levels; 40% elders lived in poverty; 21% had chronic disabilities; 5% lived in institutions; 55% nursing home patients had no families (Californian Association of Area Agencies on Aging 1993). These figures reflected the State's structural abuse of old people, and the ageist attitudes and socially exclusionary practices which resulted in so many of them suffering from poverty, especially black elders.

There is no strong evidence that that these socially unjust conditions have been substantially changed since 1993. Popular estimates suggest California's population will double by 2040. In San Francisco ethnic minorities were estimated to be 60% of the population in 1993, with over a hundred different languages spoken, and there was an unemployment rate of 9.1% (US Department of Labour 1993). Throughout June 1993 the **San Francisco Chronicle** reported financial conflicts over the State Governor's deficit budget of \$2.7 billion and that of the San Francisco Mayor at \$184 million. Californian State benefits to the old and disabled were to be reduced by 2.7%, and various facilities for them closed.

These financial conflicts were linked to industrial ones in 1993, as the State's logging and military programmes were being cut. The press reported that this caused

unemployment, exacerbated by illegal immigrants taking low-paid jobs, and an outflow of contracts and capital to Mexico with its cheap commercial costs. This view was supported by correspondents to June issues of the **San Francisco Chronicle**, who appeared to be low-paid, unionised white workers. Immigration problems led to cultural conflicts, the Latino birthrate being the highest at nearly four children per mother. The director of the LTCO county office visited spoke of associated problems for long-term care.

African-Americans don't like the increasing number of Hispanics and Asian nursing home owners. They employ a lot of Philipinos at low wages who are small and push around heavy white American patients. There are lots of complaints about this being abuse. Also there are language problems. There is an ongoing conflict with the licensing authority as to whether staff can speak in their own language, as residents suspect verbal abuse. Owners won't pay for training. So I have to mediate these kinds of conflicts also!

The nursing home industry, represented by the American Health Care Association (AHCA), also had continuing conflicts with the federal licensing authority, the Health Care Financing Administration (HCFA). These conflicts involved the HCFA's surveying, recording and penalising of deficiencies and abuses found, in which accusations of corruption were commonplace, as were patients' complaints about abuse. A report on elder abuse by the National Eldercare Institute on Elder Abuse and State Long Term Care Ombudsmen Services (NEIEASLTCOS) stated that California received one third of all complaints reported to ombudsmen nationwide, a total over 30,000 in 1988-89. Over half were of abuse and neglect, nearly 1500 alleging physical or sexual abuse; 500 alleged fiduciary abuse with over 3000 complaints about violations of residents' rights and 700 thefts (NEIEASLTCOS 1992a).

NEIEASLTCOS is a federal agency of the American Office on Ageing (OoA), each having State offices, which are concerned about institutional elder abuse and train LTCOs to inspect institutions, and represent the rights of patients, As was seen in the last chapter, some States trained LTCOs in mediation as well as advocacy. LTCOs were formally established by the 1978 Amendments to the 1965 Older Americans Act.

The advocacy role was strongly supported by a major national reform body founded in 1975, the National Citizens Coalition of Nursing Reform (NCCNHR), to which many LTCOs belong. It has State offices, including one in California, the California Advocates for Nursing Home Reform (CANHR), but in 1988 its executive director helped develop the National Institute of Dispute Resolution (NIDR) mediation pilot projects for use in Californian nursing homes, because it was considered that these could valuably supplement LTCO advocacy.

Another powerful reform body is the American Association for Retired Persons (AARP), which was instrumental in promoting with the American Bar Association (ABA) initiatives in mediation for and with older people. Its Californian branch collected State statistics which illustrated AARP's national lobbying on the urgent need for an American comprehensive health care system. It was these and other reform bodies which successfully lobbied for the 1992 Amendments to the 1987 Nursing Home Reform Law/Omnibus Reconciliation Act which secured the presence of LTCOs as watchdogs at inspections of institutions, where patients' views had to be sought. 1999 NCCNHR reports state that the regulations are still not being properly implemented, so conflicts about this continues.

It can be seen that that the British research began against a background of macrosociological conflicts affecting Californian elders and their institutional care. However it was hoped by many progressive San Francisco LTCOs that the new NIDR mediation programme would help them deal more constructively with the microsociological conflicts they met in their daily work. It was believed that by challenging injustice, ageism and social exclusion in the specific sites where interpersonal conflicts distressed old people, mediation could lead to achievable, immediate benefits for them. It was considered that remedies for the macrolevel conflicts and structural abuse affecting the older population depended on changing the political will of the State's electorate.

Mediation in the Long-term Care Ombudsman (LTCO) service

During the week shadowing the LTCOs, visits were made to six nursing homes, a meeting of a local Elder Abuse Coalition, an Alzheimer's Support Group meeting, a local senior citizens' life history evening, and the home of an elderly volunteer. The office was located in a low to middle-income suburban areas, where all visits were made, and office work included reading through one month's complaints, numbering 400, and observing ombudsmen dealing with telephone calls and callers. The director gave an overview of the work.

We all suffer from burn-out! My colleague has a broken marriage as a result. I haven't had a holiday for two years. I come in unpaid on Sundays. But I love the work! I love standing up for old people when they are wrongly treated. I enjoy doing on-the-spot mediating between quarrelsome patients and also with staff who can have tough times. Having different roles of advocacy and mediation is fun, and we're committed to our

patients having their rights to self-determination upheld. Mediation helps them to make their own decisions over conflicts...but I am over 60 and get tired...

Visiting Nursing Homes

The director said she wanted to show a comparison in quality care, not related to finance, and the first nursing home had no deficiencies or violations ever recorded against it. It had only 42 beds, and most of its culturally diverse and mixed sex patients were poor. It had an anti-segregation policy for its Alzheimer's and demented patients, and provided activities for everyone. The patients seemed happy and were on first name terms with the owner and staff, trained in mediation skills, who were in and out of the community rooms. Although these and the material conditions of the home were not good, and some rooms had three beds in them, the home had few unresolved conflicts.

The second home had just been purpose-built as a national and State model of good standards, with 120 beds and family suites, chandeliers, a white grand piano, marble-topped dining tables, a library and visitors' room. It was privately owned for rich patients, and the mostly white patients appeared socially withdrawn. There had been no complaints, but the LTCO felt that the quality of care was only materially good, and that its advertised superiority made it social exclusive. She said anecdotally that when the rich seek exclusiveness, the poor suffer exclusion. A visit to a small nursing home with 99 beds led to her mediating an emergency situation following a relative's complaint that she had found her husband, Ollie, with a gashed, stitched and bandaged face. He described what had happened.

Ollie

I was attacked by Paul. He gets these awful moods and hits people if they say anything to him. He's mad! He should be in a bin! Look what he done to me!

The LTCO asked if she might photograph the injury in case Ollie's wife wanted to take legal action about the assault. Ollie demurred but agreed.

I don't want a lot of fuss. I just want Paul out of here. We wouldn't want to go to court...I'm not fit for it, and the wife can't afford it...just get him to stop it!

The LTCO then spoke to the home manager who said that the trouble was that Paul had Alzheimer's Disease with episodic violence, and that Ollie often provoked him by aggressive insults. The home had a policy of avoiding the sedation and segregation of demented patients so Ollie and Paul often met and quarrelled. Paul was not fit to be brought into the discussion, but the LTCO suggested that a future mediation should be held with his wife and Ollie's wife to discuss the possibility of one or other of them moving to a different home. The manager thought Paul's wife would agree, so the LTCO suggested the idea to Ollie, mentioning that his behaviour was considered to be offensive and provocative. Ollie was angry at this.

I'm the one who's suffering! Why should I move? Unless my wife finds a better place without these loonies! Or shove him on the top floor! Anyway, let the women meet and work it out...I'll agree to that...

The LTCO thanked Ollie for his co-operation, avoiding a disempowering loss of face for him, saying that she would ask the manager to arrange for Paul to go upstairs temporarily until the mediation with the two wives took place, in which Ollie could participate if he wished. The LTCO had used her mediating skills by quickly and briefly diffusing an ugly situation in which Ollie had named the abuse done to him, blamed Paul and claimed his rights not to be attacked by a demented patient. A formal mediation would be arranged in which the LTCO said she would ensure that the rights of both patients were maintained fairly. The physical abuse of Ollie was stopped and would be prevented in the future. The LTCO hoped that the mediation would empower Ollie's wife to encourage him to withdraw his discriminatory remarks about Paul, although his social exclusion to the secure unit of the home seemed probable.

Another visit was made to a public nursing home where there were mixed age groups of mentally incapacitated people, although women and men were on separate floors. The reason for this was made clear by the manager who explained that some of the male behaviour was disturbing as they openly masturbated frequently, despite being asked to do this in their beds. Often shortage of space, and the men's preferences, meant that they shared rooms, and the manager described the problems she was having with Ron whom she wanted to discharge.

Ron

Ron was a middle-aged mentally incapacitated old man who regularly masturbated himself and any willing partners. He was presently attached to a young adult newcomer,

and had been found enticing him into a bedroom and masturbating him. The manager did not know if the young patient wanted or liked this, and thought that, as he was new, and Ron was a heavy man, there might be intimidation. The manager felt that she should protect the lad's right to sexual non-interference, and that as Ron was generally a bad model who would not heed warnings, he should go.

The LTCO said she sympathised with the dilemma, but she also had a duty to protect Ron's rights, saying that if he was discharged he would be socially excluded in a locked public hospital ward. It was agreed that she would mediate, and encouraged him to tell his side of the story.

I like that boy... he likes me... we like doing things together... I can teach him a lot ...he's a nice boy...I'm like his Dad...he likes me...we like doing things together...we have secrets.....

The LTCO explained to Ron that he was too old to do things for the boy who should mix with younger residents. She told the old man that if he did not stop inviting the boy into his room, the manager would send Ron to a hospital. Did he understand? Would he agree to stop this secret visiting?

Ron looked frightened.

Don't let them send me away....I've been here all my life...I'd die in a hospital.....OK.....I won't touch the boy any more...I'll agree...pity.....he'll miss it....so shall I...

The LTCO thanked Ron for his promise and said she thought the manager would

agree not to discharge him, if kept his word, thus encouraging him not to feel powerless in the situation. The manager said she doubted if he would, but that maybe the LTCO's intervention was a significant event for Ron, and that she would mediate again if the agreement broke down.

Here the LTCO's mediating skills were used quickly in a sensitive sexual situation where the boy's relatives might have taken legal action on the basis that he was being abused. The LTCO ensured that further interference with the boy was prevented, if provisionally. The manager had been responsible for the naming and blaming of the problem as she gave her account of the trouble to the LTCO and Ron at their introductory meeting. The mediation ensured that Ron's claim for continuing care in the home was registered, and that his fear of being excluded from it was addressed. The LTCO had thus also advocated for Ron. She later described another case of sexual interference which she had mediated.

Sally

Sally was an elderly patient with intragastrinal tubing in place, but her husband insisted on having sexual intercourse with her every afternoon when he visited. This caused her agony, but she bore it because she did not want him to stop his visits, and go to a prostitute. She also valued his affection, but confided in the manager, who asked for my help.

I asked Sally's permission to talk with her husband and assured him that she loved him dearly and valued his closeness, but asked him if could show his affection in more gentle ways, as the staff were afraid the tubing could rupture her insides.

He replied that he had read it was important to keep sex going, but he supposed there were other ways of relieving their feelings so he would agree to try these.

The LTCO said that some might have named the incidents as being sexually abusive, blaming the husband who sought to claim his marital rights, or separated the couple, but she had used her mediating skills to suggest safer sexual practices. As the husband had voluntarily agreed to this, there was a better chance that he would keep his word. The manager felt that this was a fair resolution of the problem, and that it would prevent future harm and the exclusion of the husband from intimate visiting. Sally was relieved and empowered by the mediation.

Visiting the Elder Abuse Coalition

A police member at the meeting said that police had a visible protective role in the naming, blaming and claiming process in identifying and dealing with elder abuse, especially in fraud.

Fraud is one of the most common nursing home forms of elder abuse, and we have a special unit investigating this. When fraud is alleged, we should be called immediately, expose the incident, find the culprits, who must recompense the victims. To hear all sides of the question, police use mediating skills, but prosecute when there is firm evidence of intentional crime.

The ombudsman director spoke of the way she adapted her mediating skills to prevent financial abuse when the savings of residents are managed by relatives through Court orders, who then say that the old people have no money left to pay fees.

When I receive complaints about fees not being paid, I write to relatives saying I know about this. I offer to help in mediating any financial difficulties, but warn them of their legal liabilities, and that Powers of

Attorney can be revoked. Cheques are often given to nursing homes the next day. Early confrontation is the best remedy!

Visiting the Alzheimer's Support Group

An elderly volunteer LTCO was attached to this group. One of the husbands spoke of the family conflict which was adding to his distress.

My wife and I were childhood sweethearts....but recently she started to wander and became violent...life became hell...I was exhausted... I feel so guilty about putting her away...there's conflict within me, and conflict in the family who won't speak to me, though they never helped...

Other group members told similar stories, and the LTCO reminded them that she was always ready to mediate in family conflicts, although it would seldom be possible to include patients themselves who might become excessively disturbed by family discussions which they could not understand.

The group then discussed mediation and said that the issue of confronting and naming conflict at early stages was similar to that of giving a prompt diagnosis of Alzheimer's Disease to families. This helped them to rationalise dilemmas, and talk about the situation in socially acceptable ways, when some people described their loved ones as mad. However the LTCO reminded them of professional perspectives which felt that labelling people was dangerous, and that patients should just be described as suffering from physical or mental health problems.

Wider issues involving ageist attitudes and socially exclusionary practices that affect old people with dementia are not within the scope of this study, but are critically discussed in Malcolm Goldsmith's **Hearing the Voices of People with Dementia** (1996). The LTCO who was concerned about these issues offered an interview about her personal work in mediation.

Visiting the LTCO Volunteer

She was 82, a widow, living in a small bungalow, and wanted to reminisce freely.

I had a beloved father and mother who died of TB. Though we were poor, we never felt poor, although we always stood up for social justice...is it good to make people feel poor for political purposes?...My first conflict was as a Sunday school teacher with the minister's wife...then I became a teacher...and I was mediating conflicts between children, teachers and relatives for 34 years! I became interested in relationship conflicts, and started counselling...there were no mediation programmes then.. After I retired I became a LTCO volunteer, and did proper mediation training. But there is seldom time to arrange mediation formally. People want immediate action...you just have to respond spontaneously with the skills you've learned. I personally don't find any conflict between my roles of advocacy, investigation and mediation...I move naturally into whichever process is needed. I think that many staff and patients would find it inhibiting to set up formal mediation sessions, so I do a lot of shuttle mediation between people, acting as a go-between...

She described a practitioner approach to mediation, which was focused on the needs of people for early responses to their conflicts in informal ways, rather than on scheduling the formal sessions preferred by programme directors and researchers concerned to monitor and evaluate the process. Formal mediation is time and place structured, while the process can be used informally on any occasion when needed. Direct

face-to-face mediation can thus be formal or informal, as can indirect or shuttle mediation.

Researching LTCO Records

An analysis of the month's 400 complaints was impossible because the information was incomplete, and varied from case to case. LTCOs said that they had no time to record if allegations were substantiated, and how they resolved conflicts. Therefore no numbers were available of mediation done, although, as noted above, the LTCOs used their mediating skills continuously with those of advocating for patients. They said that it was academics who fussed about separating the processes.

There was a constant flow of visitors in and out of a two-roomed small office. One was the director of the local Conflict Resolution Panels, as community mediation was called in that area. She and the LTCOs discussed the usefulness of the community mediators being called into nursing home conflicts when the LTCOs had conflicts of interest, or those involved wanted external dispute resolution.

The office hotline for crisis reporting was constantly in use, but a strong observation was that, despite their busy days answering many different demands, each LTCO responded with the attentive listening, non-judgemental and concerned approach which would encourage people to share their problems. They were all committed to working for social justice in the sensitive relationships of nursing homes, and to ensuring that, whenever possible, older patients' rights to self-determination were upheld by giving

them opportunities, in empowering ways, to contribute to decision making about issues which affected their lives.

It was typical that they welcomed an observer into their crowded office and work schedule, and they participated in sharing discussions about the British research ideas which they supported, and how these related to their own activities. The research visit could not include making a critical study of the structural deficiencies of nursing home administration, although the large number of complaints point to these. Nor could ageism or the social exclusion of patients be studied. Social exclusion there was, but this often appeared to result from the mental ill health which afflicted people so that they had to be nursed in institutions, and it was not possible then for research to test if there were realistic alternatives.

The Oakland Nursing Home

The nursing home was situated in one of the most deprived districts of the poor black area of Oakland, and its elderly owner described her work.

I bought this in 1983 to do a clean-up job as I found 30 people with decubitus ulcers - bed sores! Now I have 32 staff looking after 38 old people, and I run this place as their home. They are free to go where they like inside, and the senile residents share their meals and activities with others. No-one is labelled or segregated. No-one has restraints or is sedated. I keep an open door, a keen eye and a close ear for trouble and invite people to talk about it freely so there is no need for outside mediation. I stamp immediately on any abuse and sack staff immediately if theft is proved. I encourage the residents to make their own decisions about things where possible, but all this talk about self-determination is nonsense...most of them are senile ...

The Management of the Home

The owner, her son and daughter-in-law who managed the home, were all qualified nurses, and were critical of some social reform. The owner said that she supported a present State Bill proposing that doctors could make treatment decisions for mentally incapacitated patients who had no surrogates, adding that she could never persuade relatives to accept this responsibility, or to go through the expensive legal process of applying for Powers of Attorney. As the above quotation suggests, she was a pragmatist with some cynicism about applying mediation principles of self-determination.

CANHR was campaigning against the Bill, as LTCOs felt they should use advocacy or mediation to encourage patients' self-determination, so the owner said she could not understand why the LTCOs had complained when she allowed residents to smoke in the outside patio. Her son had taken the LTCO mediation training, and gave his views.

We don't mediate formally in this place, but we use mediating skills all the time. We practice its values as far as possible, and have a mixed multicultural population with no racism. We insist on everyone being treated with respect and encouraged to make as many decisions for themselves as possible...about what they wear and eat and do. The staff don't wear uniform, and we all use first names and call people residents. We try to approach conflicts in a practical, problem-solving way, and we have a great activity therapist, who is a born mediator, even though she has had no training in it...

During the research week the therapist became involved in what she described as a typical residents' conflict. She said that Tina was an elderly prostitute with criminal

convictions, who was always being accused of theft by other residents who resented her presence among them. The therapist had heard from another resident that her spectacles had been stolen and that Tina was suspected, so she was confidentially approached about this.

Tina

It's always the same! Everyone attacks me! Everyone blames me! They're a rotten lot, even though they think they're so respectable! If I were a thief, I'd never have been such a success in my profession! My clients trusted me! Why can't people here?

The therapist told Tina that no-one had any evidence that she was a thief, and reminded her that the resident who had made the complaint suffered from black-outs and often lost things. Tina interrupted.

You mean she's lost her mind! She's quite mad! Like most of them here! I'm only here temporarily until my depression goes...then I shall go back to my friends in Frisco Bay ...

The therapist then said that as Tina was so active, it would be kind of her to help look for the spectacles, and that this would dispel the suspicions. Tina grumpily agreed. Five minutes later Tina came into the common room carrying the spectacles triumphantly and handed them to the owner.

I found them in your bedside drawer. I didn't steal them and you owe me a apology which everyone should hear!

The owner mumbled that she was sorry, but another resident murmured that Tina had certainly taken them from the drawer in the first place. The therapist quickly thanked everyone for co-operating in solving the conflict, and later said that she was always having to find practical, problem-solving ways of encouraging residents to be reconciled with each other, as they spent so much of their time in a small common room.

The mediation had been brief and early enough to prevent conflict and allegations of abuse by theft. The dispute was named, the blaming was addressed and the owner's claim to the return of spectacles was met. Both residents were prevented from losing face despite the mutually discriminatory accusations and were obviously sufficiently empowered to continue cheerfully with the morning's activities.

The Activity Therapist

The therapist was a young woman in her first job, full of positive attitudes and little quotations which some of the residents with obsessions would repeat aloud endlessly: 'this place is only as good as I am'... 'it could happen to anyone, so it can't be bad'. This was especially appropriate when residents soiled themselves, but were encouraged not to feel ashamed. Two residents were twin sisters. One was continually angry, argumentative and aggressive. The other made philosophical comments on conflicts.

You can't put what's in your heart into someone else's heart...God gives everyone a different heart, and puts different things into different people's hearts.

This tolerant attitude might well have been modelled on that of the therapist, but the resident was a retired teacher, and often spoke about each stage of life having its own meaning and that it was everyone's job to search for this.

The therapist helped the old people to celebrate their cultural traditions creatively, and they made punch for parties, cut shapes out of melons and ate them, painted, knitted and also started the day with discussing the daily news. She asked them what they thought about plans to cut pensions, or the violence of druggies, or sex on TV which they could watch in their rooms. All the time she was inviting them to voice their views, including those about ageism and racism, and to criticise politicians and authority figures. Even though discussion was often monosyllabic or disordered she thanked each person individually for what had been said, often re-phrasing it to make the sense intended.

Through appreciative observation of her work, an exceptional opportunity came to contribute to a conflict that was brewing and might have been very distressing had it erupted.

Death in the Nursing Home

One of the residents died at the end of research week. The custom was for the undertaker to provide a temporary blue plastic coffin which was wheeled out through the front door, the only exit to the nursing home. It was customary for residents to sit in the loggia by the exit to watch the world go by each day. The staff, and especially the therapist, were concerned about two conflicting issues. The dead resident had been loved by everyone,

and there was anxiety that watching her departure might cause some of them to break down, reminding them also of their own mortality; or they might be upset if they were deprived of sitting by the front door. It was uncertain when the undertaker would arrive and be ready to go, and it would be impossible to move residents in wheelchairs with dignified speed. Some staff thought residents wanted to wave their old friend good-bye.

Through observation of this situation, the British experience of covering temporary coffins with some simple but dignified drape was shared with the therapist, and the suggestion made that residents could be invited to make their own choices about whether they paid their last respects at the loggia exit or stayed in the common room. She agreed, suggested gaining the approval of the owner and management first, and then the staff, who found a drape. They agreed to the therapist inviting the residents to make their own personal choices over what they did next day. Unfortunately the research visit ended so the effects of this unscheduled attempt at conflict resolution could not be seen.

Although no formal mediations had been seen in the Oakland nursing home there were many instances of what have been called mediative interventions (Hanawi and Goodman 1992). This reinforced what had been earlier learned through participant observation of the Californian LTCOs' work with older people: that their immediate needs were often for spontaneous informal conflict management by workers who naturally and confidently used mediation skills. That small Oakland home, for the poorest people from the main ethnic minority groups of the deprived area, showed no racist or ageist attitudes, and prevented social exclusion. Through keeping them in touch with the daily press, and through outings to the local park, residents were reminded that they were citizens of a

great country, as their therapist repeatedly reminded them, and that every individual could offer valuable contributions to making the home happy.

Conflict Management in a Public Hospital

The hospital medical director who was interested in the British study welcomed the research visit, although stating at the outset that there was no money to resource the mediation pilot project that she wanted. She said it would be useful to study the mediative ambience of the hospital which she had tried to establish, and to participate in the daily life of the hospital, the aim of which was to empower residents to live as actively as possible. She described the hospital, saying that she had many structural and relational conflicts to manage within it which would become obvious during the participant observation. It had been a 19th century asylum and its location on a hill at the edge of the city could be described as an early form of social exclusion, because relatives and visitors found it difficult to get there.

It had 1600 staff and over 2000 residents mainly between 60 and 90 years old, suffering from chronic physical and mental disabilities, including Alzheimer's Disease. The hospital's rehabilitation policy meant that some old people were admitted temporarily for emergency or respite care. Others, more able, lived in an attached home-like unit, and some disabled elders from the local community visited the hospital's day centre. The hospital also had its own hospice, mostly for people with AIDS. It also admitted some younger adults with chronic disabilities and diseases who had been socially excluded by other institutions. Most residents were housed in big wards on many floors with long wide

passages. The medical director had had financial conflicts over funding the hospital's rehabilitation through repainting and furnishing it with original paintings, plants, colourful curtains, with settees, armchairs, tables and magazines everywhere.

She had faced staff conflict over turning the wards into rooms, or cubicles, giving patients more privacy, but nurses more difficulty in overseeing their care. There were constant administrative conflicts between hygiene and homeliness: where people were allowed to smoke or get cans of drink from dispensing machines; what they had to clear up themselves; when they could wander freely out of their wards. The licensing authorities, critical of changes which spent public money, picked on chipped paint, cigarette ends behind radiators and dead plants, causing conflicts through their surveys, which were publicly inspected, and reported in the press. She described one of the most serious conflicts.

The Perspectives of the Medical Director

I want to humanise this place. I want to promote people's autonomy, independence and freedom, because I believe that this is essential to their physical health and personality growth, even though they are mostly disabled. I want residents to use the hospital as their home and enjoy walking round it, and I have a policy of avoiding physical and chemical restraints. So we have a major conflict in this vast place between safety and liberty for our mentally incapacitated residents. It is a terrible responsibility making decisions about these issues. We try to do this through regular assessments by teams of multidisciplinary workers, and to bring relatives into these. I can see that mediation could be a relevant process and skill for staff to use in many situations. We have to keep some locked wards otherwise fatal accidents can happen.

She then described one such incident which had happened recently, when a

resident with Alzheimer's Disease had been allowed outside his closed ward, and had fallen downstairs to his death. The licensing authority said that this was a form of institutional elder abuse and neglect because he had been given inadequate care, but as there were no relatives, the hospital was spared legal action. She wondered whether early mediation between the resident and staff might have prevented the accident, in ensuring that he agreed not to go near stairs.

The medical director added that she was interested in the use of mediation in medical ethics committee debates, as suggested by NIDR, because the hospital was concerned about Advanced Directives in relation to resuscitation of its residents.

We have a medical ethics committee here and I am very interested in new proposals for the use of mediation as it is our policy to encourage residents in choice and self-determination with regard to their treatment and care wherever possible. But there would have to be legislation in California to permit this. I cannot even get funds for testing the use of trained volunteers as surrogates in decision-making when mentally incapacitated residents have no relatives. Talk to our hospital social workers about this...

Views of the Hospital Social Workers

The social workers were all keen to discuss mediation in the context of the conflicts they had with relatives about the care of residents. One spoke of their difficulties.

We spend months trying to trace relatives, then make appointments to which they seldom turn up. When they do, they have disputes among themselves and with us about their responsibilities. They say they can't afford to visit, or to arrange for Powers of Attorney. If we do get them and the residents all together for what might be called mediation, it's seldom possible to get agreements, and if we do, they are rarely carried out.

Relatives generally say that they want doctors to make decisions about treatment and care, even though this may involve residents going into locked wards. Despite hospital deinstitutionalisation, and our own constant encouragement to residents to make their own choices when possible, they say they want the doctors to make the decisions.

The social workers explained that, due to its long history, their social services department was the last to be developed, and that the medical hierarchy model predominated. They said they were not given equal status in multidisciplinary assessments, and there were constant conflicts about giving them more staff and resources. It is significant that at the hospital academic seminar where a research presentation on mediation had been requested, the doctors left early. One was heard to say: 'I thought it would be a lecture on medication!' This suggests an additional reason for suspecting that the prevalence of the medical model might limit the scope for introducing mediation training.

An associated conflict involved nurses who had the role of counselling residents. The social workers recognised that hands-on carers had to give emergency counselling in wards, and this probably enriched their professional experience. However counselling was really social work territory, although they were mostly used to negotiate State benefits or difficult disputes with relatives as described above. They felt that if they were formally trained as mediators, this would increase their status, but some said that if mediation became established in the hospital, everyone would practice it, like their LTCO.

The Work of the Hospital LTCO

The LTCO was an elderly man working part-time. He said he spent two whole days a week in the hospital, whereas many LTCOs only made occasional visits to institutions, sometimes only when requested. He saw his main role as encouraging residents to voice their grievances and empower them to negotiate their conflicts as well as possible. He said that patients liked having regular as well as emergency visits, although staff tended to deal with crises themselves, not always in conciliatory ways.

I was a business man, and after I retired I took training as an arbitrator, judging small commercial conflicts. Then I took the NIDR training in mediation, which was very extensive, and this inspired me to work as a LTCO. But although I know all the formal set-ups and processes of mediation, I found life in a hospital such as this, isn't like that. I find that residents want conflicts dealt with on the spot. With minor troubles I start a kind of shuttle mediation around all the people involved and try to get people listening and talking to each other. Often only an explanation and apology is needed to improve situations and restore good relationships...an apology from hospital staff heals blaming more than anything, as it gives a kind of legitimacy to residents' feelings in complaining. Of course I report any complaints which can really be named as abuse or neglect, as distinct from those which appear to be in the fantasies which many of them have, or just perceived by them due to some passing upset, which I try to sort out. I have to record these incidents and my work in general, but mostly in note form because of lack of time.

The LTCO could not show these records for research purposes. He was asked to describe any mediated cases, but his LTCO State office would not permit breaching confidentiality. He suggested interviewing one of the hospital's oldest residents, Vi, whom he described as the residents' own natural mediator.

Listening to Vi

Vi was a large black older woman who was the grand-daughter of a plantation slave, and had been 17 years in the hospital where she was paralysed from the armpits down. Vi wore a big volunteers' badge and said she was one of the first members of the hospital's team of helpers, who were residents, relatives or outsiders. She organised committees and outings for residents because she was good at getting people together and ironing out conflicts. She was interested in mediation, saying that peacemaking was her own way of life. She wanted to describe her life history.

Vi

We were a large happy family and my parents brought us up to sit down and talk things through when there were conflicts. Then I married a man who drank and gambled and there was no talking with him! He just went off! And when my sister had a row with her boy friend, and I tried to settle it, he shot me! So I became paralysed. But I am a Southern Baptist, and knew that although I suffered, there was no point in making life a misery for others. So I got the family to sit down and talk about it calmly. My mother - who I had looked after earlier - was also becoming bedridden, and I could see that my sister couldn't look after us both. As I got diabetes, and had to come into hospital, I thought it would be better if I stayed here. I like this place. It's like the world. There's a lot going on. It's got purpose. It wants the best possible for people. It goes in for problem-solving and trying to find practical remedies when conflicts come, as they always will. I'm good at peacemaking in these, so the hospital rely on me a lot and tell residents to come and talk to Vi.

This large cheerful woman was an important source of informal mediation skills in her particular cultural context, and her beliefs and strengths in bearing her disabilities uncomplainingly was a model of self-determination and empowerment. Her self-proclaimed peacemaking was akin to mediation in that she encouraged, enabled and

empowered residents to sort out their troubles. Vi appreciated the thanks given to her for contributing to the research, and introduced the hospital activity therapist.

The Hospital Activity Therapist and Community Activism

The hospital activity therapist was engaged in urgent lobbying of the City Council. It proposed closing down the hospital day centre, rehabilitation and home-type units because these cost more than running one large institution. This would deprive community elders of day centre services, and replace the burden of their care on relatives living in poor overcrowded areas.

The therapist was dedicated to empowering residents with imaginative schemes such as installing a hospital pet home so that tame animals could be cared for by residents who loved them. Her day centre was full of residents' paintings, models, soft toys, framed verses and posters, some being sold to benefit the makers or hospital. The residents had discussion groups, wrote and acted plays, sang and danced. They also went on outings. Two of these had been arranged, with the permission of the medical director, to lobby City Hall meetings where the closures were being discussed. The therapist had bussed in a large group of wheelchair residents with placards they had made proclaiming their rights. She angrily described the situation.

They talk about elder abuse, but closing our units would really be elder abuse...structural abuse it's called! The City's got the money, but it goes on other things! Poor old people who are ill and disabled are left on the bottom of the heap! The politicians are all rich...Californian Senators are millionaires... and all of us hospital workers, and our residents are poor and powerless...it's not fair!

She went on to describe the deeper effects of the political manipulation of the State's statutory responsibilities for the health and care of its older citizens, which she said resulted from ageist attitudes and socially exclusionary policies.

The political stress on managed competition, instead of co-operation in the anyway very difficult problems of caring for our old people, leads to an adversarial atmosphere here amongst the staff, who have different views. Residents are worried about their future care and continually trying to question us and understand what is happening. But we don't know, and I have to spend a lot of my time in trying to mediate in the arguments and disputes that occur between people. But I've not trained in mediation, and could do with this, though there's no money available...So we don't know what to do with our anger and frustration except blame others and start another conflict.

The therapist was the only State-paid worker met in the research who got permission for political protesting. This was because of the threat to the hospital. It was surprising that residents were allowed to accompany her, but she said that they had been really empowered by it. She reported another conflict going on with the hospital's unionised staff.

Visiting Hospital Staff Union Members

An opportunity came to listen to the views of a small group of hospital staff union members who had an information stall in a hospital corridor. They belonged to the Service Employees International Union (AFL/CIO) and said they had 13,000 members in San Francisco. They said they had just won increased pay awards while the debate about the

closure of the hospital units was raging. They admitted that this caused conflict in the hospital, as they were blamed for raising hospital costs, adding to the City's case for closing units.

They argued that using non-unionised cheap hospital labour was wrong, as this did not attract well-qualified staff: the real trouble was that 65% of new City appointments had been to high-paid management, and that low-paid workers going into hospitals were classed as temporary. They defended their union achievements as constructive negotiations, saying that they had avoided expensive arbitration, and distress to residents through strikes. They thought that the hospice unit would not close, as the City could not house its AIDS patients more cheaply.

Visiting the Hospice

A short non-intrusive visit to the hospice unit showed that each resident's room had been decorated colourfully, with space for personal possessions. The hospice attracted dedicated staff who provided the assurance of self-worth and constant care to the AIDS residents. Staff members said that they tried informally to reconcile residents with relatives still having conflicts about lifestyles and Wills, and that chaplains of all religions helped with this. Detailed accounts of such work in Britain are usefully given by Bill Kirkpatrick (1999).

This was an appropriate last visit to be made in the hospital, and epitomised the commitment of the director and her staff, working in the worst conditions to humanise

their large institution despite limited resources. The research was limited as no mediated events were seen, and only one resident, Vi, felt able to talk at length. Its value lay in the unique opportunity it gave for participant observation in one of America's largest long-term care hospitals when financial conflicts with the State, role conflicts between staff, and social conflicts resulting from the attempted transition of an asylum into a rehabilitation facility were seen by its director as creating a demand for mediation. The research also added considerably to knowledge of the critical issues affecting long-term care of elderly people, and the structural abuse by dominant political groups whose ageist attitudes and socially exclusionary policies ignored them.

Mediation in San Francisco Community Agencies

Visits were made to many individuals interested in the British research idea that mediation might empower older people to resolve interpersonal conflicts which led to elder abuse and thus prevent it. The director of an elder abuse coalition said that she was overwhelmed by its multiple complex causes in the California. She thought that mediation and other approaches could resolve some of the conflicts involved, but how these could be reliably tested and compared was a methodological problem with no immediate satisfactory answers. Old people and their conflicts were unique and different, as were individual and social perceptions of what constituted elder abuse, ageism and social exclusion, while there was little political and electoral will for reforming structural abuse. Visiting the San Francisco City Prosecutor and Police departments concerned with elderly victims produced similarly uncertain responses.

Visiting the San Francisco City Police

Two senior detectives said that they had a well-integrated multiculturally mixed force to deal with the different types of misdemeanours and crimes of their diverse communities. They said they did not know when elder abuse should be classified as a misdemeanour or a crime, as each case had different types of conflict, intentionality and accident involved. There was concern about rising elder abuse, but this might be because more people reported it. They were unsure about arresting alleged perpetrators, if they looked after disabled and perhaps challenging old people, uncertain about using their limited powers to transfer victims to hospital, and relied on multidisciplinary case conferences for guidance, apart from crises. These often meant long negotiations, and they were specially trained in conflict management. They described using it in two cases which showed that abuse also occurs in rich and educated families.

Winifred

The first came to their attention when a bank manager said he was suspicious that nearly all the savings of a wealthy widow, Winifred, had been drawn from her account by a son with Powers of Attorney. She was not known to social services, and the son told them that she was a recluse who had the right to refuse visitors, and that he cared for her.

The police kept watch and saw an emaciated face staring from the top window of the family mansion. They spoke to the son again and negotiated entry instead of getting a warrant from the court. The son led them to an attic room which he said had just been locked by her from the inside. He called to Winifred, asking if she was all right, and she replied that she was. The police asked if they could visit her, and she was silent.

They then negotiated with the son to find a duplicate key, saying that otherwise they would force the door open. He reluctantly produced one from his pocket, the door was opened, and they found Winifred in filthy rags, prostrate and starved.

The son had used her money to feed a drug habit, hoping that she would die soon, so that he could inherit her property. Her life was saved and the son was imprisoned. The police said it was always difficult knowing when to respect recluses' wishes, and when to intervene: mediation was a preferred first step before forcing entrances. The second case was current and the police were contesting an unusual legal defence.

Xena

Xena was a professor of social psychology. She looked after her elderly mother who suffered from Alzheimer's Disease, and went to the family doctor complaining of consequent stress and depression, which was exacerbated by the fact that she was reported to be failing her students and not contributing to sufficient academic publications.

The doctor gave her Prozac, but Xena's frustration and anger increased. Police suddenly had a call from a neighbour saying that they had heard Xena's mother screaming as she had never done before. When the police rushed to the house, and broke down the door, they found Xena covered in blood crouching over her mother whose head was smashed into the toilet.

Xena was immediately arrested, and kept without bail, until her lawyer got her release, saying that he would defend the murder charge on the basis that it was Prozac which had caused Xena's unintentionally over-violent push of her mother onto the toilet. In this case, and in many others, police said that they had to keep their prosecution duties

uppermost in situations of elder abuse when there was apparent culpability, and leave it to others to prove them wrong.

The real problem was prevention: few people reported incidents to the police until there were crises. They added that they had to negotiate minefields of uncertainty in all these areas, and needed to learn how to do this more effectively through specific mediation training. They said they referred minor disputes to the San Francisco Community Board programme which mediated community conflicts, and they were visited next.

The San Francisco Community Boards Programme

The San Francisco Community Boards Programme was set up in the early 1980s by a local lawyer who saw that people were not getting free, quick and easy access to social justice through the courts in dealing with their disputes. He saw the programme as one of the neighbourhood justice systems (Shonholtz 1984) developed in America, but was the first to develop panels or boards of trained volunteers, generally five in number, to mediate the conflicts that people brought to them. He believed that in the culturally diverse city of San Francisco it was important to have a wider representation of ethnic minority groups, mixed ages and sexes on the boards, instead of single or co-mediators, to ensure that these were seen as impartial in conflicts which often had many disputants.

The visit confirmed that the programme mediated increasing numbers of disputes involving older people, generally about neighbour noise and lifestyle, although their special concern was a schools' project in which students were trained in mediating skills,

and acted as their own youth conflict managers on a rota basis.

One of their older staff members was considering developing a special mediation project to empower older citizens and said she was aware of elder abuse issues. She said that she agreed with British research ideas but anticipated that their programme would find similar problems to those experienced in spousal disputes: people seldom brought intimate, abusive relationships to mediation until these were far advanced.

She considered that many older people from certain cultural communities were traditionally inhibited from complaining, and that she would have to devise major educative strategies to persuade local ethnic minority leaders to encourage their old people to defend their rights. She said their progressive multicultural volunteers could arrange consultations with ethnic minority leaders whose elders were often conservative. By offering them project leadership, and empowerment courses in mediation awareness, they could be encouraged to co-organise developments.

The conservative nature of some old people in hesitating about bringing their intimate conflicts to mediation at early stages was often noted during the participant observation research, although when they experienced mediation, they appreciated its confidential, non-intrusive and informal approach, as compared with those of other interventions. This finding influenced the British project to focus first on establishing trust with elderly people inquiring about mediation, and to base its service on responding to their needs, and encouraging, enabling and empowering them in self-determination. An opportunity arose to attend a seminar arranged by the Gerontological Society of America

where this subject was raised.

Elder Rights and their Protection through Self-determination

Marshall Kapp, a professor of community health, wrote in **Health Care Decision-making by the Elderly** that 'evidence is emerging that elderly people prefer informal practices of treatment and good communication for moral connectedness' (1991:612). He added that this entailed 'a continuous dialogue with others whose views are a dialectical part of one's own values' (Kapp 1991:620). In seminar conversation he said that mediation could play an important role in bringing together all those concerned for the welfare and empowerment of old people, to contribute to eventual decision-making.

Kapp was concerned that the federal 1990 Patient Self Determination Act should not be administered oppressively, although supporting its 'fight for the recognition of the rights of all competent adults to control their bodies, and to make decisions about their medical treatment' (Davitt 1988:8), especially about resuscitation. The **Patient Self Determination Act State Law Guide** (ABA 1991) had requirements for hospitals and nursing homes which included the following:

provide written information [to patients at the time of admission concerning] an individual's right under State law...to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate Advanced Directives... (ABA 1991:3)

Kapp was concerned that institutions did not exceed their role in just providing

information by saying that they would exclude patients unless they made Advanced Directives. However he was equally concerned that patients should be encouraged to consider these in an impartial, independent atmosphere amongst people who would ensure that all the options were fairly put before patients, and that they were enabled and empowered to make their own decisions, and regularly review these.

Many gerontologists, like Kapp, had particular qualms about how patients with fluctuating or mental incapacity should be empowered to make their own healthcare decisions, and mediation in medical ethics committees was discussed as a way of resolving inherent conflicts (Craig 1996b). Kapp had expressed similar concerns in his **Alternatives to Guardianship for the Elderly** (1992a).

Eldercare service providers engage in a host of reactive techniques and defensive postures ...(which)...usually are counterproductive to the development and implementation of alternative methods of service delivery to the elderly (Kapp 1992a:123).

His research showed that lawyers and courts made Guardianship Orders too frequently and loosely based on relatives' requests without old people's voices being heard, so that ageist attitudes and socially exclusionary practices prevailed and they were put in institutions. Courts defended such decisions, based on unassailable doctrines of risk to old people who remained at home. Kapp maintained that there were no reported judgements against service providers using alternative decision-making processes in caring for older people, and colleagues at the Centre for Social Gerontology started their own Guardianship Mediation Program.

This aimed to help relatives considering Guardianship to explore its necessity and alternatives so that old people were empowered to express their feelings as this was seldom possible in court. Legal advice and assistance was available during mediation and used to test that decisions reached did not breach any regulations. Relatives could help the old people to make family and financial decisions informally as long as possible, and shared with doctors or service providers in ongoing health decision-making.

Mediation offers a way to explore the real abilities and needs of the proposed ward, find services that can provide those needs, and work out conflicts while preserving both the autonomy of the older or disabled person and improving family relationships (Lisi and Burns 1992:645).

This Guardianship Mediation Program would not use mediation if there was evidence of family or institutional abuse, nor when the Adult Protective Services were involved. An aim of the programme was to provide anti-ageist services which could empower old people to minimise unnecessary social exclusion in institutions, and contribute to preventing elder abuse.

Summary

The social and cultural context of the participant observation work in the San Francisco area of California has been discussed. This showed the different kinds of conflict which affected policies and practice in the State's care of elderly people, and the work of various reform agencies in attempting to defend their rights.

The different roles of LTCOs and others in mediation were illustrated by cases

showing how these complemented each other, and were used concurrently or consecutively in what workers considered to be the best interests of old people, especially in satisfying their emergency needs. Overall impressions from observations showed that LTCOs were under-resourced dedicated workers, who sought to empower old people in dealing with their daily microlevel conflicts, but who felt powerless themselves to change structural abuses and macrolevel social injustice.

Snapshot pictures were given of mediating work done by a LTCO county office, an Oakland nursing home, and a large public hospital as a result of the participant observation done in these areas, during one week's visit to each. Observations made during a further week of visiting community agencies interested in mediation were described, as were relevant contributions made at a gerontology seminar. The amount of material gathered in a short time at these multiple centres enriched the participant observation of the work done there, but research was limited by not having as many opportunities of seeing active mediation as had been hoped, and by having to play a passive role in not questioning old people directly.

However mediation was to be culturally responsive to older people in different social contexts, and was used in the various ways described. Mediation for California's multicultural population appeared characterised by what has been called 'polychronic temporal organisation', stressing the flexible nature of arrangements with workers having changing roles at different times, whereas British mediation is subject to 'monochronic temporal organisation', with time and place scheduled meetings (Duffey 1999:9). This appears to reflect respectively American and British traditions of informality and

formalism.

The Californian cultural approach to mediation provided an important new model for the British research project, which was also committed to serving the interests of old people in the poorest multicultural communities, and in consequence developed in an unstructured, open way to be responsive to the needs of all its service users. An ethnographic study of its mediation work is discussed in the next chapter, and questions whether its closer look at the processes involved reveals similar surprise findings to that of the Californian research which showed benefits to old people in many different contexts.

CHAPTER 6

THE BRITISH ETHNOGRAPHIC STUDY

Introduction

This chapter describes how old people experienced the services of the British Elder Mediation Project (EMP) which they sought for helping them deal with their conflicts, some of which they perceived to be abusive.

During the pilot research period between 1994-6, 33 cases were referred to EMP involving 50 old people, 25 of whom reported being in abusive situations, 25 of whom complained only of unresolved conflict, the control group. It will be recalled from the third chapter on methodology that the reason for distinguishing between the two groups was to find out whether mediation only worked, or was more successful, when abuse did not feature in the conflict.

As it is not possible to include long accounts of all of the cases here, this chapter begins by explaining the basis on which a selection from them was made to illustrate this study. In order that cases do not have repetitive introductions about the main aims, processes and types of mediation used, these are described next, as are the roles of EMP's trained older volunteers, and the researcher.

Each case is then introduced by noting its context, and as mediations generally last

between one to two hours, only brief extracts from critical episodes can be provided to give an insight into old people's views. This gives a truncated, artificial picture of the long conversational exchanges and gradual moving towards conflict resolution which actually occurs. A short general review of the cases follows and the chapter concludes with a summary which points to the penultimate chapter of the study.

Preview of Mediation

The majority of cases were referred to EMP from community mediation services and local agencies in a London inner-city area, typical of other industrial or commercial centres in Britain, in that it had a large multicultural population, many of whom lived in deprived circumstances and poor accommodation. Old retired people had generally done manual work.

The next largest group of referrals came from the sheltered housing sector outside London in typical white suburban and country areas, where most retired old people had professional backgrounds. There was only one institutional case referred, probably because Britain, unlike America, does not as yet have organised opportunities for mediation in this sector. It was partly due to recognition of this that the empirical work was planned to study mediation in American nursing homes and hospitals, so that the end result of the research would be a more balanced survey from community, sheltered housing and institutional sectors.

Three quarters of the cases were of community disputes, the remaining quarter

being in sheltered housing, so this guided the proportionate selection for the longer studies of direct or face-to-face mediation. The first three of the former, and the first one of the latter are described, which was advantageous in avoiding biased choice. The disadvantage was that cases were thus not selected to illustrate specifically the main themes of the study, although they are referred to briefly at the end of most cases and in their review at the end of the chapter.

Two community disputes involving shuttle mediation are described shortly because, although the go-between role of visiting disputants frequently took more time, there was no personal interaction or verbal exchange between them to report. Mediation failure affected 10 out of 50 old people, but this was mainly because mediation was refused by them or not tried, so only brief references to these cases will be made.

Introducing the Main Aims, Processes and Types of Mediation

Referrals were generally made after agencies had given preliminary information about mediation to inquirers, or people whom might benefit by it. Mediators were then asked to visit people in their homes to learn from them directly about their experiences of conflict. Mediators introduced themselves with identification cards, and explained that they were trained volunteers, who offered confidential and independent help in assisting people to deal with their conflicts on a voluntary basis. Thanks were given for the invitations to visit, and explanations were offered about the aims of mediation so that people could choose whether to use it.

These aims were described carefully so that people could question them, in words similar

to those below, now reconstructed by the author.

The aim of mediation is to encourage people in conflict to talk to each other about finding ways to improve their situations and relationships. A second aim is to enable people to reach agreements about stopping or preventing behaviour which they feel to be harmful or abusive. A third aim is to empower people in self-determination and making decisions about asserting their rights to a good and peaceful social life.

The aims of mediation were not introduced as being specific to older people, as participants were first addressed as individuals, and references to age, gender, culture and other variables followed if made by them or when appropriate. Mediators tend to use words like encouraging, enabling and empowering, in the hope that these will be internalised by the participants involved as positive aspects of communication. Assurances were given that all mediations were private, that anonymity would be preserved and that nothing said by one disputant in confidence would be repeated to the other, unless permission was given.

During visits the mediation process was introduced briefly (discussed fully in the next section), as were its main types, because it was important for them to understand and choose which they wanted. Mediators explained that direct mediation can be most helpful because it enables people to meet face-to-face in a calm atmosphere, possibly for the first time, as conflicts often develop between those who do not, or will not, speak to each other.

If there were reasons why people would not meet each other, these were respected, and indirect or shuttle mediation was suggested, explaining that disputants are continuously visited or contacted with agreed messages and offers being conveyed. It was

pointed out that a disadvantage of this process is that participants must rely on mediators carrying messages accurately without added interpretations, though they are trained in this. Mediators could offer other services through correspondence and telephone conciliation, and small or large group facilitated meetings. They also gave information about other agencies, and if abuse was mentioned or suspected, suggested contact with elder abuse or social services.

The Structure of Direct Face-to-Face Mediation Meetings

Participants were welcomed to the mediation room which was generally furnished simply and located in a local community mediation centre, or in a private room of a sheltered housing complex. Comfortable chairs, a low table in the middle with a plant, jug of water and glasses, tissues, paper and pencils were provided. Previously refreshments were offered and were available during the mediation when rests were wanted.

Mediators reintroduced themselves, asking to be called by their first names. Participants were introduced to each other, invited to decide whether they wanted to use first names or not (which they generally did following the example of the mediators), and asked if the indicated chairs were acceptable to them. Mediators tended to place themselves between participants sitting opposite each other, so that everyone had equal eye contact. Without drawing unwelcome attention to age or disability, mediators sensitively checked that participants were comfortable, and could easily see and hear each other. Agreement was sought about the timing of the mediation, which generally lasted one to two hours, with rests.

Participants were thanked for coming to mediation, reminded of its voluntary confidential nature and aims, assured that they could ask questions or leave at any time and seek legal or any other assistance, and that any agreements reached by them could not be enforced by the courts. The mediation process was reexplained in a more structured way, pointing to its stages (which gave opportunities for the naming, blaming and claiming aspects of disputes to be ventilated).

First participants would be encouraged to take turns in telling their stories about events. At the next stage the mediators would summarise these, as this reflection and rephrasing of accounts is a central part of the mediation process because it checks misunderstandings and offensive language. Following this the participants could clarify and exchange their views, and work out the main issues of their conflict. The next stage would enable participants to focus on practical ideas and options for resolving issues, and negotiate about these fairly. As people gradually developed mutual understanding, confidence and determination to overcome difficulties, they would feel empowered to reach agreements over problems which they had previously felt powerless to change. This final stage of mediation should lead to a positive outcome in which situations and relationships were improved.

Participants were asked not to interrupt each other as a sign of courtesy and respect, and because they would not then be listening to what was being said. The mediators said that they would stop the proceedings if there were any abusive words or behaviour. They added that confidential mini-meetings could be held with each participant separately. Finally they gave a summary of the history of the case, asking if it was

acceptable to all that the first complainant should start the discussion. Throughout mediations, continuing encouragement would be given to participants, enabling them to express their feelings and facts, and empowering them to move from blaming to solution-seeking in identifying and bargaining about options for change and agreement.

If participants wanted written agreements, which were recommended as visible reminders, the mediators assisted them in writing these, providing signatures as witnesses. People were congratulated on their achievements, and thanked for their participation. It was suggested that they could now resolve together any future trouble, but that further mediation was available if necessary. Elderly people were carefully escorted to the door, to wait for transport.

The Mediators' and Researcher's Roles

In the EMP mediations on which this study focuses, the trained volunteers were all matched by age group, culture and gender as far as possible, from EMP's own and general mediation resources. Most were older adults, and at least one of whom was elderly, the researcher, who took part in every case.

This research role was justified because the presence of another mediator provided an objective check that the mediation proceeded in its normal way, and that neither it nor its participants were being manipulated for research purposes. Other researchers have adopted similar participative roles (Maguire 1987; Whyte 1984). However, as in the American research, only the agencies referring people knew of the research project, and

not the service users. This was because it was considered that the research spotlight could distort the process, either positively through participants making comments and agreements which they felt were expected of them, or negatively through disruptive tactics. It was also thought that older people, worried by their conflicts, might feel additional and destabilising stress by seeing themselves as research guinea pigs. The fact that participants voluntarily consent to mediation is regarded here as sufficient to meet the ethical criteria of the researcher. The mediators continuously liaised with each other, offering models of affirmative and co-operative communication in the hope that participants would integrate these into their own conversational styles. This shared or co-mediation provided opportunities for mediators to admit and apologise to each other for any mishearing or misunderstanding of comments, and for mutual checking about the viability of ideas suggested by the participants for practical remedies. This showed participants that it is human to make mistakes, and mature to recognise them.

The mediators also avoided finger-pointing 'you' tactics, but used 'I' and 'we' language to express their own feelings of frustration if participants got stuck and would not move on from the blaming stage, and disappointment if they were making unreasonable claims on each other. Their strategies included providing an empathetic silence if participants were in distress, or asking if they would like space for themselves, although at other times making comments to lighten the atmosphere.

After the participants left, the mediators had de-briefing sessions discussing the strengths and weaknesses of their collaborative activity, and what they might have done better. Full notes of the event were made, focusing on the transformation of the dispute

and its effects on the disputants.

Explaining the Mediation Extracts

The mediations described here were given story titles for the initial purpose of discussing the cases anonymously with colleagues at seminars, and are reproduced here to give distinctive headings to each section of the next part of this chapter. Fictitious names are given to participants. Without repeatedly indicating the lengthy stages of mediation, extracts are given.

The mediators' comments are noted as coming from M1 and M2, the latter being the researcher, and are kept in the main text. The participants' contributions are noted by their given names, and are indented so as to facilitate clearer perceptions of their interactions, dialogue and progress towards improving their situations and relationships. There is an implicit awareness that research records are throughout based on researcher perceptions of the perceptions of the participants, despite efforts to check subjectivity and bias, and are not reported as objectively tested facts.

The Case of Mediation and the Mynah

Agatha was a white English widow, aged 84, who had recently been bereaved, losing her husband from cancer, and her dog through old age. She was distressed because sleep was impossible due to the cries of the mynah bird belonging to her neighbour, Corrie, a middle-aged African-Caribbean. Agatha complained to the Residents' Association, the

Council environmental officer, the police and her local MP, saying that when she protested to Corrie she had been threatened. They all said that she must contact the local mediation service. EMP mediators were asked to visit: visits are made as early as possible after referrals are received, at the convenience of the people requesting them.

Visiting Agatha

Agatha lived in a new Council low-rise block of very small flats, designed to provide high density occupation, but sandwiched together with inadequate soundproofing. As Agatha welcomed us into her 12' x 12' front room, she said: 'I feel as if I'm trapped in a cage... like that d....d mynah!' Agatha was slim, well-groomed, and looked younger than her years, although she wore half-blackened spectacles over one blind eye, and said she had arthritic mobility problems. Her friend, Bella, arrived, saying that she also wanted to be involved. Bella was over 50, had a limp, thick spectacles and one astigmatic eye.

Agatha said that even while nursing her husband with cancer, the mynah kept them both awake, but that Corrie had abused her when she protested. On one occasion she had been threatened with a fist in her face. After she had starting complaining to people, Corrie took a 'green petition' around the estate getting signatures to protect her bird. Bella said that she had a wheelchair but could not move it properly because Corrie kept her bicycle outside her door, against Council rules. She said she was also disturbed by the mynah, and was frightened of Corrie.

Agatha and Bella said openly that they thought Corrie was unrespectable because

she had a lot of male visitors, but that they were not racially prejudiced as they 'liked nice coloured people'. The trouble was that Councils sandwiched respectable old people between 'problem' ones!

Visiting Corrie

Corrie, wearing a smart caftan, was a big-built African-Caribbean woman whose front room contained art objects, a cage covered with a black cloth, and black leather clothes with a whip on a door hook. The visit had been arranged for a Saturday at noon, but Corrie said she had just got up, and kept her mynah covered at night. She uncovered the bird, calling him Big Boy, and he started screeching, making listening to her difficult.

Corrie said she worked in hospitals, but was currently unemployed. She complained that she was constantly harassed by Agatha and Bella, 'a couple of obsessive old women', who were racially prejudiced and wanted to destroy Big Boy, her prized possession which cost £200. He had rights to his life just as she had. She said that the dispute was about animal versus human rights, and that the conflict could not be settled, although she agreed to mediate, and did not mind having two old women against her.

The Mediation (Extracts)

AGATHA: It's not right that I have to suffer from that dreadful bird in my sunset years...it kept my poor husband awake when he was in pain and needed sleep just as I do now. It screams day and night and never stops. When I asked Corrie politely if she would do something about it, she called me 'silly bitch' and said I was to stop bothering her. When I complained to the authorities she knocked on my door, stuck her fist in my

face swore at me, and told me to shut up!...

CORRIE: Lies! I didn't! Your memory is as confused as you are! I just told you I was sick of the way you persecuted me just because I'm a black woman. We black people always suffer racist complaints and you want to get rid of my mynah because he's a black bird! I'm the one who is suffering...it's my rights to having a decent neighbour that are being abused...not yours!

BELLA: I don't call it decent when you have a lot of men coming in and out...and anyway I hear your bird too...it's always screeching ...I have enough trouble spending most of my time in sitting in my room in a wheelchair, without you and your bird adding to it...and your beastly bike outside...

CORRIE: Lies again! I don't have lots of men visitors! You can't even spy on me properly! If you must know, though it's none of your business, I have a teen-age son who comes in and out...just because you're stuck in a wheelchair, you've got no right to be jealous because I can use a bike...which is generally left outside...

The argument went on until the mutual anger was gradually exhausted, the mediators checking the participants if they used abusive language or interrupted each other, but ensuring that each person felt that they had told their stories completely. M1 thanked them for sharing their distress so openly. Were they not concerned that this suffering would increase unless they found ways of resolving the dispute? M2 agreed and asked if they had any ideas about this.

CORRIE: Well, I'm not having Big Boy put down! Lots of people signed my petition saying he has to be protected ...

AGATHA:... that's because you got people outside the estate to sign it... most of our neighbours suffer as Bella and I do...

CORRIE: You're a bird hater...

AGATHA: No I'm not! I'm a bird lover! I feed the pigeons in the park each day...and I'm not a racist either...I love black nurses... they're kind and thoughtful unlike someone else we know...she's ageist! Against all old people!

As the participants had begun to interrupt each other again, M1 said that she felt it could be helpful if people discussed the trouble in more detail. Could Agatha describe the exact times when she was kept awake?

AGATHA: The worst time is 6 o'clock in the morning! I get woken up and it's too early to get my tea, so I just lie there listening to the screeching...it's bad at nights too...I crawl into my bed about 10 or 11, but just can't get off to sleep because of the row...all I do is doze and have nightmares...

CORRIE: It's all your imagination...I cover Big Boy up when I go to bed and there isn't a peep out of him till I get up! Otherwise I wouldn't get any sleep either, would I?

BELLA: But I hear that bird too! We can't both be imagining it!

CORRIE: You're just sticking up for your pal!...

Both old women shook their heads vigorously so M2 asked Corrie if it was possible that she forgot to cover the bird sometimes, as mistakes happened to everybody.

CORRIE: Well sometimes it happens, and sometimes I'm late to bed... the other thing is that birds do sing more in the summertime...Big Boy's an intelligent bird and knows when it is dawn even if the cover is on him... but I'm not going to put a clamp on his beak just because a couple of townies don't like the dawn chorus!

M1 then asked if Agatha could think of any improvement that wouldn't harm Big Boy.

AGATHA: Why doesn't she move it into her back bedroom if she's so fond of it?

CORRIE: That's where I have sex, dearies!! But as I get no complaints from nosey-parkers about the noise of that, I shall not expect any if I move

Big Boy there! Don't look so shocked! You may both be past it, but I'm not!

M2 asked Corrie if she would please remember that Agatha had just lost her husband and that Bella was a single lady, requesting people to focus on the helpful idea they had suggested about moving the mynah.

CORRIE: I'll move Big Boy, and keep him covered till 8 am, but only if they promise to stop harassing me, stop being so racist and stop all their awful public complaints...

Agatha and Bella looked at one another and nodded agreement.

AGATHA: OK...I feel as if I've really achieved something at last... but what if we still hear him? If we get the peace we want, will it last?...

CORRIE: I tell you what I'll do, girls! You come and tell me nicely, and I'll lend you my cassette, so that you can tape Big Boy and the time he sings! And then I'll do something about it...

Agatha and Bella seemed flustered but relieved that Corrie would take action and said they would agree to what had been suggested. M1 said she would write out what they had agreed, so they could sign it and keep reminder copies, which the mediators would witness.

1 Corrie agrees to move her mynah into her back bedroom and cover him till 8 am.

2 Agatha and Bella agree to stop public complaints about Corrie and her bird.

3 Corrie will loan a cassette to Agatha to record any further disturbance

4 Agatha agrees to call on Corrie if future problems arise

M2 said that they would like to congratulate everyone on resolving the conflict about the bird, but thought that it would be difficult to deal with their mutual complaints about bad language and behaviour as there was no real evidence given. What did M1 think? M1 said that she agreed with M2, especially as if people did suffer actual abuse or racist threats, this was wrong, and they should consider getting legal or police advice. M2 said she hoped that now the neighbours had resolved their conflicts so co-operatively, they had found better ways of dealing with difficulties in the future.

The case showed that everyone had been empowered to name their grievances and attribute blame before resolving their conflicts. They agreed that ageism and racism was wrong and claimed that the mediation agreement had been fair. Mediation prevented the abusive behaviour from escalating, and people agreed to negotiate future difficulties. Feelings of social exclusion from public concern about their previous plight, of which Agatha and Bella had complained, appeared to be replaced by gratitude for the attention and time given by the mediators.

The Case of Mediation and the Bad Food Smell

Della was a 85 year-old widow referred to mediation by her lawyers, the local environmental health authority and other community agencies she had consulted over the bad food smell under her window, about which they said they could do nothing. They said it was caused by continental food stallowners who had a Council clean licence.

Visiting Della

Della lived in her own flat on the top floor of a Hampstead mansion flat overlooking a prosperous street with restaurants and constant traffic. She had two bedrooms, one at the front, and another at the back, but lived in the front one.

Della was French, and spoke volubly about her asthma being made worse by the bad food smells beneath. She said she was being 'poisoned' and that this was done 'deliberately' by the stallowners, Eva and Fred. Nobody wanted to help old people, but told her to move to the country. But she wanted to stay in her home, despite the stress that would kill her one day, because she went to the local Catholic church regularly, and had a brother and nephew here. The brother would come to the mediation as a support. Della was asked to bring her inhaler with her.

Visiting Eva and Fred

Eva and Fred, in their 30s, lived in a nearby top-floor flat which they rented, with floor seating, meditation charts and incense burners. Eva said she was an Israeli, but that Fred was English. They said they were vegetarians, believed in healthy food, and generally cooked falafel. They had 800 signatures from local people saying they wanted the stall to stay, as they provided good cheap alternatives to expensive restaurants, and had quality rating by the Council.

They had done everything possible to please Della, carrying her shopping and

changing the extractor filter more often than necessary, but she was a selfish old lady, who could easily have moved into her back bedroom, and who made their lives miserable by her constant gossip and complaining.

The Mediation (Extracts)

Della arrived in smart formal clothes, looking stressed, with her brother who remained silent throughout. The young couple were dressed casually and looked relaxed.

DELLA: I want everyone to know that I've got nothing personal against this nice young couple, and I wish them the best of luck with their stall... but they must move it elsewhere, or the fumes will kill me!

FRED: It's not true that you're understanding... you're vindictive... you've only started to persecute us since the stall has become a success and that is because...

DELLA: It's because my asthma has got worse since I've become older, and its your bad food smells that have caused it!

EVA: No-one else has complained of the smells! I think its the fumes from the traffic underneath that affect your asthma and also that you're jealous of us...

FRED: I was going on to say that it's because you've got commercial interests in the restaurant underneath that you don't like to see people coming to us and not them...

DELLA: That's rubbish...like your food! I've been out of the catering business for years. Anyway, no-one with any taste could compare good French cuisine with what you serve for telly snacks...

This exchange went on for a long time until Agatha seemed exhausted by her repetitious complaints about the bad smells, and the couple became increasingly irritable. M1 said that it had been helpful for people to understand how much distress everyone was

being caused by the situation, but had anyone any practical ideas about improving it? M2 added that Agatha had asked about the possibility of moving the stall: what did Fred think about this?

FRED: I've been continually trying to find another pitch somewhere near where we live, but no luck. We can't afford anything more expensive. I was unemployed for two years, and it's taken all we've got to get the present stall going...

DELLA: Well, I've still got a few contacts in the trade...I don't mind asking around... but this doesn't alter the fact that those bad smells have got to stop now...

EVA: But they're not bad smells! You're just not used to middle eastern cooking!...

M1 thanked Della for making a helpful offer, saying she hoped people wouldn't mind a bad joke if she suggested putting the idea on the back burner for the moment, while the smell question was reconsidered. M2 asked Fred if he could tell them about the cooking oil and extractor.

FRED: We use the best oil and change it - and the extractor filter - in accordance with the Council's good standards. You must admit, Della, that whenever the environmental officer visited your flat, he smelt nothing. I'm only required to change the filter every three months, but I do it every two months to please you...

EVA: If we change it every month, will you stop harassing us, and give us a chance to earn a living? You're comfortably off now, and could easily move into your back bedroom... where you won't smell the cars...you just don't realise how hard we have to work to scrape by...

FRED: Look...we want to be friends...why don't you come and see how we work... you can inspect our extractor...and the oil... and have some complimentary falfafel...if you've got any professional advice about improving the taste we'll be glad to listen... if only you'll stop complaining!

M1 said that Fred had just made a very generous offer. Would Della accept it? M2 added that as Della had already said she wanted to help the young couple, could these ideas be shaped into an agreement which would resolve the conflict? Della paused, as if she was assessing the situation.

DELLA: All right...I'm a good Catholic and I'm a reasonable person...and I can tell that I've really made an impact on you through this mediation... so if you keep to your promise about the filter, and keep on looking for another pitch, I'll do my best to help with this... and I will certainly tell you about your oil...it's nice when we old people can pass on the benefit of our experience to you young ones...

EVA: That's fine... but will you promise to stop complaining?

Della nodded affirmatively, looking at her brother, who nodded also.

The mediators congratulated everyone and helped them draw up an agreement listing these points. The case showed that everyone had been empowered to name and blame each other for the trouble and claim their rights to fair dealing which the mediation provided. Della was assured that no deliberate discrimination or harm was intended by the couple, and agreed to support and not complain about them in the future. Through its brief intervention mediation succeeded in preventing a neighbour conflict from escalating, although other agencies had failed over a long period to resolve it.

The Case of Mediation and the 'Shooter'

George and Hera, a couple in their 70s, were referred to mediation by their Council's housing department because of a neighbour deteriorating dispute with a single parent and her son, in which both families alleged that they were suffering from abusive behaviour.

The police had been called on numerous occasions but they and the Council said they could do nothing because there was no real evidence available.

Visiting George and Hera

George was a large, florid man, who said he was English and introduced his wife as a Greek Cypriot, saying she had little language and was registered disabled and partially paralysed. They were tenants of a large garden flat in an old unmodernised terraced house, with another tenant living in the basement. The mediators established that Hera could see, hear and understand them, and she started to ramble incoherently. George started a long life history, which she continually interrupted, and he kept forcefully saying 'shut up!' He said he had been a model tenant for 20 years, but had taken the Council to the Ombudsman on four occasions for maladministration, and had won each case. He showed us an official letter confirming this.

George said that he had coped with many difficult neighbours over the years - 'it's a rat pack here' - including people on drugs, 'single parents with black kids' and a senile old woman who wandered naked down the street, but he had never had to endure before 'the abuse, threats and total misery' of the last six months. He described this at length including pointing to the fact that the boy used a shooter. George wanted mediation but Hera could not contribute.

Visiting Ivy and Jim

Ivy lived in a garden flat several houses away from George. Ivy, a white woman in middle age, said she was a widow, and like her black husband and their son Jim, who was visibly African-Caribbean, had always suffered from racism. She told Jim to leave the room and said he would not be involved in the mediation.

She said that George was a violent man, with an alcoholic son known to the domestic violence unit, who had called her a 'slag'. She was not going to put up with such racist and sexist abuse, nor the injustice of the police knocking her up unexpectedly about Jim's shooter, a toy gun which she had earlier checked was OK at their station. She believed that as George's family had a police record, he wanted her son to get one too, which was likely because of his colour, although he had done no wrong.

The Mediation (extracts)

Ivy and George were smartly dressed and spoke politely to each other.

GEORGE: I'm a grandfather, so I know how difficult it is to keep boys in line, especially for single parents...

IVY: I'm a respectable widow, not one of your single parents... my husband was a good father to Jim ...until he was shot dead by the police in what they called an accident...

Everyone paused, and then M1 asked George to continue with his account of the trouble.

GEORGE: Although I'm a model tenant, I'm sorry to say that Ivy is not. She cut down all the trees in her garden and had a big bonfire. When I told her this was anti-environmental, she told me to b....r off!

IVY: I told you to mind your own business as it was my garden..

GEORGE: The next thing was her son climbing into my garden and breaking the fence down. I called the police but naturally they said they couldn't prove it! Jim retaliated by shooting pellets with his gun into the garden, but again our marvellous police took no action! Then he started throwing stones and one hit my wife in the forehead. She's a sick old woman, so I got furious. I told the police she could have a stroke, and that we both could get killed...but, believe it or not, the police said there was no evidence that it was Jim! Obviously, Ivy didn't like all the police calls, so she came round one day and started kicking our front door down...

IVY: I came round because I was fed up with all the trouble you had been trying to cause my son, without even having the decency - as the grandfather you say you are - to come and talk to me as his mother. When I came round, your wife opened the door and actually spat on me! She'd done that before out of the window if she saw me in the street...you arrived and I saw you push her away really hard, you really punched her, and then slammed the door in my face...that is why I kicked it for a bit...

GEORGE: You've got to understand that my wife is a sick old woman - she has to go to hospital most days for treatment - and her mind's going...so you can't hold her responsible for her actions...they're the only way she has of protesting...I try to control her when she's upset, but it's not fair that she has to put up with all this trouble in her last years... there's no more justice these days...it's all a rat pack!

IVY: Don't look at me like that! I'm really sorry about your wife's state but I've got responsibility for seeing that my son isn't punished unfairly, and also get some justice...

The mediators had watched George getting redder and more agitated, so M1 said that he could see that both participants were really suffering from the distress that had been caused by the trouble, and asked if it would be more useful to focus on what Jim might have done, and what improvements George and Ivy would like to see in future neighbourly relations. M2 added that it was important in mediation not to use bad

language as it made relations worse.

IVY: Jim's got friends...naturally... and they caused a lot of the trouble in climbing over the fence, and I'm sorry about that. Jim may have tossed stones about...boys do... but I know he didn't deliberately aim at Hera. I've already told you that the pellet shooter is OK legally, but I'll warn him not to use it outside our garden...

GEORGE: That's better! At least you're apologising...

IVY: Yes... but I want apologies from you and your family! I want you to get that drunken son of yours to stop swearing at me outside my front door...

GEORGE: I've seen you myself sitting on your doorstep swilling beer ...advertising yourself...

IVY: Don't you dare start any more of that sexist stuff! I sit outside with a Coke when it's hot, to watch the street go by...that's a continental custom...there's nothing unrespectable about it... and do you want to hear how your son swears about you, and your violence to your family?...

The mediators asked if they could get the discussion back on track. M2 said that both participants had contacts with the police so that they knew their legal rights about reporting abuse and violence of any kind. The mediation could not enter deeply enough into the emotional relations involved, but could enable George and Ivy to carry forward the progress they had already made about improving the practical situation.

IVY: Yes...I'll apologise for me and my son for anything that has happened in the past which has caused George and Hera distress... and I'll talk to Jim about keeping out of their way but I want George to promise he'll talk to me first if there is any further trouble, and not call the police...and I want him to see that he and his family never call me names again, nor gossip about me to people...

GEORGE: OK! I accept your apologies! I'll tell Hera, and she'll accept them too! I've got a Court case going on at the moment about the accident that caused her paralysis, so I'm glad I've settled this case by

mediation...much quicker and no cost!

IVY: And what about your side of things... what are you going to do about the spitting and abuse I've suffered from your family? That's the peace of mind I want...I want to get Jim through his teenage years without any trouble...

GEORGE: Don't fuss...leave it to me...it won't happen any more...I promise... let's draw up that agreement...I'll keep a copy with all my legal papers...and you can show yours to Jim!

In this case both people were sufficiently, if not appropriately empowered, but mediation enabled them to resolve conflicts in rational ways to should prevent the recurrence of threatening situations. They named and blamed each other, claiming their rights to respect and freedom from ageist, racist and sexist innuendoes, and felt that justice had been done.

The Case of Mediation and the 'Twisters'

Ken was an 86 year-old man who lived in a Housing Trust's sheltered accommodation, and had for nearly 20 years accused them of being 'twisters'. With the request that he made for mediation to an Age Concern agency, he sent a heavy file of documents, copies of his own handwritten letters, complaining that the Trust used 'devious methods', 'swindling', 'illegality' and 'reekings of collusion' in 'disgusting diabolical treatment' of him and the other tenants. He wrote that there had been 'fraudulent taking of monies from tenants', but that though he had written countless letters to MPs, ombudsmen, Council and legal agencies, nobody had offered to help him.

The Trust had sent a smaller file to the Age Concern agency, saying that Ken was

an obsessional old man, who everyone considered to be vexatious, as there was no substance to his complaints. They would agree to a mediation because they were exhausted by constant letters and telephone calls, but also sorry for Ken who they thought was an isolated and angry old man who had to put things to rest after all those years of conflict.

The researcher was asked to mediate on her own, although an agency officer specialising in sheltered housing law would be present, in case any legal issues arose. As Ken lived in Essex, telephone arrangements were made for the mediation, which he wanted in his home. In view of his age this was agreed. The Trust wanted to send two representatives, Les, their chairman, and Mike their manager. Ken said he was used to taking on people, so didn't mind being one against two.

The Visit and Mediation (Extracts)

Ken, a large old man over six feet, lived in a small top floor flat, with steep stairs and a very small living room/kitchenette, crowded with furniture, in which he could hardly move. The Trust representatives were also large, the temperature was 90 degrees that day, so a request was made for an open window, and for water, which Ken was repeatedly offered to drink, but refused. Despite the heat, he was dressed in a formal suit, with a shirt, tie and pullover, and insisted on sitting in a wooden chair without arms. The mediator invited Les and Mike to sit on a low settee, to visibly minimise any power they had over Ken as his landlords.

KEN: I was in housing management myself once, and I've got a barrister son, so I know what's what when people try to cook the books. Don't think I'm just fighting for my own rights! There are five other tenants in this small block, and they've all complained, but most of them have lost their minds, and they're too stupid to take action...so I'm doing it for them...that's why they house us bright folk amongst the sillies...

LEN: Look, Ken, you know we don't cook the books... we may have an occasional slip-up because we're a small charity... you know I'm a volunteer and Mike is our only paid worker... but we really do our best to provide for you and all the tenants...

Ken then began a tirade about their 'misdemeanours', 'evasions', 'incompetence' and 'downright dishonesty', so the mediator asked if he would just describe briefly the issues which were the subject of his complaints, assuring him that all the written detail he had sent had been carefully read. She also said that if he wanted to succeed in the mediation he should avoid bad language which always made matters worse.

KEN: My first grievance is about the cooker and refrigerator the Trust installed in 1977, for which I paid charges in addition to the rent...more than the original costs! When the fridge broke down I bought a new one, and the twisters immediately announced that they would no longer charge tenants for appliances. So I asked them to refund the cost of the new fridge...

MIKE: And we sent you half the cost, as a token of goodwill, although we had no legal obligation to do this...

KEN: You were just being immoral and devious...dishonesty again! You even admitted you were wrong about the outside electricity...that's their second bit of swindling...Between 1977-1983 they improperly charged us all...

MIKE: Yes, we made a mistake, and we apologised to everyone for it, and even made full refunds with interest added, so that no-one suffered any injustice...and we're ready to apologise again now to you in person..

KEN: But we did suffer...you made so many mistakes with your accounting that we never got the full amount owed to us, which you fraudulently took...it was the same with the water rates... you tried to

swindle us over those...

MIKE: Yes, it was a misunderstanding... we thought we had to pay the rates on the tenants' behalf and then recoup them from you... but we apologised to you all when we realised this, and repaid you all ...with interest again...and we apologise again to you now

KEN: You were twisters with me! I had paid my rates direct to the authorities, but you never refunded to me the full amount I had paid...

LES: That's not true, Ken... here are all the figures to prove it... I'm really getting tired about all your insults when you've really done very well out of us...

KEN: Lies! You're a lot of twisters...you're...

Ken started waving his papers around angrily and fell off his chair. Everyone helped to pick him up. The mediator noticed he had a scratch on his hand and asked if she could give any First Aid. Ken told her to go into the bathroom and get some Savlon and Band-Aid which, with his permission, she applied. Les asked if Ken would like him to call a doctor, or take him to the surgery, but Ken angrily dismissed the idea and said he was all right. The mediator said she thought everyone might benefit from a rest and lunch break, but wondered if people could first summarise progress made. She thanked Les and Mike for being so ready to admit mistakes had been made, and to repeat apologies for these. They had a few quiet words together.

LES: Yes, and I'll tell you what else we'll do! We'll give Ken another £50 towards his fridge, as a token of goodwill, if he'll stop all his complaints. Not only that, because we don't want the other tenants gossiping about them being unfairly disregarded, we'll give them £50 each too!

KEN: £60 and you've got an agreement!

MIKE: No, Ken! £300 is all that our poor Trust can afford...

KEN: All right! I can see that I've succeeded in defeating your devious

ways! This mediation has brought it all out into the open...So I'll withdraw my complaint about the water charges because I only lost a few pounds ... but my one about the electricity fraud still stands!

The mediator congratulated everyone on having resolved two out of the three conflicts confronting them, and suggested that after lunch, they could look together at the electricity accounts to see if some fair accommodation could be reached about these. When they later returned there was no answer to repeated ringing of Ken's bell. Mike had a key with him. When they went upstairs they found Ken on the floor. He said that he was quite all right, but had fallen and could not get up although he did not think he had broken anything. Les rang for an ambulance and the mediator kept Ken's head cool with her wet hankie.

Ken began to thank everyone profusely for their kindnesses to him, apologising for the fuss. He said he was so sorry that he had caused such a lot of trouble. The Trust were not to worry about the electricity. Everything was now settled, and he was grateful for the mediation. It seemed as if his anger had collapsed with him. The ambulance men arrived, and said that the heat was affecting a lot of old people. They had great difficulty in getting the stretcher down the steep narrow stairs. As everyone waved Ken goodbye, wishing him better, Les said that the flat was too small for Ken, and that the Trust must find something better for him.

When the mediator thanked him for having been so patient despite the way that they had been abused, Les said 'A lot of old people are like that! It makes them feel macho again...the adrenalin keeps them going...until they drop...I bet Ken's had a little stroke...' In

this case the success of mediation lay in encouraging Ken, after naming and blaming the housing association for the injustice he suffered, to re-direct his powerful energies into claiming constructively for financial redress, which the fair agreement provided. It was unlikely that what he perceived to be financial abuse would recur, as Mike and Les obviously felt ashamed that their mistakes had received the attention of the researcher, and later informed her that Ken would be moving into more spacious sheltered accommodation.

The Case of Mediation and the Mental Breakdown

A 60 year-old white teacher of a local girls' school asked the researcher to mediate between the West African assistant minister at her church and his teenage son who was made to be at home each night by 8 pm and who had no pocket money.

During the mediated visit to the youth's home, his father denied his son's allegations of being beaten with a leather strap if he was late. The father said his son was lazy, and did not help his stepmother who was a full-time hospital worker, nor his two younger brothers, one of whom had cerebral palsy. The son said that the teacher, whose husband was the church choirmaster, had offered to let him board with them, as her 24 year-old daughter had just got married. The mediator asked if the African family really wanted to be broken up this way, but the father agreed to the arrangement.

Six months later the teacher contacted the mediator again, saying that she had found herself attracted to the youth, that they started having sex, but that then he began

raping her and being abusive and violent towards her when she tried to break off the relationship. Could mediation help to get him back home again? Despite a mediated visit to the parents, they refused, saying that he had brought shame on the family, even though they blamed the older woman for seducing their son, a virgin.

The son was found a hostel but then became involved in a series of psychotic episodes using a knife, sitting in the middle of a main road, etc. and the police sectioned him and took him to a psychiatric hospital on two occasions when diagnoses of schizophrenia were made. He was released into community care, went to a prostitute who called the police and told them he had raped her. He was charged, remanded to Brixton prison and committed to the Old Bailey where, despite his denials that he had paid the woman money, he was found guilty and sentenced to indefinite treatment in a regional secure unit.

Throughout all this period there was shuttle mediation between the prison, secure unit, the teacher and the parents, as the son wanted a reunion with them. It took two years before the parents agreed to visit him, but thereafter they agreed to allow him to return home on day release. His future is still undecided. He and the teacher said how much they had valued the mediator's input, but the parents ignored it.

This case showed how lengthy mediation can be in shuttle mediation for complex cases where attitudes are ambivalent and evidence is uncertain regarding allegations of abuse and prejudice. Despite only intermittent successes in encouraging people to negotiate serious conflicts, mediation enabled them to get through some crises, and

empowered them to transform the naming, blaming and claiming aspects of their troubles into a shared concern for reconciliation in the context of their Christian beliefs in forgiveness, especially as the teacher acknowledged her faults.

The Case of Mediation and the Tumble Drier

A Council tenant in her 80s was referred by the housing department because of her continuous complaints about the noise of a tumble drier which she said was working day and night and driving her mad, especially since she was on her own following the death of her husband. On visiting her home the co-mediators were told of suspicions that neighbours were running a forbidden private laundry for other tenants, so every time she heard the tumble drier she banged on the ceiling with her walking stick. She said she had lived in her flat for 29 years and had the right to a bit of peace in her last years, but the Council filled the place with 'problem' families.

She said that a crisis developed when the husband came to her door with a large hammer, threatened her, and said he would bang on her ceiling with that if she did not stop harassing and gossiping about this wife. She could not face them, but wanted the mediators to help. The mediators called upstairs where the neighbour told them that she had moved the drier around her flat to try and please the old lady. She had even had cork and carpet insulation, but it was bound to rumble, as the old Council flats were built before people had machines and were just thin-walled boxes.

She said she had to wash for her doubly incontinent old father, a son who was

physically disabled, her husband, a worker, and their son, a car mechanic whose oily overalls she had to wash daily. She certainly did not take in anyone's washing! She was fed up with the old lady's banging, but it was no good speaking to her. The mediators returned to the old lady and, when they told her of the neighbour's family troubles, she became sympathetic. She said that if the woman would agree not to do her wash before 8 am and after 9 pm, the complaints would stop.

The mediators went back to the neighbour who said she would do her best to keep to the suggested hours, but she could not promise. The old lady said that the agreement seemed the best that she could get in the circumstances, and congratulated herself for having stood up for her rights in getting a bit of peace in her old age. She hoped it would last! She was obviously empowered to resolve the dispute, and felt the agreement was fair. Both women had been enabled to name and blame each other in claiming their rights to better neighbourly relationships, the alleged threatening abuse was stopped, and was unlikely to recur.

Failures

The Council housing department referred a very old man who was a Spanish political exile, and an old woman from central Europe who was registered mentally disabled, who lived beneath him in a Council flat. She complained that he continually played football upstairs, that he had assaulted her by twisting her arm and that he was a filthy, evil old man. The police and her doctor would do nothing, and the Council just wanted to sandwich nice and nasty people. It was observed that he lived in poverty, spoke little

English, and appeared obsessed with showing that his passports were in order. He repeatedly said that his neighbour was lying in order to evict him. Both refused to speak to each other, saying that neither would make changes in their behaviour.

Another psychiatric patient was referred by the Council housing department. He was over 50 and looked after his father of 80 who sat in a catatonic silent state in an unkept barely furnished tall tenement flat. The son said that his neighbours continually tried to drive him mad as the Council put in a series of young people who played loud disco throughout the night and deliberately rattled something noisily through shared wall piping. The two young girls who had just moved into an almost bare flat, apart from their stereo, denied the accusations and said they were terrified of the son who kept threatening them with a knife. They were afraid to meet him, and had done nothing wrong so there was nothing to mediate. They were given information about local police services, and the son was asked to consider talking about his problems with his psychiatric community worker.

A failure in a sheltered housing mediation occurred just after the research period ended, but is worth mentioning now, as it had similar features to the two quoted above, and to other failures experienced by EMP and mediation workers in general. This occurred when an elderly Japanese post-graduate, living in a Cambridge sheltered home, complained that an 83 year-old fellow resident was deliberately trying to prevent her sleeping by playing his radio loudly and making banging noises throughout the night. The sheltered housing manager who referred the case said that the woman suffered from paranoia and tinnitus, and caused constant problems to residents because she said that

everyone was against her. The old man denied the allegation but agreed to mediation, saying it would be useless; so did the Japanese woman until she suddenly cancelled it, saying she wanted to move elsewhere.

In these cases, the old people obviously experienced varying degrees of powerlessness, injustice, ageism and social exclusion, but mental health problems contributed to mediation not being used, although its offers of help were appreciated by the old people who struggled to name and blame others for their suffering, despite their claims for social remedies being apparently ineffective.

Review of Mediation

The prevalence of mental health problems, even in the unidentified form of psychogeriatric depression, contributed also to the generation of conflicts which elderly people felt they could not tolerate or resolve, so it was surprising that mediation was successful in many instances, if not when serious mental illness prevailed. However it was important that they were not socially excluded from the offer of mediation, even though it failed to help those who suffered from stigmas of mental illness as well as from discrimination through ageist and socially exclusionary practices.

Nevertheless there was an observable difference between the mental illnesses from which the British sample of elders suffered in the community which inhibited mediation, and the fluctuating mental incapacity of the American sample where mediation was effective in institutional situations. This may be due to the fact that these American cases

generally involved conflicts with staff or residents and were dealt with on an emergency basis in a supportive environment, whereas the British cases often involved long-standing neighbour conflicts in which there was little social support for either the old people or the mediators in dealing with difficulties. This reflects the inadequacy of community psychiatric services, whose scarce resources appear to limit them to reactive crisis intervention in actual violence, with few protective strategies for safeguarding increasing numbers of vulnerable old people living alone.

Mediation successes suggest that these were more responsive interventions than those of agencies associated with local and central government, the law and police, to which people had applied first, and were certainly minimal in comparison with them had their official procedures been activated. People might have preferred help from these sources, but it is arguable that such intervention might have been disempowering to old people through official power and control procedures (Illich 1977). They all expressed pride in their own performances, and appreciation of the mediators' background work in empowering them to determine their own agreements, maintain their claims to justice, and free themselves from the fear of future trouble. They appeared to hope that agreements would last,

and to see the benefits of negotiating conflicts through effective communication. It is important to note that the fairness of mediation was recognised as much by younger participants as the older ones, who were the primary concern of the research.

The fact that the old people agreed to mediation meant that they had identified and named their problems, and the extracts quoted show how the mediators encouraged them

to ventilate the blaming stage, before enabling them to move on to working out their ideas for resolving conflicts. One of the surprises of the research was seeing how much older people appeared to enjoy the conversational ambience of mediation. Their participation was unstrained, and substantiated the theory that mediation is a natural, if underused social process, which can be experienced as a normal extension of good conversational practice.

Although there is no way of reliably forecasting the older participants' future relationships and situations, the mediations appeared to leave them optimistic after the empowerment experienced, which resulted in visible increased self-confidence and self-determination, and the dignity of having been able to assert their independence in managing their own affairs. This is where long-term studies are needed to test the durability of the positive affects of mediation, and how far these continue to empower elders in their struggles against injustice, ageism and social exclusion.

It was not surprising to find that mediation was sought because distressed old people felt that conflict and abusive behaviour had become too unbearable, and that their exclusion from official services made them feel powerless. Their expressions of powerlessness occurred whether mediation was or was not possible, and seemed to be a common factor in different social contexts. However it was surprising to find that neighbour conflicts caused so many experiences of what the old people often called 'a living hell', which had invaded the sanctity of their homes. They felt 'trapped' as Agatha said, and 'in a rat pack' as George said, and were bitter about their retirement years being spoilt by 'the authorities', whether these were housing managers or social workers, while neighbours received the harshest blame. Although bad housing and poor interior

conditions appeared to aggravate the powerlessness from which they suffered, most old people took a pride in their homes, blaming those who destroyed its peace and security.

The causes of conflicts were projected on to nearest identifiable enemies, sometimes due to misperceptions, and it was surprising to find how aggressive some old people could be. Some were abusive, either due to personality problems, or to fight-for-survival tactics. Such behaviour was significantly modified in mediation, which is another indication of its value in transforming disputes in more socially acceptable ways. It also appeared to transform aggressiveness into assertiveness, and powerlessness into empowerment as agreements were achieved, often accompanied by apologies. The old people appeared liberated from their emotional anxieties about past painful situations as victims, emerging to face the future as victors, although mediators always reminded all participants that there are no losers in mutually negotiated agreements, as suggested by the title of a classic mediators' handbook, **Everyone Can Win** (Cornelius and Faire 1985).

This central feature of all mediated cases illustrated a dominant theme of this thesis, showing that old people had felt empowered by the experience. They named and blamed those who contributed to their conflicts and abusive situations, and were able to claim their rights to relational justice while transforming their disputes constructively. They expressed appreciation of the fairness of mediation, and seemed relieved that it was a non-intrusive and non-oppressive intervention by mediators who, as voluntary workers with no official status or power, kept in the background. Abuse was stopped by mediation, especially when it was arranged early in cases, and it appeared as if old people learned from the process that effective communication could help them resist and prevent future mistreatment. However the time-limited research could not provide reliable evidence to

support this impression, nor the hope that old people might be durably empowered by mediation to challenge ageism, social exclusion and other injustices which might threaten them in the future. These themes, and the ethnographic research findings which indicate the social and material circumstances of the old people participating, are discussed in more detail in the next chapter evaluating the study.

Summary

This chapter began with describing briefly the objectives of the ethnographic work, and the aims, principles and processes of mediation on which it has been based. The roles of the mediators and researcher were then considered. The contexts in which the research was situated were noted, and reasons given about making selections and extracts from the 33 cases involving 50 old people who were involved in the study.

Four cases of direct or face-to-face mediation were described, three from the community and one in sheltered housing. Two cases of indirect or shuttle mediation were described more shortly, and three cases of failure were noted briefly. A review considered the issue of mental ill health which characterised some cases, and surprising research findings that neighbour conflicts caused so much suffering to old people, who could sometimes be aggressive in dealing with it. However they appeared to welcome and enjoy mediation, and seemed to be empowered by it.

Mediations provided arenas and spotlights in which participants appeared to feel they were central actors and so wanted to give their best performances as older people, and

as citizens who were determined to assert their rights. Other agencies had excluded them, but the socially inclusive process of mediation had helped them deal with their conflicts. The way in which the main themes of the thesis were illustrated in the ethnographic study was briefly previewed before the detailed evaluation of the next chapter, and the potential and limitations of mediation were shown.

CHAPTER 7

EVALUATING MEDIATION AND THE PREVENTION OF ELDER ABUSE

Introduction

This chapter first outlines the major general findings from the study in America and Britain which relate to its principal research question and six main themes of the thesis outlined in the first chapter. The main specific findings from the participant observation of American mediation are then discussed, followed by general impressions of this. An attempt is then made to analyse the more detailed findings from the British ethnographic research situated in the context of the Elder Mediation Project (EMP). The American and British findings are reported in relation to the secondary research questions about how far mediation was found to work well in both contexts, what led to any differences, and where it failed. Brief references to cases previously described and also others illustrate the discussion, which includes comments from a critical perspective.

The chapter next comments on theories and effective practice in relation to research findings, and how far these point to the social benefits of the study, which was also outlined in the first chapter. The last part of the chapter focuses on findings from the video research which surveyed the social attitudes to elder abuse and mediation of mixed multicultural groups in Britain. The findings which relate to an old people's club and the views expressed there are of special interest for research aimed at benefiting them. Reviewing the survey of social attitudes at this juncture points to the concluding chapter of

the study which discusses public opinion as it affects social policy and planning with respect to elder abuse and mediation.

General Major Research Findings

Mediation Empowered Old People to Resolve Interpersonal Conflicts

It should first be stressed that the general major findings of the research showed that mediation appeared to be an effective form of relational justice working equally well in the different social contexts of the American and British studies. Wherever it was used it seemed to empower older people in resolving interpersonal conflicts which lead to elder abuse.

This was because it encouraged them to challenge conflict and abuse, enabled them to communicate confidentially and clearly about it, and empowered them to make their own decisions about resolving contentious issues. Mediation energised and increased the vitality of the old people, transforming the disputes into challenging and often enjoyable experiences. Their anger and energy which had sometimes been destructive, appeared to be transformed into constructive activity as the impetus of the mediation process catalysed struggle into peacemaking. Although the duration of these beneficial effects could not be assessed, it seemed possible that the memory of good experiences might empower them in greater self-determination in the future.

This was shown when Len, aged 80, was encouraged to resolve a serious family

conflict involving his second wife and the first wife who had abused him, which threatened his recovery from a major operation in an American nursing home. Mediation enabled him to re-negotiate his Will to please them both, and empowered him to embark on a second honeymoon. In Britain an old lady of 84 was empowered by mediation to negotiate a noise abatement agreement with neighbours whom she said had threatened her with a hammer, having first been encouraged to recognise that she had upset them through not realising that their family members had disabilities.

This abusive conflict between neighbours might not have arisen if the Council local landlords had responded to their repeated requests for soundproofing, instead of refusing this because of its cost. Most of EMP's work (outside the research context) occurs among feuding neighbours in poor Council properties for similar reasons, elderly tenants being vulnerable to discrimination because of their age.

The research found that empowerment was not a word used often by the older generation, but was observed from their stance and behaviour as mediations developed and old people's initial reservations, negativity and hostilities were gradually transformed into constructive communication about ways forward which they felt enabled to negotiate in a self-help way. Learning to listen to each other, one of the most important communication skills, enlarged self-concern into the recognition that anxiety, fear, anger and distress were mutually shared. Empowerment was also evidenced, as each case review showed, by the fact that old people had been enabled confidentially to work through experiences of naming and blaming so that they could make fair claims to resolving their conflicts successfully. This appeared to energise them: empowerment was demonstrated

by their revitalisation.

In fact, one of the most surprising impressions from the research was how thin and osmotic was the human membrane between the state of helplessness and hopefulness within most old people: their facility in following the facilitation of mediation, by empowering them to transform previously unresolvable conflicts, suggested that they had intrinsic strength and core values, arrested by crises but recharged through mediation. Their image was less of victims that had survived but veterans who had endured.

For instance, Della's asthmatic breathing cleared as she found that the young couple offered recognition and respect for her past catering experience, and were prepared to involve her in searching for a solution to improving their food stall. She was obviously so empowered by having achieved a successful mediation that she did not have to call on her relative for support or approval of its fairness, and appeared to relish her prospects as a future culinary supervisor.

Critical theorists tend to focus on empowerment as a process for political change (Croft and Beresford 1992), and the limitations of this research in being able to find evidence of microlevel empowerment leading to later macrolevel empowerment have been continuously explained, and will not be repeated again.

Mediation was a Fair and Minimal Social Intervention

In all the cases observed in America and Britain elderly people expressed appreciation of

the confidentiality of mediation and its non-oppressive, relatively brief social intervention. This appeared to be because they were grateful for the attention, courtesy and respect given by the mediators, especially as most were strangers. They also seemed to enjoy and appreciate the fairness of the process which constantly encouraged their participation, enabled everyone to express their views, and gradually empowered them to negotiate their interests in non-intrusive ways that improved their situations. Their perceptions of fairness appeared to correspond to the social definition of justice in the first chapter of the thesis in which personal and social relations are approached equitably: the mediators did not take sides. The old people were helped to recognise that other parties in disputes also had to be satisfied with the fairness of the outcome, and that relational justice would improve relationships.

Freda, in Kansas, felt she had achieved a fair settlement over the bill for her mother's nursing home care, and its manager agreed with this. George, in his 70s, a litigious old man, considered that mediation had helped him resolve his neighbour dispute fairly and more quickly than in his previous court cases against the Council, although he said he had won these. Geoff experienced restorative justice when he received financial compensation for his troubles.

It could be argued that Freda, George, Geoff and other old people would have been equally pleased had their grievances been dealt with as well by other workers. However it was the unique combination of free, quickly responsive and effective services by independent and impartial peer group mediators, trained in confidential conflict management skills, which appears to have contributed to the surprisingly positive findings

of present research, during which no complaints about mediations were received.

The mediations observed in America took less than an hour, and the emergency sessions far less. As LTCOs admitted, they were so hard pressed for time that their administrative paperwork recording mediations was not only minimal but inadequate, although the Atlanta and Kansas projects had one-page assessment forms. The EMP mediations took between one to two hours in face-to-face mediations, plus an hour spent on each prior visit; shuttle mediation, as in the above case, took longer but was justified by positive results. In other respects participants were engaged in relatively brief interventions, and made no complaints that these were oppressive or intrusive.

A surprise finding was that mediation was not only a minimal social intervention, but also often appeared to be enjoyable. The theory of the transformation of disputes (Felstiner et al 1980/81) took on an additional dimension as the study showed fearful or hostile situations being transformed into pleasant ones. This could happen even as a result of brief interventions, as the following case shows.

An elderly nursing home resident feared that her niece wished to move her to a cheaper nursing home on the grounds that it would be nearer for visiting. Through one telephone conversation she was empowered to tell the niece (who had Enduring Powers of Attorney) that if this was arranged, legal advice would be sought. However the mediator was not advocating for the resident in a partisan way, but also focused on the needs of the niece for cheaper visiting costs, so this encouraged the old lady to offer to pay for these provided she could stay in her present nursing home. The niece immediately accepted her

aunt's offer, and a very quick mediated agreement was reached.

It is this quick responsiveness and non-intrusive confidentiality of mediation which makes it so welcome to old people who become bothered by the bureaucracy of much social intervention. Its simplicity also encourages them to find that they are enabled to control the outcome of the intervention, and that they are empowered to improve situations and relationships. It is the empowerment of people with which mediation theory is crucially concerned, and this is made explicit in the title and sub-title of a text initially referred to in the introductory chapter of this study: **The Promise of Mediation: Responding to Conflict through Empowerment and Recognition** (Bush and Folger 1994)

Mediation Resolved Interpersonal Conflicts Leading to Elder Abuse.

It will be noted that no claim is made here that the research found that mediation prevented elder abuse in the future, and the distinctions, discussed earlier, will not be rehearsed again. However the findings do show that mediation was effective in preventing unresolved conflict from escalating into abuse, and from preventing existing abusive situations from becoming worse. In this sense research findings show that mediation was an effective preventive intervention in protecting those old people with whom it was involved.

However it is only being argued that mediation was found to be effective in the cases observed. In America its success predicts that mediation will continue to be used to

help older people through community projects and LTCO services. In Britain these research findings show that the majority of its elderly participants were helped with neighbour troubles, and this addition to theory has already been recognised by Action on Elder Abuse through including neighbour conflict and abuse in its list of categories. How far these findings will be found relevant for future social policy development is discussed further in the final chapter,

Mediation also stopped ongoing personal abuse, although this was perceived differently by the older people. This was especially noteworthy in the case of Ann, an American who was enabled to escape near death from mistreatment, and was empowered by mediation to make protective decisions about improving her future care. It also enabled Ken, an 86 year-old Englishman, to resolve in his favour a long bitter dispute alleging financial abuse by his landlords which, over many years of public protest, had been ignored by lawyers, local authorities and Members of Parliament. In both these cases it was surprising that mediation succeeded where more established resources had failed. It was the early intervention of mediators, in what had been prolonged painful situations, that helped Ann and Ken.

From a critical perspective it appeared that the American resources had been socially inadequate, and in the British case that professional people socially marginalised an old man by allowing his grievances to fester. This finding and comments will be reconsidered later in relation to the speculative questions about mediation's potential for preventing future abuse, and its impact on reducing social or structural abuse.

However evidence was weak in respect of the predicting that mediation could prevent future abuse. Throughout this thesis it has been conceded that the empirical work could only attempt to show was that mediation has a potential to prevent future abuse by having empowered old people to develop a learned resistance rather than learned helplessness (Seligman 1975) to abusive situations and relationships. The empirical work had no predictive power with regard to how far the strengthened communication abilities of old people, and their experiences of self-achievement in mediation, would increase their future confidence and capability in resolving the conflicts that can lead to elder abuse. Freda in Kansas, and Della in Britain might become wiser about handling personal and social relationships: perhaps as a result of their successful mediations, or just due to the maxim that wisdom comes with age. However it is arguable that the deficits of ageing, and increasing disabilities, might lead to further deterioration in relationships and incapacities for dealing with conflicts constructively.

Any critique of mediation as a process of empowerment has to ask whether it is strong enough to balance the disempowerment of ageing from which some, but not all, vulnerable old people suffer, and this research has clearly demonstrated its limitations for those with mental ill health. Unfortunately speculative questions can only be answered by longitudinal studies in individual cases, and even here reliable findings are unlikely because of the multiplicity and complexity of the different situations in which old people meet conflict and abuse.

Mediation was Shown to be Informal and Relational Justice

The research showed mediation consistently taking place in informal ways, whether in direct face-to-face or indirect shuttle meetings and conversations, explicitly promoting fair dealing in relationships between people. The study showed how disputes generally involved stages of naming, blaming and claiming before relational justice was experienced.

A 90 year-old widow was in a bitter conflict, affecting her health, with her son aged 70, a gentleman farmer, who wanted her to go into a nursing home so that her grandson and large family could move into the mansion and run its estate. Although her husband had left these to her son, she felt that her rights to life tenancy were abused, and cut off relations with her family. Through many months of shuttle mediation, inquiries into the son's legal rights were made with his consent and upheld, and a long educative process began, at his request, encouraging him to understand her feelings, and enabling him to communicate with his estranged mother. Gradually the couple were empowered to repair shattered relationships, and the old lady voluntarily agreed to take a nursing home suite, furnished with her favourite possessions, with the option of day visits to her old home whenever she wanted.

Legal justice and the informal relational justice of mediation were shown to be complementary, but it was the latter which restored relationships, partly because of its confidentiality, whereas court action for eviction might have contributed to the death of the old lady. Another concern of mediation theorists has been that it is not used politically

to suppress other action that would deal with conflict and abuse more immediately and effectively, but in this case and others this fear was not justified.

Mediation was Anti-ageist

The fact that the study observed American workers committed to the care of older people, and was closely involved with older volunteers in the British EMP research, is an indication that the mediation studied was anti-ageist in focus, and needs little illustration here. All the personal and social resources involved in the work observed were based on affirming, empowering and supporting older people and their rights. They often anecdotally expressed these in terms of having rights to peaceful lives in their sunset years, hoping that mediation would help them resolve conflicts which were spoiling these.

Agatha, George and the old lady suffering from tumble-drier reverberations all felt that neighbours were against old people, and deliberately made their lives hell.

Mediation Challenged Social Exclusion

The American and British research showed cases where mediation was able to make a positive impact at what has been called the microsociological level, in empowering people in a sociology of resistance to the conflict and socially exclusionary situations in which they were specifically involved (Phillipson 1998:138-9). Brief case descriptions were given of these; so in order to provide balanced findings about the limitations of mediation in this area, more details are now given of the type of case where it fails to stop and prevent

social exclusion, and also sexism and discrimination against the mentally ill. This illustrates the weakness of mediation in affecting structural change at macrosociological levels.

An elderly Jewish widow, with diabetes and a heart problem, cared for a schizophrenic daughter, another with cancer, and a third who all shared her small Council flat. The schizophrenic daughter frightened and behaved violently towards neighbouring children who harassed them in return, their parents verbally abusing them with anti-semitic and sexist taunts, pinning a bloodstained diaper on their door. They also continually called the first daughter mad. She retaliated by calling them black pigs, describing the Council staff as niggers who took no action to stop the abuse. She was only prepared to mediate if it involved the dealing with the Council black staff's alleged racism, ageism, sexism and psychological labelling.

This request was relayed by the mediators to the Council who evicted the family or, as they reported it, transferred them from their home area. The family felt they were being socially excluded; the tenants felt that their children were protected. Even if mediation had been accepted in this tragic situation, it is doubtful if either the schizophrenic daughter or the neighbours and their children would have kept any agreements made, because this would have depended also on fundamental changes in attitudes, which are culturally slow to alter (Blakemore and Boneham 1994). In addition non-coercive mediation would have had no force, at the macrosocial level, in securing structural change by better psychiatric community care and support for the daughter and family which might have reduced the community conflict.

Discriminatory attitudes were also found among some of the poor old white people involved in the British research, who said they were made distressed or angry by young people's music, black people's behaviour and one-parent children. An elderly white Irish widow who refused mediation was reported to have harassed a black neighbour into leaving her flat. She was typical of those who visualise social integration as a community of quiet, white, respectable old people from which non-white people are socially excluded, although, ironically, she was a member of the Irish community which also suffers from cultural discrimination. This point is stressed because such attitudes fuel the ageism of those whose presence is resented.

American Major Research Findings

The American research was principally focused on seeing how it worked in long-term nursing home and hospital care, except for a small number of community cases observed. The study was centred in the three different sites of Atlanta, Kansas and San Francisco, which provided opportunities for studying mediation in varied settings.

Mediation Worked Well in Diverse Cultural Contexts

It was surprising that mediation appeared to work equally well irrespective of different social settings, whether these were in the poor black areas of Atlanta, the white middle-class suburbs of Kansas or multicultural San Francisco, and regardless of cases occurring in institutions or local communities. A reason for this may be because it was observed that mediators always related to people as individual human beings, and focused on the

mediation process rather than on their gender, culture or class.

Eddie, a disabled elderly black man, moved to an Atlanta board and care dosshouse, was enabled to deal with the conflict he had with the black staff. In Kansas Geoff, a white elder with a sexual dysfunction problem, was empowered by mediation to negotiate successfully with his doctor about rectifying a complaint about treatment. Sally, an elderly Californian patient with intragastrinal tubing, was encouraged to confront her husband with his method of sexual intercourse which caused her physical pain, and to reach mutual agreement about more suitable practices. In all these varied cultural contexts mediation improved the situation and satisfied those involved, which was surprising given the sensitive nature of the problems.

From a critical perspective it was obvious that Eddie suffered, with many other poor old black people, from the severe structural abuse of disgraceful housing and care, as witnessed in the Atlanta participant observation work. Many conflicts involving these older people were basically caused by political tolerance of such social evils, and the continuing racist and socially exclusionary policies of the State. In this respect the findings showed, through the appreciative comments made by them, that although mediation was equally welcomed and understood by everyone, they felt that they additionally suffered from social disadvantages which nothing could remove. Although suffering cannot be measured, it was apparent that black people had most discrimination to endure.

Mediation was Appropriate in Sensitive Situations

Sensitivity is characteristic of most interpersonal conflicts because people's identity and feelings are involved, including their anger, anxiety, depression, fear, frustration, powerlessness and hopelessness. Intimate concerns about sexuality are probably chief among these. Yet mediation, partly because of its confidentiality, was found to work surprisingly well even in these sensitive areas, as in the cases of Geoff and Sally noted above.

As mediators used everyday language, unlike many professional workers, they were observed in the research to make easy rapport with people, especially the old, and gain their confidence in the confidential nature of mediation. This enabled conflicts to be transformed into normative rather than frightening experiences.

Mediation Helped in Some Mental Health Situations

When people suffer from severe mental ill health, this tends to predict the inappropriateness of mediation. It reinforces an anecdotal saying in mediation that the process can work anywhere, but that the participants have to be capable of making decisions, if only to a limited degree. However it was surprising that the research revealed mediation helping a number of people with apparently milder mental health problems or, possibly, that it took place at times when fluctuating mental capacity enabled them to be most constructive, although this could not be assessed.

This was illustrated when mediation was used in Atlanta to empower Betty in changing staff attitudes towards imposing physical and medication restraints. In Kansas Kay, a behaviourally challenging patient, was enabled by mediation to improve her care by nurses. Ollie, in California, also suffering from mental health problems, was encouraged by mediation to understand how his behaviour had contributed to a violent attack by a patient with Alzheimer's Disease, and to reach agreement about working towards prevention of its recurrence.

From a critical perspective it was observed that there were too few long-term care ombudsmen (LTCO) available to give old people with mental health problems the regular attention they needed if their complaints and conflicts were to be addressed sufficiently early to prevent prolonged hardship. This political lack of provision for LTCOs was raised in the chapter about the Californian social context, as was the oppressive use of restraints on old people with dementia.

Mediation Responded Effectively in Emergencies

The research also showed that older people often needed urgent attention to their conflicts, and a surprise finding was that mediation then took place in emergencies, especially in long-term care. However it was surprising that these spontaneous mini-mediations were no less successful than the more structured ones.

For example in Atlanta Doug, dying of AIDS, and his elderly parents, needed immediate mediation to enable them to resolve a life-and-death conflict with staff about

treatment which was then being given. It was also reported that Kansan institutional staff continually mediated on the spot when residents in shared rooms quarrelled about their possessions, and needed encouragement in resolving these. In the Californian nursing home it was observed that two old ladies had a sudden fierce argument about theft similarly resolved.

If Doug had received treatment in a specific AIDS hospice it is probable that conflict about this would not have arisen, or that specially trained staff would have been available to deal with it. It was not within the scope of the study to research whether socially exclusionary practices were politically manipulated in Atlanta, but it appeared that there were insufficient publicly funded services to provide good care for Doug in a suitable place. It is also probable that old people would suffer from fewer institutional conflicts if they did not have to share accommodation. In some cases observed in American public or poor private nursing homes, there were up to six in a small room, although it must be said that some old people do not like isolation in a single room, and prefer companionship.

Mediation was Practised by Multidisciplinary Workers

Related to this necessity for immediate responses to conflict, which are especially essential in institutional care where people live in closed communities and close relationships, was the fact that most staff had to use their personal communication abilities, even if they were not trained in mediation skills. Although it was LTCOs, trained in mediation, who were mainly involved in this aspect of the research, they referred constantly to other workers

using it in their daily duties. Even if LTCOs thought staff should be trained in mediation, their work was valued because it was considered that, as suggested by this study, when conflict is dealt with early by mediation it prevents abusive situations from developing. This was an important reinforcement to the ideas of the thesis.

Although no cases were observed of mediation by these other staff this finding is relevant to critical issues about mediation advancing more in America than in Britain. Is it because there are more of these kinds of conflicts in America needing mediation, due to inadequate provision for older people, as stated by its critical social gerontologists (Minkler and Estes 1991)? Do multidisciplinary workers have to mediate because of insufficient LTCOs being available?

Another explanation involves mediation's longer history in America, where there is proclivity for pioneering new developments, socially diffusing innovations, and flexibly adapting these to suit diverse populations, lay and professional. The American Constitution and Declaration of Independence also make powerful imprints of individualism, personal freedom and frontier initiative which might influence mediators in breaking down barriers of professionalisation and specialism. In Britain there are those like Simon Roberts (1983:88) who favour strict separation between mediators and other workers in social interventions.

However it is important to note that although there is little public recognition of the mediating role that multidisciplinary workers have played in British health and care services, 'the skilled manager played the role of diplomat' in order 'to try to democratise

decision-making' (Allsop and May 1993:7,20), in conflicts between service providers and service users.

Mediation Worked Well when Used Informally

Another finding relates to the two previous ones in that multidisciplinary workers using mediation whenever old people or the events call for it necessarily use it informally. They seldom have the time to schedule structured mediation meetings, nor the training to work through its process described fully in the chapter on the EMP project. It was surprising that mediation nevertheless appeared to work well, possibly because patients felt satisfied by immediate attention. LTCOs reported using mediation informally as they visited institutions and were asked to help patients and staff resolve conflicts then and there, transforming hostile situations, as in the cases of Doug, Eddie and Ollie already mentioned.

Therefore, in the American study, ombudsmen and others accepted as mediations all the incidents described, however small, and considered themselves to be mediators in these. In Britain where mediation has been practised only more recently, apart from earlier use in industrial conciliation and international diplomacy, there are continuing professional and academic debates about what is and what is not mediation, the principles and practices to which its processes must conform, and the training and qualifications of mediators, not to mention how it is distinguished from advocacy, counselling and other social interventions (Craig 1999). The tension is between service providers and stakeholders who adapt their roles and skills to meet user needs, and those who feel

restricted by professional boundaries. This research may encourage workers to increase their range of skills through training, and contribute to ongoing revision of articles of professional associations so that these are less restrictive and more inclusive in respect to the roles their members can play. For example, nurse practitioners are now officially permitted to fulfil certain roles which were only previously permitted to medical practitioners.

Mediation Facilitators Combined their Roles and Skills

It was surprising that American mediators appeared to combine their roles and skills easily, sometimes using processes of advocacy and mediation consecutively, or occasionally concurrently. Doubtless advice-giving and counselling was used, although not observed in the research. It will be recalled that Georgia was one of the American States which called LTCOs citizens' representatives, suggesting that this more neutral role definition was paramount, leaving open the means by which it was fulfilled. Multiskill instead of specialised approaches are advancing more slowly in Britain (Roberts,S.1986), although the Carers' National Association has training courses in mediating skills for advocates, assessors and advisors, and Mediation UK services, including EMP, offer similar training to all multidisciplinary groups.

LTCOs and institutional staff may also become involved in counselling situations where old people long to pour out their deep emotional feelings to anyone who will listen. These workers anecdotally reported that their prime concern was helping and comforting old people, so they combined roles and skills to suit the demand. In Eddie's case, the

LTCO mediated and advocated for him in getting clean water, and later made recommendations advocating improved care.

In Kansas, the LTCO was asked to mediate Nesta's removal from a nursing home but became a strong advocate for her remaining there. In California a LTCO who worked with an Alzheimer's Support Group reported that she used her advocacy, counselling and mediation skills interchangeably to benefit its members. She said that it was the attentiveness and good results that they wanted, and that they appeared uninterested in the processes used.

General Impressions from the American Research

Research impressions differ from findings in that the former are based on general rather than specific observation, and on anecdotal material with wide subject matter, which is less guarded from the personal interests, interpretations and aspirational values of researchers. Subject to these qualifications the following comments hope to contribute to the evaluation of mediation in the areas visited, which had been initially informed through close study of American research literature described earlier, and ongoing consultations with colleagues at meetings and conferences.

There was research concern to understand what American old people felt about the abusive situations which they experienced. Some involved physical pain and discomfort, but all appeared to undermine their sense of identity and self-worth, making them feel powerless, often discriminated against because of their age and disabilities, sometimes

socially excluded if they were in institutions. This contributed to experiences of genuine suffering from conflicts, even though these may have appeared minor to outsiders. From critical perspectives this seemed to increase if social provision of care was poor because they were poor, and thus were housed in poor rest homes. If their care was good, many old people said that these homes offered them security, and were sometimes preferable to inadequate family or community care.

Some old people appeared to show resistance in abusive situations but some none; a few showed insight into the causes of conflict and what contributed to these, including their own prior behaviour. Nearly all said that they were being unfairly treated to lesser or greater degrees, while others complained that this should not be tolerated because the effects on their lives were unbearable. These feelings appeared to be accentuated when old people were restricted to a boxed-in institutional life, where there seldom seemed to be possibilities of them developing the critical consciousness envisaged by Friere (1970) and Evans (1992).

They expressed satisfaction with the fairness, effectiveness and brief informality of mediation, which was not experienced as being intrusive, and showed pride in their communication abilities. Above all, their life worlds seemed to expand, however momentarily, as they were encouraged to listen carefully to the views of others, enabled to participate in an interpersonal and inclusionary social process, and empowered to make their own decisions in this. Relational justice could be seen to work as relationships between people improved, however marginally.

The research could not investigate whether mediation had prevented some form of public exposure of bad treatment taking place, although manipulation by management in Nesta's case was reported by the LTCO who rightly refused to mediate. However there was an impression that some old people wanted the minimum fuss, either because they seemed afraid of retaliation, or because they appeared too proud to broadcast that they had been treated without respect.

The research also showed that, however minor were the cases of mediation, stages of naming the conflict, expressing blaming, and claiming some form of redress, could generally be identified in each: people felt encouraged in this by the confidentiality of mediation, and there often appeared to be genuine transformation of disputes into pleasant experiences. However no comments are made here about the institutionalisation of physically and mentally disabled and ill old people, as this may have been necessary for health and safety reasons, although ageist and racist attitudes and socially exclusionary policies could have led to unwarranted incarceration.

It will be noted that most of the research findings highlighted are all surprisingly positive, but their worth is limited in that it was not possible to undertake additional long-term studies to evaluate the durability of the good effects of mediation in empowering the American old people who were observed. Perhaps it is even more important to admit that American workers reporting cases of mediation may have selected those which showed its successes, despite being asked to describe failures as well, so that this aspect of the study may be unduly weighted with positive findings. The failures occurred because people refused mediation, and it was not within the scope of the research to follow up these cases

and see what happened to them.

Findings from the British Ethnographic Research

This ethnographic study is the first known research of its kind to explore whether mediation can contribute to the prevention of elder abuse through empowering old people to resolve their interpersonal conflicts. Throughout the thesis, the value of this original initiative has been qualified by admitting its limitations, including its small sample involving 50 old people, and lack of longitudinal data which impoverish findings and restrict reliable generalisations. However the ethnographic approach to EMP cases enabled unique data to be collected in one intensive study, and as the findings will be discussed in detail, these will not be followed by giving general impressions of the research, as was done regarding the more extensive empirical work done in the three American States. Nor will repetitive references be made to the way in which the EMP cases illustrated the naming, blaming and claiming process of dispute transformation, as numerous examples of this were provided in the American research.

Findings relate to the social contexts in which 25 old people experienced conflicts and abusive situations. while the other 25, the control group, complained only of conflict. The findings are discussed on the basis that their experiences are real to them, even if these may arise from distorted perceptions rather than objective evidence, although mediation aims to encourage participants to confront misunderstandings and reality.

The findings are not listed in order of importance, as the relatively small number

of participants in the study would reduce the significance of such grading; nor, for the same reason, are they tabulated; they follow the narrative pattern of this study. This is consistent with research supervision suggestions that it should not be based on quantitative methodology. The main themes identified in the data are described, and include brief case examples.

Most Cases were Neighbour and Community Conflicts

Most cases were related to community disputes between neighbours, 10 old people complaining of conflict and 15 being in abusive situations. In sheltered housing conflicts, nine old people complained of disputes with management and residents, and three said they had been abused. Smaller numbers were referred from family and residential sources. These differences resulted from the greater number of referrals from community agencies who are more aware of the availability of mediation, and recognise its importance in transforming neighbour disputes in order to improve social relationships.

This is supported by a 1999 report, commissioned by the Scottish Executive, stating that mediation resolved community conflicts, and that their research had shown that two-thirds of the neighbours benefiting from it felt less aggressive, more than half had their health improved, and 80% recovered the confidence they had lost through the disputes (**The Independent** 6 September 1999). Some of these benefits were observed in the case of Della whose initial complaints were expressed with anger, but whose asthmatic wheezings faded completely as the mediation reached a successful agreement.

Many Old People Lived Alone

Sixteen of the 25 abused old people lived alone, compared with 9 of the non-abused. It is only possible to draw speculative inferences from this. Perhaps the statistics reflect the known increase of old people wishing to live alone (Garrod 1993); perhaps they lived alone (and complained of conflicts) because they had personality characteristics (strengths as well as weaknesses) which made it difficult for others to live with them. It is even more difficult to assess how this living alone was related to their feelings of being abused. Were they more vulnerable, and thus provoked because of this, or did being alone, or loneliness (two different experiences) inflate their perceptions about the intolerable behaviour of others? The following case illustrates these uncertainties.

An old but very active woman lived alone in a modern Council tenement, which was nevertheless without good soundproofing, and kept a noisy dog which continually barked and harassed the mediators during their visit. She prided herself on her busy life, but admitted that she kept the dog as her guard, whilst complaining about the loud music her neighbour played, and refusing to meet her in mediation. In attempted shuttle mediation the neighbour offered to moderate the music which had been played loudly to shut out the dog's barking, if this was also controlled. However the dog owner said her protection was paramount and refused to negotiate. Both said they would apply for legal injunctions. The old lady liked living alone, and felt vulnerable, and appeared to have a strong personality.

The Majority of Old People Chose Mediation

The voluntary and confidential nature of mediation meant that its process was always carefully explained to old people so they had a free choice about whether to use its service. Although it may have been the last available option, they appeared to have confidence that it would somehow transform a nasty situation for them. Nearly three fifths of the total number of 50 older people, 29 in number, had their cases dealt with by some form of mediation, as did a half, 13, of the 25 who were abused. These cases were divided almost equally between those involving direct or face-to-face mediation, and shuttle and telephone mediation. However, all of the cases alleging abuse received home visits, even though mediation could not take place for various reasons.

One such case involved an elderly central European widow with mental health problems who lived below an even older similarly afflicted Spanish political exile whom she said had assaulted her. She did not want mediation, but only that the mediator should call the police, who were reported to visit repeatedly but do nothing. The mediator gave both old people information about reporting problems to their local authority's Elder Abuse Unit, reminding them that they could seek mediation again.

The Majority of Old People Reached Agreed Outcomes

Fifteen of the 25 old abused people reached some form of agreement, nine being full, five partial, and one made as a trial, two of these agreements being reached during the initial visiting. Only six of the 25 abused old people failed to reach agreements, the remaining

four being referred to other services.

Seventeen of the 25 old people complaining only of conflict reached some agreement, 11 full, four partial, one trial and one asking for continued case support. The value of trial agreements is shown in the case of a widower aged 76, who was estranged from his daughter because she had inherited all his wife's money. He had understood that the daughter would use some of the money to care for him, but she contested this, saying that he had ill-treated his wife and neglected her while she died of cancer. Shuttle mediation encouraged the father and daughter to recognise how much distress they were causing each other, enabling them to realise that the deep relational breach would only heal slowly. Trial arrangements were agreed whereby they would exchange greeting cards regularly for some time, and then begin telephone calls, the father hoping for eventual reconciliatory meetings.

Mediation was Thought to be Fair

The majority of the old people in both groups reported positive effects from the mediation: they were not directly asked about this, so their comments about improved situations and relationships were made spontaneously, suggesting that relational justice had been seen to be done. Nearly four fifths of the abused older people, 18 out of 25, expressed appreciation of the process and its confidentiality, as did 19 of the 25 non-abused, even though not all of them had resolved their problems, as shown in the above figures. None of the old people referred expressed negative feelings about mediation. In retrospect, this aspect of the study might have been better designed by asking them to complete evaluation forms, but this

had not yet become the practice of the referring agencies.

It was significant that Ken, despite fiercely feuding with his landlords about their alleged financial improprieties, during which he suffered a slight stroke after angry outbursts, nevertheless thanked the mediator profusely for the help he had received. These words of appreciation were the only pleasant ones he had contributed to the mediation. It was difficult to differentiate between gratitude for the mediation and the old people's feelings about its fairness, as both melded as these were expressed. No record was received of reported unfairness.

Abuse Occurred Most Often to Women Over 75 Years

Research showed that a small majority of the abused were over 75, a finding which supports gerontological research, as does the fact that 20 of the 25 were women, 14 of them being widowed. Increased age, widowhood and being a woman increase the vulnerability of old people, especially if their size and mental capacities diminish. However the fact that only five out of a total of 18 male referrals complained of abuse may be explained by asking if masculine pride or reserve prevented men from admitting this.

Bereavement, loneliness, isolation, illness and social exclusion can contribute to depression, and feelings of helplessness or powerlessness can increase the risk of abuse to old people, or to their suffering from imagined abuse. This was illustrated by a tiny elderly Jewish music teacher, dying from cancer but whose hearing was acute, who said she was being persecuted and tortured by tenants above who constantly used a noisy industrial

sewing machine despite her pleas. Their denial was confirmed by the tenement manager who had searched their room. The case was tragic in that these tenants were Kurdish, also refugees from racism as the old lady had been. They did not want mediation, so it was only possible to offer her case support in this situation, through telephoning her over a period of time, until she appeared to grow tired of repeating her allegations.

Most Referrals were Council Tenants

Fifteen of the 25 old people in abusive situations lived in Council flats, compared with 12 of the non-abused, a few referrals coming from owner occupiers, the remainder being in sheltered housing provided by Councils or by the voluntary or private sector. This housing status can be explained by the fact that Council housing departments widely recommended mediation because of its free services, because it generally improved relations between neighbours, and because it was the quickest non-legal way of dealing with tenants' disputes.

The fact that a larger number of abused than non-abused old people were Council tenants may relate to the age vulnerability factor already noted. It can also be explained by social work practice of sandwiching quiet old people living alone between tenants labelled as problems because they were addicts, had noisy children or disruptive lifestyles, with the political aim of de-ghettoising estates. **The Camden New Journal** reported public protests about this policy which 'calls for drug addicts and alcoholics to be moved away from flats housing elderly tenants' (15.4.99), and featured complaints about 'blindly dumping people with drug, drink and other problems next to old people (29.7.99). The old

people complained that such conditions exacerbated conflicts and abuse.

It will be recalled that Agatha, complaining of abuse, said that she felt trapped in a cage, and that George also referred to be living in a rat pack. Although these and other old people denied having racist and other discriminatory attitudes towards neighbours they accused of abusive behaviour, it was clear that some members of older generations disliked new and often noisy cultural lifestyles. The irony of local authority policies of social integration having the reverse effect on some neighbour relationships, aggravated by poor noise insulation in poor housing stock, will be re-echoed later.

Most Abused Old People had Low Incomes

The findings supported critical social gerontology research in that three quarters of the abused old people had low incomes, in comparison with only a half of the non-abused. Nearly all of the abused old people were retired, existing only on State pensions which they anecdotally said were inadequate, compared with three quarters of the non-abused old people who similarly complained. Most of the referrals came from low or middle income areas, suggesting that these have more social conflicts, or that mediation is used more frequently there by older citizens because it is a free, quick and effective service. Findings also support suggestions that those who are least socially active are most vulnerable because they may be housebound or disconnected from relatives, friends and community networks.

An elderly widower and his single son, both suffering from severe mental health

problems, lived in squalor in a top floor Council tenement, with rags for curtains and broken armchairs for seating. They complained that the whole world was against them, and that social services did nothing to help. They said they were being driven mad by their unemployed young neighbours banging and playing music. This was denied and the old man was accused of threats with a knife. Unfortunately no-one consented to mediation, although everyone was given information about the legal, police and social services available, despite none of these having helped in the past. Was this another example of age-mix housing policy problems, or could these have been remedied by better community care?

Many Abused Old People were Frail

Findings regarding physical health were consistent with those of general ageing studies in that over a half of the abused were frail in comparison with about a fifth of the non-abused old people. It is worth noting that, despite the case just described involving mental ill health, and others identified in this study, especially in the American one, most British old people in the study were mentally competent. A slightly smaller majority of the abused old people enjoyed reasonable mental health.

The difference between the American and British findings may be explained by recalling that much of the former research took place in institutions where people had declining capacities, and the fact that EMP referrals, although generally being made through community agencies, were often initiated by old people themselves who were active enough to seek help with their complaints and conflicts. Agatha was one of the very

determined old women who had spent months protesting to public bodies about the noise of her neighbour's mynah bird.

Old People Came from Diverse Cultural Backgrounds

Two-fifths or 11 of the abused old people were from ethnic minorities which is a proportionately higher percentage than their general nearly 6% representation in the general population (Age Concern 1998), although closer to the number thought to live in the area from which many referrals came. Another explanation may be that this group suffered more from abuse, which is consistent with general experience of old people from ethnic minorities (Blakemore and Boneham 1994), or that their cultural networks and community networks encouraged them to complain. Only five of the non-abused were from ethnic minorities. Two of these were elderly Vietnamese exiles who vigorously ran market stalls and complained vociferously about an older mentally ill old woman who lived upstairs. They said she was noisy and dirty. She refused mediation and blamed 'the refugees'.

One fifth of each group declared themselves to be Christian, while two in each group had Jewish names, living in a Jewish area. Twelve in each group had wide social networks, principally going to old people's clubs, which also might have encouraged them to seek EMP's help with their conflicts. In all of these multicultural contexts mediation appeared to play an especially valuable role, because it transformed conflicts in sensitive cross-cultural situations, and provided relational justice in areas where good relationships were essential.

The following findings additionally and specifically relate to the group of 25 old people who reported suffering from abuse, and attempts to differentiate between its types, although some described their experiences in confusing ways.

A Few Old People Suffered from Racial Abuse

Under a fifth of the 25 abused older people reported receiving racial or religious abuse and were given information about their rights to legal remedies. However some mediators (Sharland 1999) suggest that despite service-user preference for mediation, it is not the best first remedy when racism is alleged, as seeking legal redress is more socially exemplary, although the Commission for Racial Equality has only a short list of successful prosecutions to support this view.

In the EMP cases it was decided that mediation was a wise first choice of the old people involved, and its use justified, especially as old people under stress can be additionally harmed in the long wait for the weight of the law to be proved effective, especially in racial cases. Also, in these cases, the old people had already been told by lawyers that their complaints were not actionable. The issue of racism being wrong and painful, yet not actionable or given appropriate legal redress, has to be debated elsewhere.

It was the Vietnamese elders already mentioned who complained most bitterly about racist abuse from their noisy old neighbour, and another elderly person from Goa also similarly complained about a young white tenant. In both cases racism was denied, it was impossible to establish what had actually taken place, and mediation was refused.

The research provided no clear indications as to whether age, gender, culture or any other variables determined attitudes to racism, but these appeared to inflame and be inflamed by the situations and relationships which caused them conflict. Age, gender and culture appeared to be prominent among the scapegoats for social ills, although generally secondary to more universal grumbles about local and central government.

Most Old People Suffered from Emotional and Psychological Abuse

The majority (23) of the 25 abused older people complained of emotional and psychological abuse, and although psychological and verbal abuse is categorised separately, 21 of the 25 described incidents as verbal abuse. This is one of many examples of categories overlapping, adding to the confusion of data analysis. The mediations definitely demonstrated that verbal invective and harassment leads to many older people feeling emotionally threatened and psychologically violated. In all cases they experienced suffering, however minor the incidents appeared to outsiders, and the confidential nature of mediation appeared to help the old people to share what they often felt to be traumatic events and relationships, and transform these in remedial ways.

This was illustrated in the sad case of two elderly residents in sheltered housing who were both in states of panic and crisis, complaining that each was continually taunting the other about alleged personal faults, mutual harassment leading to constant reports to the manager.

Fewer Old People Reported Physical, Sexual, or Financial Abuse

Eight of the 25 older people reported physical abuse. Although they all said it had caused them great distress, no one complained of serious harm: the pushing of which Agatha complained was typical. Three old people considered that sexist insults were abusive, and the white teacher claimed that she had been raped by the black youth. Four old people felt they had been financially or materially abused, three of these fearing eviction. One was a tenant afraid of Council eviction, another was the rich occupier of a country mansion whose son had legal possession, and the third was a nursing home resident whose relatives wished to move her.

Old People Can be Abusive

Although life experience shows that people of any age can be abusive, it was surprising to find that four-fifths of the 25 older people were accused of being verbally abusive, three-fifths were alleged to contribute to emotional abuse, three were said to have been physically abusive, and four and eight respectively had been racially and sexually abusive in their speech and attitudes.

All the old people denied that they had been abusive by referring to prostitutes, racial origins or mad behaviour, but their acts were felt to be abusive by the recipients. The old people involved admitted they had been angry, often euphemistically saying they had just been asserting their rights. George was an example of those old people who protested that his alleged sexist and racist slurs were a respectable defence against bad social

behaviour. It was impossible to tell whether old people acted abusively in provocative or defensive ways in asserting their identities and self-determination through trying to control conflict. This finding about the contribution which older people's rude behaviour can make to elder abuse, adds to gerontological literature, and it is to this which the chapter next turns.

Theories Related to Research Findings

This thesis has attempted to expand knowledge of mediation in relation to theories of critical social gerontology and elder abuse caused by unresolved interpersonal conflicts, while showing that concepts of dispute transformation, and its stages of naming, blaming and claiming, have been illustrated by the cases studied. A critical perspective has been adopted wherever possible in considering the mediation of conflicts involving older people, although often the intimate, confidential and personal nature of these, especially those concerned with mental health, are difficult to review politically except for making ubiquitous comments about inadequate social resources.

However this section begins by recalling critical theory about the social construction of ageing, although only referring to some of its central concepts relating to the findings of this research and its special themes of ageism and social exclusion. Discussion of the other relevant theories and themes follow, and the section concludes by inquiring how far the research indicates that mediation contributes to the larger processes of building social capital, which was an intended public benefit of the study, suggested in its first chapter.

Mediation Related to Critical Social Gerontology

In the second chapter on theory an attempt was made to show how critical social gerontologists consider concepts of ageing have been constructed, deconstructed and reconstructed in civil society for ideological purposes, taking the post-modernist view that theories which offer universal explanations of human behaviour suggest reductionist and determinist generalisations. Although this study has appreciatively used many concepts to contribute to its thesis, it does not subscribe totally to any theory, and has consistently warned about the limitations of its own work.

Phillipson's **Capitalism and the Construction of Old Age** (1982) showed how government had constructed ageist and familist versions of old people as dependent on their kin, who therefore should support them. Nearly two decades after it was written, this present British research adds to other findings referenced earlier (Healy 1997), showing that old people here increasingly wish to live independently on their own. Similar tendencies were pointed to by American commentators, but the findings there mainly focused on institutional elder care.

Walker (1990) and Minkler and Estes (1991) contributed to deconstructing policies about ageing which showed that capitalism had tried to solve its unemployment problems by early retirement strategies, and its fiscal difficulties by retrenchment in financial and social provisions for old people. This study's findings showed that they consistently complained of being poor, with inadequately responsive social, police and legal services, and, particularly, suffered from intolerable soundproofing in Council housing which often

escalated neighbour conflicts associated with noise into abusive situations.

Moody (1992a;1998a) added to reconstructive attempts to expand images and policies on ageing which hitherto featured it as a retreat from life thus justifying health and care rationing of the old. He revived traditional ideas about the potential of older people as culture bearers or wise social guides, and his view about their value as mediators was supported by research findings about the successes of EMP's old volunteers. Moody also urged that communicative ethics and action should be the basis of emancipatory work with old people to improve their lives and promote 'the "ideal speech condition"' (1992a:39) in which they could speak more effectively to represent their concerns. Hence the research illustrations of them being encouraged, enabled and empowered to communicate about their conflicts, suggests that mediation has been shown to be consistent with his critical social gerontology. The open and transparent process of mediation depends on participation by the public, and is responsive to its critique, unlike closed professional networks of communication and the social discourse of the law.

Although mediation has been represented as 'a micro level analysis of justice' (Moody 1992a:53), and relational justice (Burnside and Baker 1993), it was impossible to evaluate how far its participants developed the critical consciousness (Friere 1970;Harvey 1990) which is one of the aims of critical research. The participants who sought mediation probably had their horizons restricted by suffering, while the transformation of their conflicts led to experiences of relief focused more on personal satisfaction than political change. This reinforced Maguire's finding about Navajo women (1987:188). The mediators, colleagues and consultants, who also participated in the research, were

certainly critically conscious of the structural abuse they witnessed, but it is not known what their individual responses were to issues of confidentiality and collective responsibility in taking political action.

Although these critical social gerontologists raise many other issues, two relate especially to the themes of ageism and social exclusion which recurred in this research. However it is important to stress that these are also of concern to establishment organisations like Age Concern, and to less radical theorists of old age who criticise the negative images of old people in ageism, and work for their greater social integration.

Mediation Related to Theories of Elder Abuse

It has already been shown clearly through many case references in the EMP research that its findings fill a gap in the theories of elder abuse, which have not previously categorised neighbour conflicts as contributing to its causes, although, as was indicated in the introductory chapter, conflict in general was identified as an important causal factor (Pillemer and Wolf 1986). It significantly adds to increasing knowledge about the emotional dimensions of abuse by showing the extent of suffering experienced by old people in these conflicts, but also their resilience in transforming this in disputes (Felstiner et al 1980/81) through mediation.

It has also been suggested above that findings about the abusive behaviour of old people in contributing to these conflicts adds to knowledge about the etiology of elder abuse, although no judgementalism is involved. Biological and psychological deficits of

ageing, its associated frustrations and psychogeriatric depression, plus failing communication capability can cause old people to escalate challenging behaviour. Although these effects are recognised in the literature, especially with reference to old people with mental health problems, it tends to be underplayed in social discussions of elder abuse. In the American study, **Helping Elderly Victims** (Wolf and Pillemer 1989), there was stress on the role of the perpetrator in determining elder abuse, while that of the victim was conceptualised more in terms of undue passivity rather than in the active contentiousness discussed above.

Even if elderly people are mentally active and well, they may have individually limited resources and capacities for processing the information needed for making effective choices and decisions in confronting conflict with others (Day and Klein 1990). This is where mediation, as a collaborative decision-making process, enables them to consider various options for settlement before selecting the best available, after having listened to the views of others, and negotiated with them.

From a critical perspective it can be suggested that it is in the interests of the ageing lobby to arouse public awareness of elder abuse by concentrating on representing old people as vulnerable and victims. This helps charitable fundraising and deflects social attention from more problematic areas of the political and structural changes necessary to give old people better pensions, improved community care and institutional provision.

Some critical social gerontologists combine these ideas by describing abused old people as social victims who suffer at microsocial and macrosocial levels. This idea has

recurred throughout the research and strongly supports critical social gerontology in its view that structural elder abuse is a category that should be stressed more by theorists, protested about by professional workers, and addressed by government. A welcome move towards this wider interpretation comes in a 1999 Department of Health free consultation paper, **No Secrets: the Protection of Vulnerable Adults**, which describes abuse as a violation of an individual's human or civil rights by any other person or persons. It applies to all adults over 18, so the expected lengthy evaluation of it by representative age groups, and the difficulty of defining human rights (Freedon 1991), may suit government purposes by immobilising the topic at the stage of public and professional debate. As far as the great majority of this study's findings are concerned, these are consistent with those of general gerontology in pointing to the complex nature of elder abuse and its theories.

As elder abuse has not been theorised before with reference to mediation, it is not unexpected that its processes remain to be further discussed in relation to social intervention with older people. Views that mediation should be as minimal as possible have been upheld, but there will be continuing debate between those who see it as discrete and specialised (Roberts S.1988), and those who accept its practice by multidisciplinary workers, although the former idea has mostly been developed in the context of divorce disputes.

Effective Practice Related to Research Findings

The research has been mainly concerned with considering whether mediation can empower older people, describing the social contexts in which it was most effective,

having an immunising, assimilative and accommodative function in contributing to their productive ageing (Brandtstadter and Greve 1994): it encourages them to avoid fear about dealing with future conflicts; it enables them to develop natural skills and self-confidence; and it empowers them to readjust their views about others.

In general, mediation has been shown to work well in both America and Britain, the main difference being that, in the former, multidisciplinary workers were observed as mediators, while in Britain, it was offered in context of peer group services by EMP. In America also, public opinion towards mediation was well-established, as was apparent increasing reluctance (especially by poorer old people) to consult lawyers, whose images in the media showed decreasing popularity. Therefore there were fewer hesitations and uncertainties with which old people approached mediation, and more appreciation of the mediators' role and concern for fair play and fair deals.

This welcoming ambience for mediation is a first condition for good progress and results. In Britain, because of less informed public attitudes to mediation, much time has to be spent in awakening the trust and understanding of participants, which prior home visits encourage. Here, these provide a second condition in encouraging people to confront their conflicts, because respectfully affirming the individual worth and achievement reflected in their home, empowers them to move out of their personal carapace into the social shelter which the mediation space provides. Visits to homes and neighbourhoods also enable mediators to form impressions of the environmental factors which influence people's lives and contribute to conflicts. A third condition on which mediation progress depends is when disputants recognise and acknowledge that only they have the power and

right to determine the outcome of their conflicts, and are enabled to negotiate these constructively. This leads to the fourth optimal condition for mediation success: the empowerment of participants with good mental health and acuity to resolve conflicts through transforming relationships or making specific agreements which will be kept; or who have advocates who can appropriately support disabled people.

It is, perhaps, the impartiality, non-paternalism and powerlessness of the mediator which distinguishes this social intervention from others such as advocacy, counselling and social work (Craig 1999), and is valuable in supplementing these when they fail, are unused, or inhibit people by intrusiveness or bureaucracy. This study showed that mediation appears particularly useful in the sensitive sphere of later life interpersonal conflicts.

British research learnt from the American studies to adapt EMP's work flexibly to meet the needs of their elderly service users, and this adaptable responsiveness enabled mediation to be a more appropriate remedy than the law in many situations, of which another example is given of its potential for informal and relational justice (Burnside and Baker 1993). It will be recalled that much of the theoretical discourse about mediation in the second chapter related to whether it is an appropriate form of dispute resolution.

Social Benefits of the Study Related to Research Findings

Although the next concluding chapter points to the general social significance and value of mediation to older people, research findings not only increased knowledge for academic

and professional workers in the area, but also, through the EMP workshops with older people and community groups outside the study, shared with them what had been learned. This aim of adding to knowledge was the first of the three main benefits of the research which the opening chapter suggested justified it.

The second benefit listed indicated the value of a pilot demonstration project, and it is suggested that the research findings of EMP and its work proved to be a useful social experiment, which continues although its ideas and practices are spreading more widely. These demonstrate how the old people observed transformed anti-social situations into improved relationships with those involved through the constructive process of mediation. This encouraged their vital participation, enabled them to develop their natural abilities, and empowered them to re-integrate themselves into a life world which earlier events of conflict had disorganised or destroyed. Mediation not only helped them to repair social situations, and heal personal relationships, but provided an exemplar for maximising the future contributions they might make to the larger collective tasks of mutual co-operation and shared achievements on which social capital is built.

This was the third social benefit which the study initially hoped to encourage although its limitations restricted such aspirational values from being tested reliably. However intergenerational suspicions and conflicts were shown to be transformed during mediations, repairing the relational discord which erodes human solidarity and social capital. This study, the first in the field to explore the use of mediation by vulnerable older people, suggests that they have a potential for using its benefits productively. If some media millennial correctly forecast that healthier, re-educated elders will become leading

social groups in western nations, they will have major responsibility for building this social capital.

However these developments will also be subject to the more fickle fluctuations of public attitudes, and discussion about public opinion towards mediation is related to British social policy formation in the final chapter. This is why this penultimate one closes with considering next the research findings about public attitudes to mediation, suggested by evaluating the results of the video survey, as this provides conceptual linkage and objective perspectives.

Findings from the Video Research

It should be stressed again that gerontologists considered that the video had no bias to the nursing and medical establishment, nor to the patient. A general overview of the attitudes of 100 respondents from seven mixed groups showed strong majority views (84%) that the abusive incident could have been prevented, with a large number favouring mediation (72%). There was clear linking between perceived good caregiving and the use of confidential mediation skills.

Another majority (85%) considered that the nurse should have communicated better with the patient, while slightly smaller numbers thought that she should have been given choices about taking her medication. Here the group of older respondents, and that of the mediators, were surprisingly negative about the importance of her right to choose. Explanations of this might be beliefs that nurses know best, that medicines are good, or

that ageist ideas had been internalised.

There was an equivocal response (53%) to naming the incident as abusive, thus reflecting professional uncertainties about labelling, while the old people's group expressed strong majority views that the patient was not abused, and that the conflict was caused by her refusing medication: opinions possibly explained as suggested above. The multidisciplinary lay and professional conference participants also found the incident non-abusive, perhaps because they required more evidence-based information before accusing the nurse.

The old people's group held almost unanimous views that the nurse should have used mediation skills and this finding about their positive attitudes is one of the most significant in the research. However its reliability is limited by there being only 12 in the group, and that a fortnight earlier, a presentation about mediation was made at a larger club meeting when some of them were present. It is impossible to assess what impact this made on those few, especially as they had different speakers and subjects in the intervening period, but it is suggested that any undue positive bias towards mediation would have been offset by the fact that none of the group had ever experienced it, or previously considered its value.

In addition another finding reinforces the validity of the above one as a large majority from this group considered that the nurse should have sat and talked confidentially with the patient before attempting medication, stressing the importance of good communication. However, on the whole, the group expressed greater sympathy for

the nurse than the patient who, they appeared to feel, should have been more responsible for her behaviour which had contributed to the incident. This finding supports that which emerged from the ethnographic study of mediation cases indicating that some old people contribute to the development of conflict and abuse because of ageing and personality problems.

In general the video survey showed a large majority of positive social attitudes towards the value of mediation, not only for dealing confidentially with the conflict shown, but also for preventing it. However these views were formed after the video was seen, and cannot predict whether similar favourable attitudes to mediation can be expected from either the general public or relevant professions who have not learned about it. This will be discussed further in the concluding chapter.

Summary

This chapter has reviewed the findings of the American and British empirical work, discussed these with reference to the themes, theoretical framework and social benefits of the study, backed by case illustrations, and noting the support provided by the video survey.

Subject to the research limitations described in the chapter and throughout the study, the findings show strong support for the thesis that mediation can empower old people to resolve interpersonal conflicts which lead to elder abuse and thus contribute to preventing it, but weaker indications that old people can be empowered thereby to prevent

future abuse. Limitations of the methodology have also been indicated throughout the thesis, but the way in which research findings have been linked to its themes and benefits shows consistency, integrity and potential for activating further studies and possible impact on social policy formation.

The study demonstrated the benefits of mediation in long-term care of American elders in different social contexts, and those to a more general population of British old people in which the majority suffered from neighbour conflicts in poor multicultural inner-city areas. The finding that old people suffer from abusive relations with neighbours makes a significant addition to theoretical categorisation about the contexts in which abuse can occur.

It also reinforces critical social gerontology, which is concerned with the structural abuse of old people that affects their lives in impoverished environments, by showing how these contribute to neighbour conflicts. The findings offer little hope that mediation can directly prevent this structural abuse, although suggest that empowering older people more effectively in self-determination may indirectly enable them to challenge the ageism and social exclusion which are linked with this, and legitimise their resistance by bringing it into the public domain.

Empowerment, as a main theme, has been principally demonstrated through EMP's ethnographic case studies which were compressed cameos of how older participants were gradually encouraged and enabled to deal with their troubles confidentially and constructively. It is impossible to assess how far the communication

skills of learning to listen and talk with one another could be a transferable empowerment experience for future relationship negotiations, although it is fair to note anecdotally that some mediation participants feel sufficiently empowered to train as mediators.

The findings have also supported other main themes of mediation being a form of informal relational justice, being seen as a fair, minimal and non-intrusive confidential process, and being especially effective as an early intervention. The old people were empowered to be in charge of coping with their conflict, which they were encouraged to identify or name, and enabled to understand where blame lay so that they could make a rightful claim to fair dealing. Failures have been attributed to refusal of people, and not necessarily the old ones, to participate, or to their mental health problems, rather than to the weakness of mediation or the mediators. From a critical perspective it might be asked whether other interventions such as advocacy or counselling might have been more effective, but such comparisons were not the object of the study. However throughout it older people complained that their recourse to legal, police and social services had received inadequate or no useful responses. There was no research evidence that mediation had been manipulated to suppress conflict and abuse; on the contrary, it led to its detailed articulation.

Surprise findings from the research included learning how deeply old people suffered from what they often described as the hell or nightmare of neighbours who they perceived as causing them trouble. Associated with this was the surprise of finding how many old people contributed to conflict and abusive behaviour. In view of both these findings it was an even greater surprise to learn that all the old people who experienced

mediation appeared to enjoy and be empowered by it, and found it to be a confidential and effective form of relational justice which transformed unpleasant situations into pleasant ones. It was not surprising to find that, for many old people in the British research, mediation was chosen as a last resort, when local authorities, local legal or police services and local dignitaries had failed to respond adequately to their pleas for help.

One reason for the element of surprise attending findings was related to general experience that older people have well-established personalities and long life views which can thus be less amenable to new ideas and processes, so there was some expectation that mediation might appear unattractive or unhelpful to them. Another reason relates to the personal determination of the researcher to approach the study as openly and neutrally as possible, consciously setting aside pre-conceptions based on knowing that mediation had been successful with younger age groups.

The findings also showed that mediation worked surprisingly and equally well in different cultural contexts, and also was as helpful in emergencies and informal mediations as it was in scheduled structured ones. The American research revealed that multidisciplinary staff, especially in nursing homes, consciously used mediation skills, and that LTCOs were trained in these in the sites visited. It was reassuring that so many different workers, in addition to the mediators, had learned about the value of the process and practised it. Even more surprising was finding that these workers combined mediation skills with those of other interventions and considered that it was important to transcend issues of role change in the interests of the old people they served.

The video survey reinforced these findings in that these showed positive attitudes towards using mediation in resolving conflicts that lead to abusive situations, enhanced by the near unanimity of elderly viewers that it is a helpful process.

Despite the limitations of the study, its findings encourage the conclusion that mediation is a confidential, effective and minimal social intervention of informal relational justice which can empower older people to resolve interpersonal conflicts that may lead to elder abuse and thus contribute to its prevention.

CHAPTER 8

MEDIATION: A CRITICAL CHALLENGE FOR SOCIAL POLICY AND RESEARCH

Introduction

Although this study began by describing the converging ideas of mediation and elder abuse in the mid-1980s, it must conclude by admitting that in 1999 the former are far less well known than the latter in Britain, and that neither are prominently placed on the British social policy agenda. However, as the video research suggests, public opinion shows positive views about mediation when its potential is revealed in situations of human need. This concluding chapter of the thesis considers briefly the importance of social attitudes in shaping public policy. It suggests that building social capital has become central to this, and that mediation can contribute by its approach to healing the conflicts of interpersonal relationships, through its work for relational justice and concern for challenging ageism and social exclusion. The social value of mediation is reviewed, and the chapter concludes with raising critical questions for theory development and further research.

Mediation and Public Attitudes

In America elder abuse has become a dominant subject on the gerontology agenda, as it is now becoming in Britain. Central and local government, state health and welfare agencies and the national representative voluntary organisations of older people in both countries have shown welcome co-operative initiatives in funding research into the

different complex areas of elder abuse and multidisciplinary preventative and supportive projects.

In America mediation is a socially recognised and respected process, although not yet applied specifically to elder abuse. By contrast, in Britain, mediation largely remains a low-profile grassroots community movement for ideological reasons (Castells 1983), with a national umbrella body, Mediation UK, although industrial conciliation, family and other types of mediation have greater public recognition. This is partly because British mediation does not have academic, professional and political spheres of influence similar to those in America, and similar to those of gerontology there and here. It is with regard to social policy implications for mediation in Britain that this concluding chapter is concerned, so no further references will be made to its progress in America, except to say that it will undoubtedly have more to teach us.

From a critical perspective it should be pointed out that early British mediation initiatives were supported by grants from mainly Quaker charities, and organisational association with non-violence peace groups which, however appropriate, possibly inhibited public funding, state support and social interest from the financially conservative voluntary sector. The commercial, industrial and professional sectors rely on the expertise and government recognition of ACAS, the Advisory, Conciliation and Arbitration Service, and have ambivalent attitudes towards mediation being freely offered by volunteers, however well trained.

There may be suspicion of mediation's aims to situate services in deprived

environments, to encourage participation by local citizens, often from diverse cultures, and to empower them there in becoming workers, management committee and staff members: these people tend also to belong to radical groups pressing for local social change. There appear to be associated concerns that most social initiatives are developed to promote change, although this should offset doubts that mediation is used to suppress social conflict, at least by the mediators using it who are trained to avoid manipulation.

The public profile of mediation did not substantially increase until the 1996 Family Law Act made it an option for resolving separation and divorce disputes, and the 1999 Civil Procedural Rules recommended its use for settling small claims outside the courts. However Mediation UK and the Elder Mediation Project (EMP) have so far made no major impact on the media, even though EMP ideas have been socially disseminated through the organisational networking indicated in this study, and despite the positive attitudes of service users to mediation which may gradually help to build wider public support. This development may be made more likely because of increasing policy makers' concern to build social capital to buttress democratic foundations shaken by rapid social change.

Mediation and British Policies for Older People: Building Social Capital

Social capital refers to people as empowered citizens actively contributing to social networks, and is a reliable indicator of the underlying health of society, when it values cultural diversity and seeks relational justice in constructive ways (Lee 1999; Wann 1995). Fukuyama (1995) stresses that constructing social norms of trust and reciprocity within a

framework of social justice in democracies relates to the building or reconstitution of social capital, which he considers to be in danger of depletion. In **The Consequences of Modernity** Giddens described the importance of recasting disembedded social relations which are dependent on 'mechanisms of trust' (1990:83). The British Prime Minister's message for the millennium said that 'a successful nation will develop new bonds of connection, building a new civil society' (**The Independent**, 30.12.1999).

This study supports the building of social capital for three main reasons, and argues that mediating the conflicts of older people can contribute to this, and to the prevention of elder abuse. First, it affirms and valorises the contribution that older people can make as citizens, through the wisdom of the 'third age' (Midwinter 1993), their grandparenting and mentoring care of younger generations, and their retirement role in voluntary work, particularly in participation in mediation as service providers as well as users. This fits in with current ideas of active citizenship in a healthy society, where the old live longer, useful lives. The Council of Europe has set the lead with its social protective directives recommending that older people should be safeguarded in conflicts about access to adequate services and benefits.

Second, it is by constructing a stronger framework for a culturally integrated democratic society with equitable social norms that older people's well-being is more likely to be assured, through the affirmation of their rights to justice, and freedom from ageism and social exclusion. Mediation can make a unique contribution to transforming some of the intergenerational conflicts which can lead to social injustice, and to the citizens' juries and debates about welfarism, dependency and non-resuscitation in terminal

care. Allsop's work on change in health care points to the essential role of 'facilitators as change agents' (1990:8), and in an era of sweeping social changes, mediators can contribute to facilitating constructive dialogue between individuals and groups affected by these.

Third, mediation not only aims to empower older people to cope with the conflicts and abusive situations of later life, but offers its services to all citizens, at a time of critical social change, in constructing less violent and more integrated, interactive communities. It is through 'interactive communication' in an 'interactive society' that Castells, in his **The rise of the network society**, considers that social capital is best built, as is social justice (1996:358).

in a world of global flows of wealth, power and images, the search for identity, collective or individual, ascribed or constructed, becomes the fundamental source of social meaning...meaningful social action and transformative politics... (Castells 1996:3-4).

This awareness of the importance of citizens having their individual and collective identities recognised, and their social roles valorised (Race 1999), in building social capital and seeking social justice, is also central to the aims of mediation in many areas. These include new developments in what has been called the electronic continent or **The Rise of the Virtual State** (Rosencrance 1999), the cyberspace where people service home-based telecom retailing, where good communication is essential. Earlier studies (Parkinson 1986;Roberts,M.1988) have shown the importance of mediation in reconstructing family relations as a cornerstone in building social capital, while Wright (1982;1999) has shown its value in rehabilitating and reintegrating offenders into society. Mediation will also

surely find a place in facilitating interpersonal relations in future virtual life, whose internet entrepreneurs may well be wise old people building financial as well as social capital. Their electoral importance was recently stressed by the director general of Age Concern who pointed out that by 2030 one voter in three will be over State retirement age (**The Times** 27 January 2000). This will surely influence governments to reduce its present ageist policies.

An earlier critical perspective suggests that the challenge of disintegration to the social fabric in an era of global change lies in 'new conflicts (which) are not ignited by distribution problems but by questions to do with the grammar of forms of life' and its quality (Habermas 1987:392). This study has attempted to show that mediation processes contribute to the reparative and communicative action which enables people, particularly those in later life, to deal with these conflicts democratically.

It is hoped that the findings of this study have shown that mediation with and for older people, and its promotion of interactive communication in resolving conflict can contribute to building social capital for the network society. However longitudinal and larger studies are needed to test whether this mediation empowers older people not only in resolving immediate conflicts and abusive situations but also to struggle for social justice and challenge ageism and social exclusion. It is realistic to accept that these would require detailed evaluation before mediation could expect support by social policy makers.

In the meantime, as can be seen in the recent publications noted in the next section,

various social initiatives are being developed for improving later life for old people, and those where mediation can play a useful role should be considered here. No general critique of these social provisions is made, as this is not within the scope of this study.

Mediation and Justice: Challenging Ageism and Social Exclusion

The government code of practice, **Age Diversity in Employment** (Department for Education and Employment 1999) fails to recommend legislation against age discrimination, although the report of the Centre for Analysis of Social Exclusion states that in 1999 40% of men between 55 and 65 were without work, a 20% increase since 1979 (Campbell 1999). Unemployment and retirement status loss appeared to be reflected in the anger or depression from which the male participants in the EMP study seemed to suffer, but who appeared to be revitalised by the mediation.

The sense of no longer having a useful role in society can diminish the self-confidence which older people need to cope with the conflicts of later life, and also may make them vulnerable to elder abuse. Mediation can help to restore this self-confidence, and empowerment in communication can open new career or vocational avenues in business or voluntary activities which encourages them to feel socially integrated once more, and reassured that they can still receive relational justice, at least in the everyday events of life. This is conveyed by the title of Wright's latest book, **Restoring Respect for Justice** (1999).

Another government publication, **Who Decides?** (Lord Chancellor's Department

1997) dealt with the conflicts which arise in the social and institutional care of elderly people with mental incapacity, and found them then too difficult to resolve through legislative additions and changes to the existing Mental Health Act, although further parliamentary discussion was promised. It is estimated that 5% of the population aged 65 and over, and 20% of those over 80 suffer from the dementias (Age Concern 1998).

EMP research also revealed the extent to which, through general and mental disability and illnesses, elderly people are especially vulnerable to conflict and abuse, whether real or imagined, and feel unjustly excluded from society. The 1999 Care Standards Bill, and the establishment of a National Care Standards Commission and General Social Care Council, promises improved action about service users' complaints, and mediation can contribute to initially and promptly dealing with some of these, as its fair process will be acceptable to service providers who make reciprocal complaints about users.

In **Modernising Social Services** (Department of Health 1998) and a 1999 Royal Commission on Long Term Care proposals were made for long term care charter, but conflicts about payment for institutional care continue in the courts, as do those about bed-blocking between the health and social services. Older people are caught at the crux of these conflicts, and mediation for these needs to be extended from the present statutory but limited medical conciliation services available if they are to receive greater justice (Craig and De Souza 1999).

Community care conflicts and the need for the empowerment of older people have

been extensively discussed in social work literature (Stevenson and Parsloe 1993), and concern about health care age rationing and social exclusion from the benefits of modern medicine is well argued by them in the press and by Age Concern (1999). Complaints against doctors and hospitals have increased dramatically in recent years, and the 1999 Parliamentary Report of the Select Committee on Public Administration pointed to general practitioners who unjustly and illegally removed old patients from their lists after breakdowns in communications. It is these communication breakdowns with service providers that have often been complained about by EMP's older participants talking about the social injustices they have suffered. It is hoped that the empowering experience of mediation will enable them to negotiate better justice in the future.

It is also noteworthy that the 1999 NHS Health Improvement Programme for Older People recommends action against social isolation, not exclusion. Here the official focus is on the isolation of old people who live alone, as did 59% of those suffering from elder abuse in Durham (Garrod 1993). In addition a report on older people and homelessness showed that nearly 65% of them were derived from unresolved family conflicts (Hawes 1997), a specific example of how social isolation and social exclusion are intertwined.

Although one third of older people live alone, even owner-occupiers have financial problems about the repair of old properties (Phillipson et al 1998). In 1996, of people aged 75 and over, one in five households lived in poor housing, as did 23% of the similarly aged living alone (Age Concern 1998). Their health and sense of well-being suffers accordingly. Although policy makers aim to prevent social isolation through provision of volunteer visitors, and community care services, it has as many political implications as

that of social exclusion, and leads to similar conflicts.

Those relating to neighbour disputes have been uncovered during the ethnographic studies where many older people have complained that these have mainly been caused by social service and housing department policies which have sandwiched them in between problem families in order to prevent ghettosiation of particular populations.

Individual poverty has exacerbated the conflicts of later life with which people have to contend. A 1991 survey for a sample of 10 European countries showed that in England and Wales excess winter deaths were 19% above average (Family Policy Studies Centre 1991); in 1996, 356 of these involved hypothermia (Age Concern 1998), generally associated with the fear of poor old people that they cannot afford heating. In 1995/6 10% of pensioners received income support, and between 34% and 40% who were entitled to it did not claim, while 48% of pensioner households depended on state benefits for at least 75% of their income (Age Concern 1998). Only 2% of people aged 65 or over are high taxpayers (**Hansard** 17.2.98), although a third have moderate income levels and pay income tax.

In visiting the homes of older people participating in the ethnographic study, poor decoration and furnishing could be seen to reflect these statistics, although there was generally great pride taken in cleanliness and homeliness. Nevertheless there was often a sense that they felt constrained by having to make their homes in boxes, the flat-upon-flat tenements in which many of them lived: this was sometimes articulated, but more often suggested by the sighs and shrugs of body language.

They may have been too proud to relate their sufferings from conflict and abuse to individual poverty, but as was shown in the verbatim comments of previous chapters, they certainly complained about the paucity of local services when they had called upon these for help.

This included grievances about lawyers who would not support legal action in neighbour disputes, and reflects larger public dissatisfaction expressed in 1998 by 31,672 complaints about solicitors, a third more than the previous year, and their outstanding backlog of 9000 cases (Office for the Supervision of Solicitors Annual Report 1999).

On the other hand, it has been suggested that this major increase in complaining is part of an unhealthy blame culture, in which the threat of legal action is damaging social capital. It is relevant to quote from a press quotation from a current report, **Courting Mistrust** (Furedi 1999).

With more and more aspects of daily life being brought within a legal framework, relations based on trust were being undermined...advocates of compensation culture always present complaining and blaming as the defiant acts of the active citizen...but too often today blaming offers a popularly sanctioned excuse from tackling the consequences of one's own action... a profoundly disturbing view of how much power human beings had over their lives... painting them as passive, pathetic creatures unable to make real choices...
(**The Independent**, 19.4.99).

Although the critical research perspective of this study has consistently argued for the rights of older people in having access to law, it would therefore depreciate any negative effects of this report in decreasing legal provision for them. It nevertheless

recognises that the quoted comments about passivity and choice are highly relevant to the argument which this study has advanced regarding the value of mediation as an empowering process for dealing with disputes and the conflicts associated with them. It contributes to the energising of old people at times when they may be unduly passive in tolerating injustice.

Mediation: Its Social Significance and Value

It was the Home Office Minister, Paul Boateng, at Mediation UK's 1999 annual conference, who stated that his critical perspective of mediation was that it is essential for social communities. He said it was 'an important process for preventing deterioration in relationships' and that it was integral to the government's vision of enabling and empowering citizens to bring about social change in peacebuilding ways (Barker 1999).

He added that mediation was of social value because its work was based on recognising human rights and responsibilities, contributing to the prevention of social exclusion and all forms of discrimination, and providing citizens with restorative justice. He also saw mediation processes as safeguards for social justice, a concern comparable to that of Allsop for health services in seeking 'mechanisms to protect the individual' in 'voicing a grievance', over the increasing number of patients' complaints (1984/95:249).

At the same time, retired law lord, Lord Griffiths, who became a mediator four years ago, represents judicial concern to see the expansion of mediation in the public sphere, and has been reported as referring to one case in which 'it probably saved £100

million because they would have faced at least five years' litigation' (**The Times** 3.8.99).

The Centre for Dispute Resolution in Britain, with its many lawyer members, was involved in a 100% rise of commercial mediations in the first quarter of 1999, as compared to that of 1998. These three examples showing the legal value of mediation are reinforced by its social value being recognised through increasing numbers of community mediation services developing each year, the current total being about 150.

However these receive little government funding, and none would be available for financing the specialised work with older people which has been the subject of this research. Hence its reliance on the social diffusion of its ideas into organisations which are well funded and which can use and adapt mediation for older people, while encouraging the community services just mentioned to have their own mini-EMP projects. Here EMP's research work has already had practical applications, as many such services have now started specialist work with older people, following initial training by EMP. EMP has also trained health and social workers, nursing home and hospital staff, lay assessors who visit registered care homes and workers in an elder abuse unit.

It is also of significance that the author of this thesis has been appointed as a voluntary consultant and active mediator for Age Concern, influencing the construction of a new title for its sheltered housing sector: AIMS - The Advisory, Information and Mediation Service for retirement housing in public and private spheres. The manager of AIMS attended an early training workshop of EMP, and despite being a barrister specialising in housing law, consequently decided to diffuse the ideas and processes of

mediation throughout her organisation, and recommend it to all the service providers in sheltered housing resourced by AIMS. This policy shift coincided with mediation training for Housing Ombudsman staff by Mediation UK members.

This type of policy initiative, together with the possible dissemination of this thesis through discussion in future conferences, may contribute to accelerating the fundamental legitimisation process of mediation for older people, by which academic departments, educational and training agencies could advance and resource its development. The original small pioneering demonstration project might provide a model for larger enterprises providing services to, and attracting support from, an ageing population.

This indirect route towards influencing British social policy would be facilitated by this research project being publicised and referenced in the main texts of social gerontology in this country and America, although it has not been possible to extend this study to evaluating its significance to current social policy developments there.

The assistance of critical social gerontologists in advancing these aims depends largely on their academic legitimisation and acceptance of mediation as a process which empowers people to resist elder abuse, ageism, social exclusion and powerlessness. This study has been concerned with such empowerment.

Empowerment through social reconstruction: reversing breakdown...by helping older persons experience a sense of control in the management of their lives, and by promoting older persons as capable and self-determined...it is possible to reverse the cycle, so that it may be self-

perpetuating in a positive direction...empowerment is self-perpetuating...
(Myers 1995:116-17).

Perhaps the most critical task of this research is to reach the old people whose empowerment has been its concern, by enabling them to increase their self-determination in facing conflicts and abuse. In gerontological language, their social identities are continuously reconstructed through relational and remedial processes of negotiative communication (Hummert et al 1994). When this is destructive it can destroy self-esteem. When they have constitutional or ageing vulnerabilities to mental ill health, the critical stress of conflict and abuse can traumatically endanger their lives, unless quick constructive help is available.

Publicising the work of EMP initially encouraged some such old people to seek the help of mediation. It is hoped that this study will enable its readers to refer more of them to mediation in the future. However further exploratory and action research is needed to examine in far greater detail, and with larger and better sample populations, some of the many unanswered questions this present study has raised. It is likely that until then no major public investment will be made into mediation for older people.

Critical Questions for Theory Development and Further Research

This thesis began by pointing to the social convergence of the ideas of elder abuse and mediation, and the social confluence of the theoretical perspectives shaping these, but stressing that different trajectories were followed. This study has attempted to show the social value of relating them to each other, and much wider work on theory development

needs to be undertaken. This must begin by re-addressing methodology theory, in order to construct improved research projects.

Allsop (1991) comments that it is rarely possible to follow Martin Bulmer's natural science model (1977) in designing and evaluating social interventions, which benefit more from pluralistic approaches by those who are stakeholders in studies. She suggests that research projects, from their beginning, are linked with stakeholders who collaborate in planning objectives and criteria for evaluation, and who monitor the work. Allsop points to the additional advantage of this approach which enables research projects to create beneficial coalitions between stakeholders and service users (1991:97-107). Although EMP consulted stakeholders, especially old people, it would then have had great difficulty in obtaining further sponsoring collaboration, whereas now, after EMP's initial groundwork, future related research could successfully follow this guidance.

In America gerontology could develop greater interest in neighbour conflict and elder abuse, as there is also increasing social concern there for enabling old people to live independently not institutionally. Moody, as a critical social gerontologist, sees the value of mediation strengthening 'the "ideal speech" condition (which) is to promote the concrete conditions that promote such communication in all stages of life, including old age (1992a:39). He goes further in urging development of theory and praxis with regard to the power of such communication for influencing the beneficial structural and social reforms which are necessary.

Resolution of questions about distributive justice will
depend on whether the family can achieve means of free

and open communication about the problems they are facing...abstract principles like autonomy and beneficence are secondary to the social process of communication itself...(Moody 1992a:61,64)

In America, where academic institutions studying mediation are numerous in comparison to the very few in Britain, dispute resolution theory has shown little known focus on the conflicts with which gerontology is concerned, although this present study should prompt wider research into the relation of general community conflict to that which afflicts its increasingly old population. There is a good potential for this as mediation has always been regarded as a flexible process with adaptable and non-doctrinal ideas.

In Britain few critical social gerontologists have begun to examine the significance of mediation as an empowering process for older people, although Biggs is prominent among these in proposing further study of intergenerational mediation, and a 'shopping list of new services...that can be called into play as conflicts of perception and interest arise' (1993:168). Mediation discourse also needs to have its links strengthened with communication and relationship studies, which were mentioned in the second chapter, but which this study has not had the space to deal with in the detail deserved. Here Moody's (1998a) concepts of the emotional and spiritual aspects of ageing coincide with those of Wright (1977) in suggesting that experience shows that mutual forgiveness in relational conflict is important to its healing. Research is needed to ask how far mediation (and other interventions) should consider this an appropriate outcome, in which situations, and where it might be contraindicated?

British theory development among mediators with regard to the conflicts of old

age has to be encouraged, and it is hoped that this present research, and raising the right questions for future researchers to answer, will widen perspectives in this respect. The author's concern is that these should encourage more critical action research, and although they relate to future British studies, they may also be of interest to American researchers despite their current academic agendas being unknown.

The main other unanswered questions of this research relate to how far old people experience mediation as socially just and personally empowering, and whether its effects last. When, why and how do these enable them to deal with the future conflicts of later life more productively and resist abuse in any form? When, why and how do they not? Why and when do old people choose mediation? In what ways would they like to see it improved?

Another set of questions involve examining which conflicts concern old people most. How do they deal with these? How far do these and abusive situations relate to their general suffering from ageism, disablism, racism, sexism, social exclusion and other aspects of discriminatory social attitudes and an inequitable infrastructure? Which population groups are most vulnerable? In what circumstances? Does mediation conceal any discriminatory practices? If so, how and when? Can mediation be used politically to suppress social conflict? If so, when and how? Or can it assist older people in their struggle for social justice and human rights? If so, in what circumstances and how?

Associated with this group of questions are those which relate to the appropriateness of mediation in dealing with different conflicts and abusive situations, in

different contexts, and with different populations of old people. Why, when and how it should be contraindicated? Why, when and how does it fail, or could do harm? Why, when and how it might prevent other and better remedies from being tried?

These lead to further questions comparing the usefulness and durable effects of mediation in comparison to other forms of social intervention such as advisory, advocacy, counselling and other services. From which services do which groups of old people benefit most? When, how and why? Does support for the idea of mediation as a minimal social intervention (Roberts, S. 1986) mean that it should only be used consecutively with other services, and by its own trained workers; or, as shown in the American study, should they, or other workers, use it concurrently in situations where user need necessitates this?

The many issues regarding the mental ill health of elderly people need especially sensitive, and arguably the most urgently needed research. How far are community conflicts involving older people contributed to by their impaired mental health? Can mediation be remedial or not in supporting or increasing their capacities for situational control? When and how?

Other related questions arise with regard to the so far less understood conflict and abuse situations that occur in the private family care of older people, especially those with mental or physical ill health problems. Can or cannot mediation play a helpful role? If so, why, when and how? Research in this area would also help us to understand more clearly the relation of abuse to ageism: is the former just an expression or materialisation of the latter, or is there a fundamental difference? A closer look at family situations where a

loving daughter nurses her doubly incontinent senile mother may reveal the potential for mistreatment, but its source is unlikely to be ageism of the daughter, but the failure of community care. In other intimate relationships between siblings, same sex partnerships, or live-in minders of independent elders, personality conflicts, sexual jealousies and fiduciary disputes may determine abusive behaviour rather than ageist attitudes.

Similar issues arise in the more difficult area of the institutional care of older people where advancing dementias increase conflict and abuse situations, in which suffering and violence can also be caused to carers. Questions involve those which seek detailed understanding of the stages at which mediation might or might not be helpful, and practical ones which relate to how it might be introduced to, and used by management and staff.

Here more conceptual issues are suggested, as research is needed to explore the relation between the different usage and effectiveness of formal and informal mediation with its various types, and mediating skills. Questions involve asking how far the helpfulness of mediation for older people depends on it being offered by peer group trained volunteers, by any fully qualified mediators, or by multidisciplinary lay or professional workers who learn mediation skills.

Another area in researching the practice of mediators involves asking questions about the significance of their different cultural backgrounds to the social context in which they work, and asking how far their helpfulness depends on eliciting, using or adapting the traditional conflict resolution processes which ethnic minority groups have evolved

through their histories.

Another question asks how far mediation relates to the increasingly salient subject of public complaints procedures. Allsop's work (1984/1995;1991;1996) has shown their importance in managing future health care, indicating where mediation has played a role. How will this develop in the future? What further use will social and other public and voluntary services make of mediation? At a deeper level, how will theory develop so as to integrate grievances, complaints, conflicts and disputes into a more coherent framework for understanding social difficulties and discord?

Wider social issues also need exploration by critical action research. These include asking how public education is to be balanced between increasing social toleration, social intervention, social protection and social prosecution of interpersonal conflicts; and how changing public definitions and remedies for abuse are to be balanced between prevention, rehabilitation and criminalisation.

These questions selected from many others show the scope for short and long-term studies. These could be co-operative enterprises supported by departments of gerontology or sociology, with research facilities in mediation services, in the representative voluntary organisations of older people, or in statutory or independent agencies involved with their care, or in combinations of these. The active participation of the older people involved should be sought in planning, designing, activating and evaluating the research. This could also contribute to the objectivity of the research, and ensure that it was not designed just to enhance research department prestige or exploit specialist skills.

This is a convenient place at which to readdress questions about the subjectivity of this reflexive practitioner, the researcher, who tried to put aside past experiences of successful mediation, and avoid having positive expectations of good results from the present research. This appeared to have been fairly satisfactorily achieved in terms of the number of surprise findings, as discussed earlier. The fact that mediators are trained to encourage positive, if realistic, responses to mediation by participants, with the assurance that their mutually constructive activity should lead to improved outcomes of conflicts, certainly influences the atmosphere of mediation, but mediators rigorously refrain from advising people about the choices, decisions and agreements they make. There is an anecdotal consensus amongst multidisciplinary personal service workers that it is the empathetic attention which is given to people which is the major influence in encouraging their responsiveness, as the presence of outside third parties, including friends and families, gives them feelings of importance and legitimacy. This kind of influence attended the researcher and mediators but did not prejudice the impartiality of mediations.

What might be called the social reconstruction of the ideas of the researcher took no explicit shape during the project, mainly because of intense outward focus on observing and listening to the participants, including all those who had collaborated in the project, plus continuing to learn from ongoing academic reading and discourse. Reflexive activity tended to be concentrated on ensuring that the incoming data could be ordered and evaluated so as to provide research findings that were as reliable as possible. There was also concern to remain open-minded throughout, and resist conclusions being prematurely formalised, as has been shown by research findings being accompanied by indications of their limitations.

One major development of an existing personal critical idea, which resulted from the research, was the realisation that individualised justice increasingly needs to be linked with social justice. Although the research showed the uniqueness of each individual who had to be respected, it uncovered many conditions of social injustice which should be politically addressed. How can mediators expand their knowledge and activities to assist in this collective task? How can they achieve objectivity and not become politicised? Social action research benefits from reflexive practitioners (Schon 1983) and we constantly need to ask how we and those we work with are influenced. Why, when and how are attitudes and actions affected? What are the criteria for critical participative action research in the millennium? How will internet communication affect us all?

It is hoped that this present study, the first of its kind in a currently important area of social relationships, will open up new critical research sites where the interests, needs and rights of older people can be focused on in relation to their status and inclusion in the general citizen population.

Summary

This chapter showed the importance of social attitudes to the development of public policy, and the implications for the study's findings about the contribution which mediation can make in resolving the interpersonal conflicts of old people which lead to elder abuse. It was suggested that this conflict resolution contributes to the building of social capital in which social injustice, ageism and social exclusion have to be challenged in constructing a democratic society. Government policies for promoting this in respect to

the care of its older citizens were noted.

The social value of mediation was stressed, by encouraging good social relationships, and empowering older people in coping constructively with the conflicts and abusive situations of later life. Ways were suggested for diffusing the ideas of mediation and its implications for social policy. Questions about developing theory and further research were explored, suggesting that the present study has opened up a new area of social knowledge, and new fields for social action, in critical sociology and critical social gerontology. Three final quotations conclude this chapter. The first comes from Moody (1992), a critical social gerontologist whose theories influenced the thesis, as he is concerned about finding ways of preventing problems of elder abuse as part of developing intergenerational justice.

How we frame the problem - as 'conflict', as 'competition', as 'compromise' - will shape how we look for the terms of a resolution... the difficult problem is how to find a forum and a language in which 'fair negotiation' of intergenerational claims is possible, in which all parties with a stake in the outcome can have their voices heard (Moody 1992:11).

This study suggests that the early use of mediation in conflicts involving older people is a valuable first step for them to take in what may be a longer journey, which we all share, towards intergenerational justice and the struggle against abuse, ageism and social exclusion in building social capital.

The second quotation refers to the oxymoronic theme of the power of the powerless, which Vaclav Havel championed as the candle power that illuminated the velvet revolution in Czechoslovakia, of which he became president. He has said that

power is relational, and that there is a fundamental inability of rulers to control the micro movements of their subjects, whose own power is demonstrated in their capacity for self-organisation and self-consolidation. The relevance of this to the discourse of this thesis is transparent and enhanced by the following edited quotation of Havel's views.

The cultivation of mechanisms of individuation, self-protection and co-operation in areas 'underneath' and beyond the reach of the State... the empowerment of the powerless first and foremost requires people to build open, flexible structures of resistance that run parallel and underneath the late-socialist State. This is best done from below by...small-scale initiatives (Keane 1999:275)

This quotation is relevant for mediation which has been embedded in the history of an alternative dispute resolution movement, which has offered alternative justice parallel to that of the State, and which is developing through small-scale initiatives like those of EMP. Havel's belief in the power of the powerless, rather like that of Freire in **Pedagogy of Hope** (1996), encourages the hope of this author that the grassroots mediation of EMP may empower older people to resist the social injustices and structural abuse from which they suffer.

Isha Mckenzie-Mavinga (1995), the volunteer mediator whose poetic words preceded this thesis, should close it.

Mediation is a thing
undermines speculation
gives a row direction
engenders integration
steps toward deflation
disseminates pollution

finalises revolution
settles altercation
halts humiliation...

(Extract from **Ironing It Out**
by Isha Mckenzie-Mavinga
with thanks to Greenwich Mediation Service)

References and Bibliography

- Abel,R.(1982a),**The Politics of Informal Justice**,Vol.1,Academic Press:New York.
- Abel,R.(1982b),**The Politics of Informal Justice**,Vol.2,Academic Press:New York.
- Abramson,J.(1990),`Enhancing Patient Participation',in **Social Work in Health Care**,Vol.14,No.4,pp.53-71.
- Ackroyd, S. and Hughes,J.(1981),**Data Collection in Context**, Longman:London.
- Acland,A.(1990),**A Sudden Outburst of Common Sense**, Hutchinson Business Books:London.
- Action on Elder Abuse (AEA),(1995), **Bulletin**,No.11,May/June
- Adams,R. and Blieszner,R.(Eds.)(1989), **Older Adult Friendship**, Sage:London.
- Age Concern England (1998),**Older People in the United Kingdom:Some Basic Facts**,Age Concern England:London.
- Age Concern England (1999),**Turning Your Back on Us:Older People and the NHS**,Age Concern England:London.
- Aitken,L. and Griffin,G.(1996),**Gender Issues in Elder Abuse**,Sage:London.
- Albery,N.,Elliot,G. and Elliot,J.(1993),**The Natural Death Handbook**, Natural Death Centre:London.
- Albrecht,T. and Adelman,M.(Eds.)(1987),**Communicating Social Support**, Sage: London.
- Alexander,C. and Becker,H.(1978),`The Use of Vignettes in Survey Research',in **Public Opinion Quarterly**,Vol.42,pp.93-104.
- Alinsky,S.(1971),**Rules for Radicals**,Vintage:New York.
- Allen,C. and Skinner,C.(Eds.)(1991),**Handbook for Research Students in the Social Sciences**, Falmer Press:London.
- Allsop,J. (1984/95), **Health Policy and the NHS:Towards 2000**,Longman:London.
- Allsop,J.(1990),**Changing Primary Care: The Role of the Facilitators**, King's Fund Centre:London.

Allsop,J.(1991), 'An Outside Assessment: A Commentary' in V.Morley Tyrell Evans, R. Higgs, P.Lock, with J.Allsop, **A Case Study for Developing Primary Care:The Camberwell Report**, King's Fund Centre:London.

Allsop,J. and May A.(1986),**The Emperor's New Clothes: Family Practitioner Committees in the 1980s**, King Edward's Hospital Fund for London:London.

Allsop,J. and May,A. (1993) 'Between the Devil and the Deep Blue Sea:Managing the NHS in the Wake of the 1990 Act', in **Critical Social Policy**, Vol.13,No.2. pp.5-22.

Allsop,J. and Mulcahy,L.(1996),**Regulating Medical Work: Formal and Informal Controls**, Open University Press:Milton Keynes.

Alper,B.and Nichols,L.(1981),**Beyond the Courtroom**, Lexington:MA.

American Association of Retired Persons (AARP),(1988),**Helping Seniors-Seniors Helping**,Monograph, AARP:Washington DC.

American Association of Retired Persons (AARP),(1991), 'Long-term Care Ombudsman Program', **Fact Sheet on Nursing Homes**, AARP:Washington DC.

AARP,(1992),Report on Health Care Administration, AARP:Washington DC.

AARP,(1993),**Bulletin**, Vol.34,No.6,(Issue on Medicare Bills),AARP: Washington DC.

American Bar Association (ABA),(1990),**Family Dispute Resolution**, ABA: Washington DC.

ABA,(1991),**Patient Self Determination Act State Law Guide**,ABA:Washington DC.

ABA,(1993),**Advanced Directives**, ABA:Washington DC.

American Society on Aging (ASA),(1992),Report on Homelessness, **Aging Today**,(no details).

Ammerman,R. and Hersen,M.(Eds.)(1991), **Case Studies in Family Violence**, Plenum Press:New York.

Andrews,M.(1991),**Lifetimes of Commitment**, Cambridge University Press: Cambridge.

Antaki,C.(1994),**Explaining and Arguing**,Sage:London.

Apple,M. (1991), 'Series Editor's Introduction',in P.Lather,**Getting Smart**, Routledge:London,pp.vii-xi.

Argyle,M. (1967),**The Psychology of Interpersonal Behaviour**,

Penguin:Harmondsworth.

Argyle,M.(1973),**Social Encounters**,Penguin:Harmondsworth.

Argyle,M.(1991),**Cooperation and the Basis of Sociability**,Routledge:
London.

Argyle,M. and Henderson,M.(1983),**The Anatomy of Relationships**,Penguin:
Harmondsworth.

Ashton,G.(1994), 'Action on Elder Abuse - Has it got its Focus Right?',in
AEA Bulletin,No.6,pp.1-3.

Atchley,R. (1994),**Social Forces and Ageing**, Wadsworth:Belmont CA.

Auerbach,J.(1983),**Justice without Law**,Oxford University Press:New York.

Baker,A. (1975), 'Granny Battering',in **Modern Geriatrics**,Vol.5,No.8, pp.20-24.

Baldamus,W.(1984), 'The Category of Pragmatic Knowledge in Sociological
Analysis',in M.Bulmer (Ed.)**Sociological Research Methods**,Allen
and Unwin:London,pp.277-293.

Baldwin,J.(1985),**Pre-Trial Justice**,Blackwell:Oxford.

Bales,R.(1951),**Interaction Process Analysis**,Addison Wesley:Cambridge:MA.

Banakara,W.(1971),**Training in In-depth Interviewing**,Harper and Row:New York.

Barglow,R.(1994),**The Crisis of Self in the Age of Information**,Routledge:
London.

Barker,T.(1999), 'Mediation Essential to Successful Communities', in
MEDIATION,Vol.15,No.3,p.1.

Barnes,M. and Duck,S.(1994), 'Everyday Communicative Contexts for Social Support',
in B.Burleson, T.Albrecht, D.Goldsmith and I.Sarason (Eds.) **The Communication of
Social Support**,Sage:London.

Barton,D.(Ed.)(1996),**Disability and Society**, Carfax Publishers:Oxford.

Barusch,A.(1991), **Elder Care**, age:London.

Bauman,Z.(1992), **Intimations of Modernity**, Routledge:London.

Bauman,Z.(1993), **Post Modern Ethics**, Blackwell:Oxford.

Baxter,L.(1988), 'A Dialogic Perspective on Communication Strategies in Relationship

Development', in S. Duck (Ed.), **Handbook of Personal Relationships**, John Wiley: New York, pp.257-273.

Beech House Inquiry (1999), Camden and Islington Community Health Services NHS Trust: London.

Bennett, G. and Kingston, P. (1993), **Elder Abuse: Concepts, Theories and Interventions**, Chapman and Hall: London.

Bennett, G., Kingston, P. and Penhale, B. (Eds.) (1997), **The Dimensions of Elder Abuse**, Macmillan: London.

Bennis, W., Benne, K. and Chin, R. (Eds.) (1984), **The Planning of Change**, Holt Rinehart and Winston: New York.

Beresford, P. and Croft, S. (1986), **Whose Welfare? Private Care or Public Services?** Brighton Polytechnic: Brighton.

Bergeron, R. (1989), Book Review of 'Older People and their Families' by Gwyther, L., Gold, D., and Hinman-Smith, D., in **Journal of Elder Abuse and Neglect**, Vol.1, No.4, pp.91-94.

Biggs, S. (1993), **Understanding Ageing**, Open University Press: Milton Keynes.

Biggs, S. (1996), 'A Family Concern: Elder Abuse and British Social Policy', in **Critical Social Policy**, Vol.47, No.16, pp.63-88.

Biggs, S., Phillipson, C. and Kingston, P. (1995), **Elder Abuse in Perspective**, Open University Press: Milton Keynes.

Bitten, J. (1990), 'Spiritual Maturity in Psychological Development', in **Journal of Religion and Aging**, Vol.7, Nos.1-2, pp.41-53.

Blakemore, K. and Boneham, M. (1994), **Age, Race and Ethnicity**, Open University Press: Milton Keynes.

Blanton, D. (1992), 'Mediation and the Elderly', **Elder Abuse Forum**, Vol.6, No.3, pp.5,7.

Blanton, P. (1989), 'Zen and the Art of Adult Protective Services', in **Journal of Elder Abuse and Neglect**, Vol.1, No.1, pp.27-34.

Block, M. and Sinnott, J. (Eds.) (1979), **The Battered Elder Syndrome**, University of Maryland Press: MD.

Bonnyman, G. (1992), 'Moral Malpractice', Paper Presented to the Annual Meeting of the National Citizens' Coalition for Nursing Home Reform (NCCNHR):

Washington DC,pp.12-17.

Borland,M.(1976), **Violence in the Family**, Manchester University Press: Manchester.

Bornat,J.(Ed.)(1993),**Reminiscence Reviewed**,Open University Press:Milton Keynes.

Bottomley,K.(1979),**Criminology in Focus**,Robertson:Oxford.

Bourlet,A.(1990),**Police Intervention in Marital Violence**,Cambridge University Press:Cambridge.

Bowles,G. and Klein,R.(1983),**Theories of Women's Studies**,Routledge:London.

Brandtstadter,J. and Greve,W.(1994), 'The Aging, Self-stabilizing and Protective Process', in **Developmental Review**, 14,pp.52-80.

Breckman,R. and Adelman,R.(1988),**Strategies for Helping Victims of Elder Abuse**,Sage:London.

Bright,L. (1995),**Care Betrayed**,Counsel and Care for the Elderly:London.

Bromley,D.(1993),**Reputation,Image and Impression Management**,John Wiley: New York.

Brubaker,T.(1990),**Family Relations in Later Life**,Sage:London.

Bulmer,M.(1977),**The Uses of Social Research**,Macmillan:London.

Bulmer,M.(1982),**The Uses of Social Research**,Allen and Unwin:London.

Bulmer,M.(Ed.)(1984),**Sociological Research Methods**,Allen and Unwin:London.

Bulmer,M.(1987),**The Social Basis of Community Care**,Allen and Unwin:London.

Burleson,B.,Albrecht,T.,Goldsmith,D. and Sarason,I.(Eds.)(1994),**The Communication of Social Support**,Sage:London.

Burnside,J.and Baker,N.(1993),**Relational Justice**,Waterside Press: Winchester.

Burr,W. and Klein,S.(1994),**Re-examining Family Stress**,Sage:London.

Burston,G.(1975), 'Granny Bashing',in **British Medical Journal**,3 September.

Burton,J.(1990),**Conflict Resolution and Prevention**,Macmillan:London.

Bush,R. and Folger,J.(1994),**The Promise of Mediation**, Jossey-Bass:SF.

- Butler,K.,Carr,S. and Sullivan,F.(1988),**Community Advocacy**, National Citizen Advocates:London.
- Buttny,R.(1993),**Social Accountability**,Sage:London.
- Bytheway,B.(1995),**Ageism**,Open University Press:Milton Keynes.
- Cain,M.(1988), 'Beyond Informal Justice',in R. Matthews (Ed.), **Informal Justice**,Sage:London,pp.51-86.
- Cain,M. and Kulscar,K.(Eds.)(1983),**Disputes and the Law**,Akademiai:Budapest.
- Californian Association of Area Agencies on Aging,(1995),**An Aging Agenda, 1993-1995**,San Francisco CA.
- Callahan,D.(1987),**Setting Limits**,Simon and Schuster:New York.
- Callahan,D.(1991), 'Distributive Justice',in N.Jecker (Ed.),**Aging and Ethics**, Humana Press:Clifton NJ,pp.219-26.
- Campbell,N.(1999), **The Decline of Employment among Older People**,Centre for Analysis of Social Exclusion:London.
- Canary,D. and Stafford,L.(Eds.)(1994),**Communication and Relational Maintenance**,Academic Press:New York.
- Castells,M.(1983),**City and the Grassroots**,Arnold:London.
- Castells,M.(1996), **The Rise of the Network Society, Vol.I The Information Age: Economy, Society and Culture**, Blackwell:Oxford.
- Chadwick-Jones,J.(1976),**Social Exchange Theory**,Academic Press:New York.
- Cicerelli,V.(1992), **Family Caregiving**,Sage:London.
- Citizens' Charter Complaints Task Force (1994),**Effective Complaints Systems**, HMSO:London.
- Clark,P.(1991), 'Ethical Dimensions of Quality of Life in Aging',in **The Gerontologist**,Vol.31,No.5,pp.631-39.
- Cloke,C.(1983),**Old Age in the Domestic Setting**,Age Concern:London.
- Coalition of Adults for the Rights of the Infirm Elderly (CARIE),(1992), **Mission Statement**, CARIE:Philadelphia PA.
- Cohen,S.(1985), **Visions of Control**, Blackwell:Oxford.

Collopy,B.(1992),**The Use of Restraints in Long Term Care**, American Association of Homes for the Aging:Washington DC.

Coser,L.(1956),**The Functions of Social Conflict**,Free Press:New York.

Counsel and Care for the Elderly (1997),**Harm's Way**,Counsel and Care for the Elderly:London.

Coupland,N.,Coupland,J. and Giles,H.(1991),**Language, Society and the Elderly**,Blackwell:Oxford.

Cowgill,D. and Holmes,D.(Eds.)(1972), **Aging and Modernization**, Appleton-Century-Crofts:New York.

Cox,B. and Waller,L.(1991),**Bridging the Communication Gap with the Elderly**,American Health Association:Chicago OH.

Craig,Y.(1991),**Community Conflict and Community Conciliation**,MA Dissertation,University of Leicester:Leicester.

Craig,Y.(1992),`Elder Mediation',in **Generations Review**,Vol.2.No.3,pp.4-5.

Craig,Y.(1994),`Elder Mediation: Can it Contribute to the Prevention of Elder Abuse and the Protection of the Rights of Elders and their Carers?', in **Journal of Elder Abuse and Neglect**,Vol.6,No.1,pp.81-96.

Craig,Y.(1995),`EMPowerment:not EMPire-building',in **Generations Review**, Vol.5,No.1,pp.7-8.

Craig,Y.(1996a),`Elder Mediation Project',in **Elders**,Vol.5,No.2,pp.16-24.

Craig,Y.(1996b), `Patient Decision Making: Medical Ethics and Mediation', in **Journal of Medical Ethics**, Vol.22,No.3,pp.164-67.

Craig,Y. (1997a), **Elder Abuse and Mediation: Exploratory Studies in America, Britain and Europe**, Avebury:Aldershot.

Craig,Y.(Ed.)(1997b),**Changes and Challenges in Later Life**, Third Age Press:London.

Craig,Y. (Ed.)(1998),**Advocacy, Counselling and Mediation in Casework**, Jessica Kingsley Publishers:London.

Craig,Y. (1999),**Peacemaking for Churches**, SPCK:London.

Craig,Y. and Woods,P.(1993),`Elder Abuse',in **Police Review**, **22 January**, pp.28-9.

Croft,S. and Beresford,P.(1992),`The Politics of Participation',in **Critical Social Policy**,Vol.35,pp.20-44.

Cumming,E.and Henry,W.(1961),**Growing Old**,Basic Books:New York.

Daatland,S.(1992),`The Public-Private Mix',in **European Journal of Gerontology**,Vol.1,No.3,pp.38-51.

Dalley,G.(1988),**Ideologies of Caring**,Macmillan:London.

Danzig,R. and Lowy,M.(1975),`Everyday Disputes and Mediation in the United States',in **Law and Social Review**,Vol.9.No.4,pp.675-94.

Darvill,G.(1997), **Managing Contradictions and Avoidance**,National Institute for Social Work:London.

Davie, G. and Vincent,J. (1998),`Religion and Old Age',in **Ageing and Society**,Vol.18,pp.101-110.

Davies,S., Elizabeth,S., Hanley B., New,B. and Sang,B. (1999),**Ordinary Wisdom**,Kings Fund:London.

Davis,G.(1988),**Partisans and Mediators**,Clarendon:Oxford.

Davis,G. and Roberts,M.(1988),**Access to Agreement**,Open University Press:Milton Keynes.

Davitt,J.(1992),**The Patient Self Determination Act**,Paper Presented to the 1992 NCCNHR Annual Meeting,Washington DC.

Day,R. and Klein,R.(1990),**Inspecting the Inspectorate:Services for the Elderly**,Joseph Rowntree Memorial Trust:York.

Day,R.(1996),`A Postmodern Perspective on Feminist Gerontology',in **The Gerontologist**,Vol.36,No.5,pp.674-80.

De Beauvoir,S.(1970),**Old Age**,Penguin:Harmondsworth.

Decalmer,P. and Glendenning,F.(1993),**The Mistreatment of Elderly People**,Sage:London.

Department for Education and Employment (DEE)(1999),**Age Diversity in Employment**,DEE:London.

Department of Health (DOH)(1998),**Modernising Social Services**,DOH:London.

Department of Health (DOH)(1999),**No Secrets: The Protection of Vulnerable Adults: Guidance on the Development and Implementation of Multi-agency Policies**

and Procedures,DOH:London.

Derlega,V.,Metts,S.,Petronio,S. and Margolis,S.(1993),**Self Disclosure**, Sage:London.

De Souza,M. and Craig,Y.(1998),`Cross-Cultural Mediation', in Y.Craig (Ed.) **Advocacy, Counselling and Mediation in Casework**, Jessica Kingsley:London, pp.215-225.

Deutsch,M.(1973),**The Resolution of Conflict**,Yale University Press:New Haven,CT.

Dingwell,R. and Eekelaar,J.(Eds.)(1988),**Divorce, Mediation and the Legal Process**,Clarendon:Oxford.

Dispute Resolution Service (DRS),(1992),Information Leaflet,DRS:Olathe,KA.

Dobash,R. and Dobash,R.(1980),**Violence against Wives**,Open Books,London.

Dobrof,R., Moody,H. and Disch,R. (1998) `Dignity, Cultural Power and Narrative Redemption',in **Journal of Gerontological Social Work**,Vol.29,Nos.2-3, pp.93-109.

Dolon,R. and Blakeley,B.(1989),`Elder Abuse and Neglect',in **Journal of Elder Abuse and Neglect**,Vol.1,No.3,pp.31-49.

Donohue,W. and Kolt,R.(1992), **Managing Interpersonal Conflict**,Sage:London.

Donzelot,J.(1980),**The Policing of Families**,Hutchinson:London.

Downes,D. and Rock,P.(1979),**Deviant Interpretations**,Robertson:Oxford.

Downes,D. and Rock,P.(1988),**Understanding Deviance**,Clarendon:Oxford.

Doyal,L. and Gough,I.(1991),**A Theory of Human Need**,Macmillan:Basingstoke.

Duck,S.(1977),**The Study of Acquaintances**,Saxon House:Hants.

Duck,S.(Ed.)(1988),**Handbook of Personal Relationships**,John Wiley:New York.

Duck,S.(1991),**Friends, for Life**,Harvester:Sussex.

Duck,S.(1992),**Human Relationships**,Sage:London.

Duck,S.(1993),**Social Context and Relationships**,Sage:London.

Duck,S.(Ed.)(1994),**Dynamics of Relationships**,Sage:London.

Duck,S. and Wood,J.(Eds.)(1995),**Confronting Relationship Challenges**,Sage:London.

Duffey,T.(1999),`Developing a Cultural Perspective in Community Mediation', in

MEDIATION, Vol.15, No.4, pp.8-9.

Duke,J.(1976),**Conflict and Power and Social Life**,Brigham University Press: Utah.

Dukes,F.(1993), 'Building a Sustainable Democracy',in **Interaction**, Vol.5, No.1, Spring, pp.5,7.

Eastman,M.(1984),**Old Age Abuse**,Age Concern:London.

Edwards.S.(1989) **Policing 'Domestic' Violence**,Sage:London.

Eisenberg,H.(1982), 'The Bargain and its Limits',in **Harvard Law Review**, Vol.95, No.4, pp.741-63.

Eisenberg,H.(1989), 'Private Ordering Through Negotiation',in **Harvard Law Review**, February, pp.637-81.

Elias,R.(1985),**The Politics of Victimization**,Oxford University Press:New York.

Elliot,A.(1999),**Social Theory and Psychoanalysis in Transition**,Jessica Kingsley Publishers:London.

Erikson,E.(1982),**The Life Cycle Completed**,Norton:New York.

Estes,C.(1981),**The Aging Enterprise**,Jossey Bass:San Francisco CA

Estes,C.(1992),**The Aging Enterprise Revisited**,Paper presented to the Gerontological Association of America (GSA) Annual Meeting, Washington DC.

Evans,E.(1992), 'Liberation Theology, Empowerment Theory and Social Work Practice with the Oppressed',in **International Social Work**, Vol.35, No.2, pp.135-47.

Evans,V., Higgs,R., and Lock,P. with commentary by Allsop,J.(1991) **A Case Study in Developing Primary Care: The Camberwell Report**, King's Fund Centre:London.

Farley,S.(1991), 'Personal Commitments',in Jecker,N.(Ed.)**Aging and Ethics**, Humana Press:Cliftonville NJ, pp.329-40.

Felstiner,W., Abel,R. and Sarat,A.(1980/1), 'The Emergence and Transformation of Disputes',in **Law and Social Review**, Vol.15, Nos.3-4, pp.631- 654.

Field,F.(1989),**Losing Out**,Blackwell:Oxford.

Filinson,R. and Ingham,S.(Eds.)(1989),**Elder Abuse**,Human Sciences Press:New York.

Fisher,R., Kopelman,E.and Schneider,A.(1994),**Beyond Machiavelli**, Harvard University Press:New Haven CT.

- Fisher, R. and Ury, W. (1990), **Getting to Yes**, Arrow: London.
- Fitzpatrick, P. (1988), 'The Rise and Rise of Informalism', in R. Matthews (Ed.), **Privatizing Criminal Justice**, Sage: London, pp. 178-98.
- Flemming, A. (1992), Report, **Senior Consumer ALERT**, AARP: Washington DC.
- Folberg, J. and Taylor, A. (1984), **Mediation**, Jossey Bass: San Francisco CA.
- Folger, J. and Jones, T. (Eds.) (1994), **New Directions in Mediation**, Sage: London.
- Formby, S. (1992), **Decision Making and the Impaired Resident**, Paper presented to the Atlanta Long Term Care Ombudsmen, Atlanta GA.
- Formby, W. (1992), 'Should Elder Abuse be Decriminalised?', in **Journal of Elder Abuse and Neglect**, Vol. 4, No. 4, pp. 121-30.
- Foucault, M. (1980), **Power/Knowledge**, Pantheon: New York.
- Foucault, M. (1981), **The History of Sexuality**, Penguin: Harmondsworth.
- Freedman, M. (1991), **Rights**, Open University Press: Milton Keynes.
- Freeman, M. (1984), **State, Law and the Family**, Tavistock: London.
- Friere, P. (1970), **Pedagogy of the Oppressed**, Herder and Herder: New York.
- Friere, P. (1996), **Pedagogy of Hope**, Continuum: New York.
- Fukuyama, F. (1995), **Trust: The Social Virtues and the Creation of Prosperity**, Penguin: Harmondsworth.
- Fukuyama, F. (1999), **The Great Disruption: Human Nature and the Reconstitution of Social Order**, Profile Books: London.
- Furedi, F. (1999), **Courting Mistrust**, Centre for Policy Studies: London.
- Gabriel, J. (1994), **Racism, Culture, Markets**, Routledge: London.
- Gabriel, J. (1998), **Whitewash: Racialized Politics and the Media**, Routledge: London.
- Galanter, M. (1983), 'Reading the Landscape of Disputes', in **University College of Los Angeles Law Review**, Vol. 31, No. 1, pp. 4-71.
- Garrod, G. (1993), 'The Mistreatment of Older People', in **Generations Review**, Vol. 3, No. 4, pp. 9-12.

- Gaviland,H.(1992),`Care in the Community',in **Generations Review**,Vol.2.No.4, pp.9-11.
- Gelles,R. and Straus,M.(1988),**Intimate Violence**,Simon and Schuster:New York.
- General Accounting Office (GAO)(1992),**Gaps Between the Poor and Non-Poor Elderly**,GAO:Washington DC.
- General Accounting Office (GAO)(1992),**Elderly Americans**,GAO:Washington DC.
- Gerontology Institute (GI),(1990),**Long Term Care Policy**,GI:Washington DC.
- Giddens,A.(1990),**The Consequences of Modernity**,Polity Press:London.
- Giles,H.,Coupland,N. and Weiman,J.(1990),**Communication, Health and the Elderly**,Manchester University Press:Manchester.
- Gilroy,P.(1987),**There Ain't No Black in the Union Jack**,Hutchinson:London.
- Girdner,L.(1990),`Mediation Triage',in **Mediation Quarterly**,Vol.7.No.4, pp.365-72.
- Glaser,B. and Strauss,A.(1967),**The Discovery of Grounded Theory**, Aldine de Gruyer:New York.
- Goffman,E.(1957)`Alienation from Interaction',in **Human Relations**, Vol.10,pp.47-60.
- Goffman,E.(1961),**Asylums**,Anchor Books:New York.
- Goffman,E.(1971),**Strategic Interactions**,Blackwell:Oxford.
- Goldberg,S.,Green,E. and Sander,F.,(1985),**Dispute Resolution**,Little,Brown and Company:Boston MA.
- Goldsmith,M.(1996)**Hearing the Voices of People with Dementia**,Jessica Kingsley Publishers:London.
- Gottlich,V.(1992),Report,**NIDR Forum**,National Institute of Dispute Resolution:Washington DC.
- Graef,R.(1989),**Talking Blues**,Collins Harvill:London.
- Gramsci,A (1971),**Selections from the Prison Notebooks of Antonio Gramsci**, Ed.,Trans. Q.Hoare and G.Smith, Lawrence Wishart:London.
- Greengross,S.(1986),**The Law and Vulnerable Elderly People**,Age Concern: London.

- Griffiths,A. and Grant,G.(1993), 'Shouting for a Samaritan',in **BASELINE**, No.52,pp.42-5.
- Griffiths,A.,Grimes,R. and Roberts,G.(1990),**The Law and Elderly People**, Routledge:London.
- Griffiths,A.,Roberts,G. and Williams,J.(1992),**Shaping the Instrument, British Association of Services for the Elderly (BASE):Staffs.**
- Grimshaw,A.(Ed.)(1990),**Conflict Talk**,Cambridge University Press:Cambridge.
- Grisham,J.(1995),**The Rainmaker**,Doubleday:NY.
- Gubrium,J.,Holstein,J.and Buckholdt,D.(1994),**Constructing the Life Course**, General Hall:New York.
- Gudykunst,W.(1994),**Bridging Differences**,Sage:London.
- Gulliver,P.(1979),**Disputes and Negotiations**,Academic Press:New York.
- Guttman,D.(1987),**Reclaimed Powers**,Hutchinson Educational:London.
- Gwyther,L.,Gold,D. and Hinman-Smith,E.(undated),**Older People and their Families**,Duke University Medical Center:Durham NC.
- Habermas,J.(1970),**Towards a Rational Society**,Beacon Press: Boston MA.
- Habermas,J.(1971),**Knowledge and the Human Interests**,Beacon Press:Boston MA.
- Habermas,J.(1975), **Legitimation Crisis**, Beacon Press:Boston MA.
- Habermas,J.(1987),**The Theory of Communicative Action,Vol 2**,Beacon Press: Boston MA.
- Habermas,J.(1990),**Moral Consciousness and Communicative Action**,Harvard University Press:Cambridge MA.
- Hakim,C.(1987),**Research Design**,Allen and Unwin:London.
- Hammerberg,T.(1999), 'The Principles and Politics of Human Rights',in **LSE Magazine**, Vol.11,No.1,pp.6-7.
- Hampshire,S.(1989),**Innocence and Experience**,Penguin:Harmondsworth.
- Hanawi,N. and Goodman,O.(1992),**Resolving Disputes in Nursing Homes**,National Institute for Dispute Resolution:Washington DC.
- Harding,S.(Ed.)(1987),**Feminism and Methodology**,Independent University Press:Bloomington IA.

Harkins,M. and Kelly,B.(1992),**The Impact of Adverse Nursing Home Care Survey Reports in Tort and Criminal Cases**, Presented to the NCCNHR Annual Meeting, Washington DC.

Harman,H. and Winn,L.(1991),**No Place Like Home**,National Association of Local Government Officers (NALGO):London.

Harrington,C.(1984), 'The Politics of Participation and Non-Participation in the Dispute Process',in **Law and Policy**, Vol.6,No.2,pp.203-30.

Harrington,C.(1985),**Shadow Justice**,Greenwood Press:Westport CT.

Harrington,C. and Merry,S.(1988), 'Ideological Production',in **Law and Social Review**, Vol.22,No.4,pp.709-35.

Harshbarger,S.(1989) 'A Personal Perspective on Protecting Older Americans', in **Journal of Elder Abuse and Neglect**, Vol.1,No.3,pp.5-15.

Harvey,L.(1990),**Critical Social Research**,Unwin Hyman:London.

Hawes,D.(1997),**Older People and Homelessness**, Policy Press: Bristol.

Haynes,J.(1981),**Divorce and Mediation**,Springer:New York.

Healy,J. and Yarrow,S.(1997),**Family Matters:Parents Living with Children in Old Age**, Policy Press: Bristol.

Hedrick,T.,Bickman,L. and Hog,D.(1987),**Applied Research Design**,Open University Press:Milton Keynes.

Heisler,C.(1991), 'The Role of the Criminal Justice System in Elder Abuse Cases',in **Journal of Elder Abuse and Neglect**, Vol.3,No.1,pp.5-33.

Hennessy,R.(1993),**Materialist Feminism and the Politics of Discourse**, Routledge: London.

Henry,S.(1984), 'Contradictions of Collective Justice',in **Howard Journal**, Vol.23,No.3,pp.158-69.

Henry,S.(1985), 'Capitalism, Society and Human Agency',in **Journal of Law and Society**, Vol.19,No.2,pp.303-27.

Henwood,M.(1991), **Excess Winter Mortality**, Family Policy Studies Centre:London.

Hillyard, P. and Watson,S.(1996), 'Post Modern Social Policy? - A Contradiction in Terms?',in **Journal of Social Policy**, Vol.23,No.3, pp.32-46.

Hobman,D.(Ed.)(1993),**Uniting Generations**,Age Concern:London.

Hoffman,R. and Wood,E.(1991),`Mediation:New Path to Problem Solving for Older Americans',**Senior Consumer Alert**, Winter 1991,American Association of Retired Persons (AARP):Washington DC.

Hofrichter,R.(1988),**Neighborhood Justice in a Capitalist Society**,Greenwood Press:New York.

Hoggett,B.(1991),**Mentally Incapacitated Adults and Decision Making:An Overview**,Law Commission No.119,HMSO:London.

Hoggett,B.(1992),**Family Law Domestic Violence and Occupation of the Family Home**,Law Commission No.207,HMSO:London.

Hoggett,B.(1993a),**Mentally Incapacitated Adults and Decision-Making**,Law Commission Nos.128,129,HMSO:London.

Hoggett,B.(1993b),**Mentally Incapacitated and Other Vulnerable Adults**, Law Commission No.130,HMSO:London.

Horl,J.(1992),`Family Care of the Elderly in Austria',in J.Kosberg (Ed.),**Family Care of the Elderly**,Sage:London,pp.235-51.

Horley,S.(1990),`Responding to Male Violence Against Women',in **Probation Journal**,December,pp.166-70.

Hudson,M.(1981),`Analysis of the Concepts of Elder Mistreatment',in **Journal of Elder Abuse and Neglect**,Vol.1,No.1,pp.5-34.

Hudson,M.(1991),`Elder Mistreatment',in **Journal of Elder Abuse and Neglect**, Vol.3,No.2,pp.1-19.

Hummert,M.,Weimann,J.and Nussbaum,S.(1994),**Interpersonal Communication in Older Adulthood**,Sage:London.

Hwalek,M.,Williamson,D. and Stahl,C.(1991),`Community-Based M-Team Roles', in **Journal of Elder Abuse and Neglect**,Vol.3,No.3,pp.45-71.

Illich,I.(1977),**Disabling Professions**,Marion Boyars:London.

Illsley,R. and Jamieson,A.(1990),`Contextual and Structural Influences in Adaptation to Change',in A.Jamieson and R.Illsley (Eds.), **Contrasting European Policies for the Care of the Elderly**,Avebury:Aldershot,pp.83-94.

Institute of Medicine (IoM)(1991) **Medicare**,IoM:Washington DC.

International Federation of Aging (IFA)(1992),**Declaration on Rights and Responsibilities of Older Persons**,IFA: Washington DC.

Jamieson,A.(Ed.)(1991),**Home Care for Older People in Europe**,Oxford University Press:Oxford.

Jamieson,A. and Illesley,R.(Eds.)(1990),**Contrasting European Policies for the Care of the Elderly**,Avebury:Aldershot.

Jannis,I. and Mann,L.(1977),**Decision Making**,Macmillan:London.

Jecker,N.(Ed.)(1991),**Aging and Ethics**,Humana Press:Clifton NJ.

Jefferys,M.(Ed.)(1989), **Growing Old in the Twentieth Century**,Routledge: London.

Jeffry,D.(1992),Report,**Community Care**,26.11.92.

Jensen,A.(1991), 'Resentment and the Rights of the Elderly',in N.Jecker (Ed.), **Aging and Ethics**,Humana Press:Cliftonville NJ,pp.34-52.

Johns,S.,Hydle,I. and Aschjem,O.(1991), 'The Act of Abuse',in **Journal of Elder Abuse and Neglect**, Vol.3,No.1,pp.53-64.

Johns,S.,Juklestad O. and Hydle,I.(1992),**Developing Elder Protective Services in Norway**,Paper Presented to the Adult Protective Services Conference,San Antonio,Texas.

Johns,S.and Juklestad,O.(1994a), **Research and Action on Elder Abuse in Norway**, Paper Presented to the 2nd International Symposium on Elder Abuse,Stoke-on-Trent,Staffordshire.

Johns,S.and Juklestad,O.(1994b), Personal Correspondence to Author.

Johnson,R.(1989), 'Elder Mistreatment',in **Journal of Elder Abuse and Neglect**,Vol.1,No.4,pp.15-35.

Jordan,B.(1983),**The Political Dimensions of Social Work**,Blackwell:Oxford.

Kahn,R. and Cannell,C. (1957),**The Dynamics of Interviewing**,John Wiley:NY.

Kanfer,F. and Goldstein,A.(1980),**Helping People Change**,Penguin: Harmondsworth.

Kansas Mediation Services for Older Adults (KMSOA)(1985),**Information Leaflet**,KMSOA:Olathe KA.

KMSOA,(1985),**Mediation Services for Older Adults**, KMSOA:Olathe KA.

Kapp,M.(1990), 'Evaluating Decision Making Capacity in the Elderly',in **Journal of Elder Abuse and Neglect**,Vol.2,Nos.3-4,pp.15-29.

Kapp,M.(1991), 'Health Care Decision Making by the Elderly',in **The Gerontologist**,Vol.31,No.5,pp.619-23.

Kapp,M.(1992a),**Alternatives to Guardianship for the Elderly**,Wright State School of Medicine:Dayton OH,

Kapp,M.(1992b), 'Nursing Home Restraints and Legal Liability',in **Journal of Legal Medicine**,No.13,pp.1-32.

Keane,J.(Ed.)(1999),**Vaclav Havel**,Bloomsbury:London.

Kelleher,D.(1996), 'A Defence of the Terms of "Ethnicity" and "Culture"',in D.Kelleher and S.Hillier (Eds.), **Researching Cultural Differences in Health**, Blackwell:Oxford, pp.69-90.

Kelleher,D. and Hillier,S.(Eds.)(1996),**Researching Cultural Differences in Health**,Blackwell:Oxford.

Kingston,P. and Penhale,B.(Eds.)(1995),**Family Violence and the Caring Professions**,Macmillan:Basingstoke.

Kirkpatrick,B.(1998), 'HIV/AIDS: Advocacy, Counselling and Mediation with the Dying and Bereaved',in Y.Craig (Ed.) **Advocacy, Counselling and Mediation in Casework**, Jessica Kingsley:London, pp.182-89.

Kitwood,T. and Breden,K.(1992), 'Towards a Theory of Dementia Care',in **Ageing and Society**, Vol.12,No.3,pp.269-87.

Klein,R. and Milardo,R.(1993), 'Third Party Influence on the Management of Personal Relationships',in S.Duck,(Ed.), **Social Context and Relationships**, Sage:London.

Knight,B.(1992),**Older Adults in Psychotherapy**,Sage:London.

Koenig,H.(1995),**Research on Religion and Aging**,Sage:London.

Korbin,J.,Anetzberger,G.,Thomasson,R. and Austin,C.(1991) 'Abused Elders Who Seek Legal Recourse Against Their Adult Offspring',in **Journal of Elder Abuse and Neglect**,Vol.3,No.3,pp.1-18.

Kosberg,J.(Ed.)(1983), **Abuse and Mistreatment of the Elderly**,John Wright: London.

Kosberg,J.(Ed.)(1992),**Family Care of the Elderly**,London:Sage.

Kreisberg,L.(1982),**Social Conflicts**,Prentice Hall:Englewood Cliffs NJ.

- Kressell, K. and Pruitt, D. (1989), **Mediation Research**, Jossey Bass: San Francisco CA.
- Kubler-Ross, E. (1975), **Death: The Final Stage of Growth**, Prentice Hall: Englewood Cliffs NJ.
- Kuhn, M. (1977), **Maggie Kuhn on Aging**, Westminster: Philadelphia MD.
- Lather, R. (1991), **Getting Smart**, Routledge: London.
- Lee, R. (1993), **Doing Research in Sensitive Topics**, Sage: London.
- Lee, D. (1999), 'Sizing up the Social Fabric', in **R Briefing**, No. 23, pp. 1-2, The Relationships Foundation: Cambridge UK.
- Lerner, R. and Busch Ross Nagel, N. (1981), **Individuals as Producers of Their Own Development**, Academic Press: New York.
- Levitas, R. (1996), 'The Concept of Social Exchange and the New Durkheimian Hegemony' in **Critical Social Policy**, Vol. 46, No. 16, pp. 5-20.
- Lincoln, Y. and Guba, E. (1985), **Naturalistic Inquiry**, Sage: London.
- Lisi, L. and Burns, A. (1992), 'Mediation in Guardianship Cases', in **Clearinghouse Review**, No. 24, pp. 644-45: Washington DC.
- Lloyd, P. (1991), 'The Empowerment of Elderly People', in **Journal of Ageing and Society**, Vol. 5, No. 2, pp. 125-35.
- Logstrup, K. (1971), **The Ethical Demand**, Fortress Press: Philadelphia MD.
- Lord Chancellor's Department (LCD) (1991), **Who Decides?** LCD: HMSO.
- Lord Chancellor's Department (LCD) (1996) **Access to Justice - Final Report**, LCD: HMSO.
- Lukes, S. (1974), **Power**, Macmillan: London.
- Lyotard, J. (1974), **The Post Modern Condition**, Manchester University Press: Manchester.
- McCafferty, P. (1994), **Living Independently**, HMSO: London.
- McCalman, J. (1991), **The Forgotten People**, King's Fund Centre: London.
- McCreadie, C. (1991), **Elder Abuse**, Age Concern Institute of Gerontology: London.
- McCreadie, C. (1996), **Elder Abuse: Update on Research**, Age Concern Institute of Gerontology: London.

McDowell,D.(1989), 'Aging America',in **Journal of Elder Abuse and Neglect**,Vol.1, No.2,pp.1-7.

McLaughlin,M.,Cody,M. and Read,S.(1992),**Explaining Oneself to Others**, Lawrence Erlbaum Associates:Hillsdale,NJ.

McThenia,A. and Shaffer,T.(1984-5), 'For Reconciliation',in **Yale Law Journal**,Vol.94,pp.1660-68.

Mackie,K.(Ed.)(1991),**A Handbook of Dispute Resolution**,Routledge:London.

Maguire,P.(1987),**Doing Participatory Research**,University of Massachusetts: Amherst MA.

Marshall,T.(1985),**Alternatives to Criminal Courts**,Gower:Aldershot.

Marshall,T.(1988), 'Out of Court',in Matthews,R.(Ed.),**Informal Justice**, Sage:London,pp.25-50.

Marshall,T.(1990), 'Perestroika and Mediation',**MEDIATION**,Vol.6,No.3,pp.2-3.

Martin,L. and Tesser,A.(Eds.)(1992),**The Construction of Social Judgements**, Lawrence Erlbaum Associates:Hillside NJ.

Maslow,A.(1970),**Motivation and Personality**,Harper and Row:New York.

Maslow,A.(1976),**Religions, Values and Peak Experiences**,Penguin:New York.

Matthews,R.(Ed.)(1988),**Informal Justice**,Sage:London.

Matthews,R.(Ed.)(1989),**Privatizing Criminal Justice**,Sage:London.

MEDIATION UK,(1996),**Training Manual in Community Mediation Skills**, MEDIATION UK:Bristol.

Mckenzie-Mavinga,I.(1995)**Ironing It Out**,Greenwich Mediation Service:London.

Menkel-Meadow,C.(1984), 'Towards Another View',in **University College of Los Angeles Law Review**,Vol.31,No.4,pp.754-842.

Merry,S.(1982), 'The Social Organization of Mediation in Non-industrial Societies',in R.Abel (Ed.)**The Politics of Informal Justice**,Vol.2,pp.17-45.

Midwinter,E.(Ed.)(1992), **Citizenship**,Carnegie Inquiry Into the Third Age:London.

Minkler,M.(1996), 'Critical Perspectives on Aging',in **Ageing and Society**, Vol.16, pp.467-487.

- Minkler, M. and Estes, C. (Eds.) (1991), **Critical Perspectives on Aging**, Baywood Publishing Company: New York.
- Mitchell, C. and Banks, M. (1996), **Handbook of Conflict Resolution**, Pinter: Herndon, VA.
- Moberg, D. (1990), 'Spiritual Maturity and Wholeness in Later Years', in **Journal of Religion and Aging**, Vol. 7, Nos. 1-2, pp. 5-24.
- Mohrman, A. and Lawler, E. (1984), 'The Diffusion of Quality of Life as a Paradigm Shift', in W. Bennis, K. Benne, and R. Chin (Eds.), **The Planning of Change**, Reinhart and Winston: New York, pp. 149-161.
- Moody, H. (1988), **Abundance of Life**, Columbia University Press: New York.
- Moody, H. (1992a), **Ethics in an Aging Society**. John Hopkins University Press: Baltimore, MD.
- Moody, H. (1992b), 'Gerontology: Critical Theory', in **The Gerontologist**, Vol. 32, No. 3, pp. 294-295.
- Moody, H. (1995), 'Ageing, Meaning and the Allocation of Resources', in **Ageing and Society**, Vol. 15, pp. 163-184.
- Moody, H. (1998a), **Aging Concepts and Controversies**, Sage: Pine Forge, CA.
- Moody, H. (1998b), 'The Cost of Autonomy and the Price of Paternalism', in **Journal of Gerontological Social Work**, Vol. 29, Nos. 2-3, pp. 111-129.
- Moody, H. and Carroll, D. (1998), **The Five Stages of the Soul**, Rider: London.
- Moore, C. (1986), **The Mediation Process**. Jossey Bass: San Francisco CA.
- Myers, J. (1995), 'The Psychological Basis for Empowerment', in D. Thursz, C. Nusberg and J. Prather (Eds.), **Empowering Older People**, Cassell: London.
- Nahmiash, D. (1999), 'From Powerlessness to Empowerment', in J. Pritchard (Ed.) **Elder Abuse Work**, Jessica Kingsley: London, pp. 294-319.
- Nathanson, P. (1983), 'An Overview of Legal Issues, Services and Resources', in J. Kosberg (Ed.), **Abuse and Mistreatment of the Elderly**, John Wright: London.
- National Eldercare Institute on Elder Abuse and State Long Term Care Ombudsmen Services (NEIEASLTCOS) (1992a), **Report on Elder Abuse**, NEIEASLTCOS: Washington DC.
- NEIEASLTCOS, (1992b), **Report on Elder Rights**, NEIEASLTCOS: Washington DC.

NEIEASLTCOS,(1992c),**Report on Medicaid**,NEIEASLTCOS:Washington DC.

National Family Mediation (NFM)(1992), **Annual Report**,NFM:London.

Neill,J.(1989),**Assessing Elderly People for Residential Care**,National Institute for Social Work: London.

Neill,J. and Williams,S.(1992),**Leaving Hospital**,HMSO:London.

Nicholson,L.(Ed.)(1997),**The Second Wave:A Reader in Feminist Theory**, Routledge:London.

Norman,A.(1985),**Triple Jeopardy**,Centre for Policy on Ageing:London.

Norman,A.(1987),**Rights and Risks**,Centre for Policy on Ageing:London.

Nussbaum,J.Thompson,T. and Robinson,J.(1989),**Communication and Aging**, Harper and Row:New York.

Office of National Statistics (ONS)(1999),**Population Projections**, ONS:London.

Ogg,J.and Bennett,G.(1992), 'Elder Abuse in Britain',in **British Medical Journal**,Vol.686O,No.3O5,pp.998-9.

Ogus,A., Walker,J. and Jones-Lee,M.(1989),**Summary of the Report of the Conciliation Project Unit**,University of Newcastle upon Tyne:Newcastle upon Tyne.

Oliver,M.(1990),**The Politics of Disablement**,Macmillan:Basingstoke.

Oppenheimer,A.(1992),**Questionnaire Design, Interviewing and Attitude Measurement**,Pinter:London.

Parkes,C.(1983),**Bereavement**,Penguin:Harmondsworth.

Parkinson,L.(1986),**Conciliation in Separation and Divorce**,Croom Helm: London.

Parsons,R.and Cox,E.(1989), 'Family Mediation in Elder Caregiving Decisions',in **Social Work**,Vol.34,No.2,pp.122-26.

Peace,S.(Ed.)(1990),**Researching Social Gerontology**,Sage:London.

Pearson,J. and Thouness,N.(1984), 'A Preliminary Report of Client Reactions in Three Court Mediation Programs',in **Mediation Quarterly**,No.3,PP.21-40.

Pepinsky,H.(1991),**The Geometry of Victims and Democracy**,Indiana University

Press:Indianapolis IA.

Phillips,B.(1976),**Social Research**,Macmillan:London.

Phillips,E. and Pugh,D.(1987),**How to Get a PhD**,Open University Press:Milton Keynes.

Phillips,L. and Rempusheski,V.(1986), 'Making Decisions About Elder Abuse', in **Journal of Contemporary Social Work**,No.67,pp.131-40.

Phillipson,C.(1982),**Capitalism and the Construction of Old Age**, Macmillan:London.

Phillipson,C.(1994), 'Community Care and the Social Construction of Citizenship',in **Journal of Social Work Practice**,Vol.8,No.2,pp.103-112.

Phillipson,C.(1998),**Reconstructing Old Age**,Sage:London.

Phillipson,C., Barnard,M. Hines,J., and Ogg,J.(1998), 'The Family and Community Life of Older People',in **Ageing and Society**,Vol.18,No.3,pp.259-289.

Phillipson,C.and Biggs,S.(1992),**Understanding Elder Abuse**,Longmans:London.

Phillipson,C.and Walker,A.(Eds.)(1986),**Ageing and Social Policy**,Gower: Aldershot.

Pillemer, K. and Finkelhor,D.(1988), 'The Prevalence of Elder Abuse',in **The Gerontologist**,Vol.28,No.1,pp.51-7.

Pillemer,K. and Hudson,B.(1993), 'A Model Abuse Prevention Program for Nursing Assistants',in **The Gerontologist**,Vol.33,No.1,pp.128-131.

Pillemer,K. and Moore,D.(1989), 'Abuse of Patients in Nursing Homes',in **The Gerontologist**,Vol.29,No.3,pp.314-320.

Pillemer,K. and Wolf,R.(Eds.)(1986),**Elder Abuse:Conflict in the Family**. Auburn House:Dover,MA.

Pincus,L.(1997),**Death and the Family**,Faber and Faber:London.

Pinderhughes,E.(1983), 'Empowerment for Our Clients and Ourselves',in **Social Casework**,Vol.64, June,pp.331-8.

Piven,F. and Cloward,R.(1982),**The New Class War**,Pantheon:New York.

Plotkin,M.(1988), **A Time for Dignity**,AARP:Washington DC.

Podnieks,E.(1990),**National Survey on Abuse of the Elderly in Canada**, Ryerson Polytechnical Institute:Toronto.

Policy Studies Unit (PSI)(1992),**Elderly People**,PSI:London.

Polywka,S.(1997)`Mediation of Clinical Negligence Claims:a Pilot Scheme Endorsed by the NHS Executive for the Anglia and Oxford Region',in **Clinical Risk**,Vol.3,No.3, pp.80-4.

Pritchard,J.(1992),**The Abuse of Elderly People**,Jessica Kingsley:London.

Pritchard,J.(1995),**The Abuse of Older People**,Jessica Kingsley:London.

Pritchard,J.(1996),**Working with Elder Abuse**,Jessica Kingsley:London

Pritchard,J.(Ed.)(1999),**Elder Abuse Work**,Jessica Kingsley:London.

Putnam,J.(1970),**Old Age Politics in California**,Stanford University Press: Stanford CA.

Quinn,M. and Tomita,S.(1986),**Elder Abuse and Neglect**,Springer:New York.

Quinney,R.(1977),**Class, State and Crime**, Longman:London.

Rawls,J.(1971),**A Theory of Justice**,Harvard University Press:Cambridge,MA.

Reason,P.(Ed.)(1988),**Human Inquiry in Action**,Sage:London.

Reason,J.and Rowan,J.(Eds.)(1981),**Human Inquiry**,John Wiley:Chichester.

Reker,G.(1997), `Personal Meaning, Optimism and Choice:Existential Predictions of Depression',in **The Gerontologist**, Vol.37,No.6,pp.709-16.

Renzetti,C. and Lee, R.(Eds.)(1993),**Researching Sensitive Topics**, Sage:London.

Rex,J. and Mason,D.(Eds.)(1986),**Theories of Race and Ethnic Relations**,Cambridge University Press:Cambridge.

Rinpoche,S.(1992),**The Tibetan Book of the Dead**,Rider:London.

Robb,B.(1967),**Sans Everything**,Nelson:London.

Roberts,H.(Ed.)(1981),**Doing Feminist Research**,Routledge and Kegan Paul: London.

Roberts,M.(1988),**Mediation in Family Disputes**,Wildwood House:Aldershot.

Roberts,M.(1990),`Systems of Selves',in **Journal of Social Welfare Law**,pp.6-19.

Roberts,S.(1983),`Mediation in Family Disputes',in **Modern Law**

Review, Vol.46, No.5, pp.537-57.

Roberts, S. (1986), 'Towards a Minimal Form of Intervention', **Mediation Quarterly**, No.11, pp.25-41.

Roberts, S. (1988), 'Three Models of Family Mediation', in R. Dingwell and J. Eekelaar (Eds.), **Divorce, Mediation and the Legal Process**, Clarendon: Oxford.

Robson, C. (Ed.) (1993), **Real World Research**, Blackwell: Oxford.

Rook, K. (1989), 'Strains in Older Adults', in R. Adams and R. Bleiszner (Eds.), **Older Adult Friendship**, Sage: London, pp.166-94.

Rook, K. (1990), 'Stressful Aspects of Older Adults', in M. Stephens, S. Crowther, D. Hobfoll and D. Tennenbaum (Eds.), **Stress and Coping in Later Life Families**, Hemisphere Publishing Co: London, pp.177-92.

Royal College of Nursing (RCN) (1992), **A Scandal Waiting to Happen**, RCN: London.

Ryft, C. and Essex, M. (1991), 'Psychological Well-Being in Adulthood and Old Age', in **Abstracts in Social Gerontology**, No.11, pp.144-171.

Salmon, P. (1992) **Achieving a PhD**, Trentham Books: Stoke-on-Trent.

Sanko, E. (1990), **Everyday Violence**, Pandora Press: London.

Sarton, M. (1973), **Journal of a Solitude**. Norton: New York.

Saveman, B-I. (1994), **Formal Carers in Health Care and the Social Services Witnessing Abuse of the Elderly in Their Homes**, Umea University: Sweden.

Schlesinger, B. and Schlesinger, R. (Eds.) (1988), **Abuse of the Elderly**, University of Toronto: Toronto.

Schon, D. (1983), **The Reflexive Practitioner**, Basic Books: New York.

Schonbach, P. (1990), **Account Episodes**, Cambridge University Press: Cambridge.

Schratz, M. and Walker, R. (1995), **Social Research as Social Action**, Routledge: London.

Schumacher, E. (1978), **Small is Beautiful**, Harper and Collins: London.

Seligman, M. (1975), **Helplessness**, W.H. Freeman: San Francisco CA.

Severance, J. (1989), 'Predictions of Elderly Participation in Long Term Care Decision Making', **The Gerontologist**, No.29, p.168.

Sherman,E.and Webb,T.(1994),`The Self as Process in Later Life Reminiscence',in **Ageing and Society**,No.14,pp.255-67.

Shonholtz,R.(1984),**The Work and Structure of a Neighborhood Justice System**, San Francisco Community Boards: San Francisco CA.

Simmel,G.(1955),**Conflict**,Free Press:Glencoe IL.

Singer,L.(1990),**Settling Disputes**,Westview:Boulder,CO.

Smart,C.(1989),**Feminism and the Power of Law**,Routledge and Kegan Paul: London.

Smith,A.(1973),**Transracial Communication**,Prentice Hall:New York.

Smith,L.(1989),**Domestic Violence**,No.107,Home Office Research and Planning Unit:London.

Social Services Inspectorate (SSI)(1992),**Confronting Elder Abuse**, SSI, Department of Health:London.

Solomos,J.(1988),**Black Youth, Racism and the State**,Cambridge University Press:Cambridge.

Speirs,J.(1997),**Who Owns Our Bodies?** Radcliffe Medical Press: Southampton.

Steele,H.(1992),**Communication and Conflict Resolution:Skills for Nursing Homes**,National Institute of Dispute Resolution: Washington DC.

Stein,K.(1991),`A National Agenda for Elder Abuse and Neglect',in **Journal of Elder Abuse and Neglect**,Vol.3,No.3,pp.91-107.

Steinmetz,S.(1988),**Duty Bound**,Sage:London.

Stephens,M.,Crowther,J.,Hobfoll,S. and Tannenbaum,D.(Eds.)(1990),**Stress and Coping in Later Life Families**,Hemisphere Publishing Company:New York.

Stevenson,S. and Parsloe,P.(1993),**Community Care and Empowerment**,Joseph Rowntree Foundation: York.

Stokes,G.(1987),**Aggression**,Winslow Press:London.

Swain,D.,Finkelstein,V.,French,S. and Oliver,M.,(Eds.)(1993), **Disabling Barriers**,Sage:London.

Taylor,I., Walton,P. and Young,J.(Eds.)(1975),**Critical Criminology**, Routledge:London.

Taylor,J.(1972),**The Go-Between God**,Student Christian Movement Press:London.

- Thomson,D.(1996),**Selfish Generations?** White Horse Press:Cambridge.
- Thurz,D., Nusberg,C. and Prather,J.(Eds.)(1995),**Empowering Older People**, Cassell:London.
- Tinker,A.(1992),**Elderly People in Modern Society**,Longman:London.
- Tomlin,S.(1989),**Abuse of Elderly People**,British Geriatrics Society:London.
- Townsend,P.(1964),**The Last Refuge**,Routledge and Kegan Paul:London.
- Townsend,P.(1981),`The Structured Dependency of the Elderly',in **Ageing and Society**,Vol.1,No.1,pp.5-8.
- Townsend,P.(1987),**The Family Life of Old People**,Routledge and Kegan Paul:London.
- Trubek,D.(1983),`Turning Away from the Law',in **Michigan Law Review**,No.82, pp.824-35.
- Turk,A.(1975-6),`Law as a Weapon in Social Conflict',in **Social Policy**, No.23, pp.276-91.
- Unger,R.(1975),**Knowledge and Politics**,Free Press:London.
- Unger,R.(1987),**The Critical Legal Studies Movement**,Harvard University Press:Cambridge MA.
- United States (US) Bureau of Census(1990),**Poverty in the United States**, United States Government Printing Office (USGPO):Washington DC.
- US Department of Labour(1993),**Report on California Unemployment**, USGPO:Washington DC.
- US House of Representatives(1988),**Mediation and Older Americans**,(USGPO): Washington DC.
- US House of Representatives(1990),**Elder Abuse**, USGPO:Washington DC.
- US Senate Special Committee on Aging(1987-8),**Aging Americans**, USGPO:Washington EC.
- Walker,A.(1981),`Social Policy, Social Administration and the Social Construction of Welfare',in **Sociology**, Vol.15,No.2,pp.225-50.
- Walker,A.(1990),`The Economic Burden of Ageing and the Prospect of Intergenerational Conflict',in **Ageing and Society**,Vol.10,pp.377-396.

- Walker, A. (Ed.) (1996), **The New Generational Contract**, University College London: London.
- Walker, A. and Maltby, T. (1997), **The Ageing Europe**, Open University Press: Milton Keynes.
- Walklate, S. (1989), **Domestic Violence and the Criminal Justice Process**, Unwin Hyman: London.
- Wallace, P. (1999) **Agequake**, Nicholas Brearley Publishing: London.
- Waller, K. and Bates, R. (1992), 'Health Locus of Control and Self-Efficacy', in **American Journal of Health Promotion**, Vol. 6, No. 4, pp. 302-9.
- Walters, J. (1992), 'Proximate Personhood', in **Bioethics**, Vol. 6, No. 1, pp. 12-22.
- Wann, M. (1995), **Building Social Capital**, Institute of Public Policy Research: London.
- Wehr, P. (1979), **Conflict Regulation**, Westview Press: Boulder, CO.
- Weinstein, N. (Ed.) (1987), **Taking Care**, Cambridge University Press: Cambridge.
- Wenger, G. (1992), **Help in Old Age**, Liverpool University Press: Liverpool.
- Wertle, T., Lekoff, S., Cwikel, J. and Rosen, A. (1988), in **The Gerontologist**, Vol. 28, June Supplement, pp. 32-7.
- West, M. and Gibson, J. (1992), 'Facilitating Medical Ethics Case Review: What Ethics Committees can Learn from Mediation and Facilitation Techniques', in **Cambridge Quarterly on Health Care Ethics**, Vol. 1, pp. 63-74.
- Wetherell, M. and Potter, J. (1992), **Mapping the Language of Racism**, Harvester: Brighton.
- Whyte, W. (1984), **Learning from the Field**, Sage: London.
- Willmott, P. (1988), 'Urban Kinship', in **Social Studies Review**, Vol. 4, No. 2, pp. 44-6.
- Willmott, P. (1989), **Community Initiatives**, Policy Studies Institute: London.
- Wilson, G. (1993), 'When Being "Old" is Normal', in **Generations Review**, Vol. 3, No. 2, pp. 2-3.
- Wilson, G. (1994), 'Co-production and Self-care', in **Social Policy and Administration**, Vol. 28, No. 3, pp. 236-50.
- Wood, J. and Duck, S. (1995), **Understudied Relationships**, Sage: London.

Wood,E. and Kestner,P.(1989)**Mediation - The Coming of Age**, American Bar Association:Washington DC.

Wolf,R.(1990), 'Testimony on Behalf of the National Committee for the Prevention of Elder Abuse before the US House Select Committee on Aging, Subcommittee on Human Services',in **Journal of Elder Abuse and Neglect**, Vol.2,Nos.1-2,pp.137-50.

Wolf,R.(1994), 'What's New in Elder Abuse Programming?',in **The Gerontologist**, Vol.34,No.1,pp.126-29.

Wolf,R. and Bergman,S.(1989),**Stress, Conflict and Abuse of the Elderly**, JDC Brookdale Institute of Gerontology:Jerusalem.

Wolf,R. and Pillemer,K.(1989),**Helping Elderly Victims**,Columbia University Columbia University Press:New York.

Worrall,R.(1990),**Offending Women**,Routledge:London.

Wright,M.(1977),**Making Amends**,Barry Rose:Chichester.

Wright,M.(1982),**Making Good**,Burnett Books:London.

Wright,M.(1991),**Justice for Victims and Offenders**, Open University Press: Milton Keynes.

Wright,M.(1996),**Justice for Victims and Offenders**,Waterside Press:Winchester.

Wright,M.(1999),**Restoring Respect for Justice**, Waterside Press:Winchester.

Wright,M. and Galaway,B.(Eds.)(1989),**Mediation and Criminal Justice**, Sage:London.

Zehr,H.(1985),**Who is my Neighbor?** Mennonite Publications: Akron PA.

LIST OF ABBREVIATIONS

AARP	American Association of Retired Persons
ABA	American Bar Association
ACIOG	Age Concern Institute of Gerontology
ADR	Alternative Dispute Resolution
AEA	Action on Elder Abuse
AHCA	American Health Care Association
APS	Adult Protective Services
ASA	American Society on Aging
CANHR	Californian Advocates for Nursing Home Reform
CARIE	Coalition of Adults for the Rights of the Infirm Elderly
CEAN	Council on Elder Abuse and Neglect
DEE	Department for Education and Employment
DOH	Department of Health
DRS	Dispute Resolution Services
EMP	Elder Mediation Project
GAO	General Accounting Office
GI	Gerontology Institute
HCFA	Health Care Financing Administration
IFA	International Federation of Aging
JCA	Justice Center of Atlanta
KINH	Kansans for Improvement in Nursing Homes

KLS	Kansas Legal Services
KMSOA	Kansas Mediation Service for Older Adults
LTCO	Long-Term Care Ombudsman
M1	Mediator 1
M2	Mediator 2
NCCNHR	National Citizens Coalition for Nursing Home Reform
NEIEASLTCOS	National Eldercare Institute on Elder Abuse and State Long-Term Care Ombudsman Services
NHS	National Health Service
NIDR	National Institute of Dispute Resolution
OoA	Office on Aging
UK	United Kingdom
US	United States
USA	United States of America
USBC	United States Bureau of Census
USGPO	United States Government Printing Office

APPENDIX I : OUR PROBLEMS AND CONFLICTS IN LATER LIFE

Thank you for your help with a research project to benefit older people.
Your views will be valued and anonymously noted at a confidential interview

HEALTH AND WELFARE

What problems and conflicts do older people have?
How do older people cope with these?
Are there any forms of social help needed?

FAMILY LIFE

What problems and conflicts affect old people and their families?
How are these dealt with?
Which social services might help?

FRIENDS AND NEIGHBOURS

What problems and conflicts can be caused with neighbours?
In what ways are these managed?
What kind of community help might resolve these?

GENERAL SOCIAL CONFLICTS

Which social conflicts affect older persons?
How are these faced?
Are there special forms of social help needed?

THE ABUSE OF OLDER PERSONS

What problems or conflicts lead to neglect or abuse of older persons?
How do older people react to this?
What social help is needed to help them?

PERSONAL PROBLEMS AND CONFLICTS

Would you like to describe any of your experiences?
How have you responded?
What social help was available?

PERSONAL MISTREATMENT

Could you describe any incidents from which you have suffered?
How did you cope?
Was social help available?

OLDER PEOPLE'S ORGANISATIONS

What bodies are concerned with these issues?

What types of help can they give?

Which new services might be needed?

Is it useful to research these ideas?

APPENDIX II: VIDEO SURVEY QUESTIONNAIRE

Thank you for answering this questionnaire
It is confidential and anonymous
Please ring only one of the three letters
Y = Yes : N = No : U = Uncertain

1	Was the conflict about Marion's refusal of medicine?	Y N U
2	Did her depression contribute to the conflict?	Y N U
3	Should she have been sedated first?	Y N U
4	Was there a need to call a doctor?	Y N U
5	Should the head nurse have been called?	Y N U
6	Should Max have been called earlier?	Y N U
7	Was Phyllis too tired for work?	Y N U
8	Did she show her patient sensitive concern?	Y N U
9	Was she impatient?	Y N U
10	Did she show anger?	Y N U
11	Should she have sat and talked with Marion?	Y N U
12	Could Marion have decided when to take her medicine?	Y N U
13	Should she have decided how to take it?	Y N U
14	Would mediation skills have resolved the conflict?	Y N U
15	Could these have prevented the scratches on Phyllis?	Y N U
16	Could these have prevented Marion's wrist breakage?	Y N U
17	Was it possible to restrain Marion without force?	Y N U
18	Was the restraint appropriate?	Y N U
19	Did Marion suffer abuse?	Y N U
20	Could the incident have been prevented?	Y N U

APPENDIX III: LIST OF CONTACT ADDRESSES

Academy of Experts
2 South Square
Gray's Inn
London WC1R 5HP

Action on Elder Abuse
Astral House
1268 London Road
London SW16 4EJ

ADR Group
Equity and Law Building
36-38 Baldwin Street
Bristol BS1 1NR

Advice Information and Mediation Service for Retirement Housing (AIMS)
Walkden House
3-10 Melton Street
London NW1 2EJ

Advisory, Conciliation and Arbitration Service (ACAS)
27 Wilton Street
London SW1X 7AZ

Age Concern England
Astral House
1268 London Road
London SW16 4EJ

Age Concern Institute of Gerontology (ACIOG)
King's College London
Cornwall House Annexe
Waterloo Road
London SE1 8TX

American Association of Retired Persons (AARP)
1909 K Street NW
Washington DC 20049 USA

American Bar Association (ABA)
1800 M Street NW
Washington DC 20036 USA

Association of Retired Persons Over 50 (ARPO50)
Greencoat House
Francis Place
London SW1P 1DZ

Atlanta Office on Aging
898 Peachtree Street NE
Atlanta GA 30308 USA

British Association of Services for the Elderly (BASE)
119 Hassell Street
Newcastle-under-Lyme
Staffordshire ST5 1AX

British Association of Counselling (BAC)
1 Regent Place
Rugby
Warwickshire CV21 2PJ

British Council of Organisations of Disabled People (BCODP)
De Bradlei House
Chapel Street
Belper
Derbyshire DE56 1AR

British Society of Gerontology
Centre for Ageing and Rehabilitation Studies
University of Sheffield
Community Sciences Building
Northern General Hospital
Sheffield S5 7AU

Californian Associates for Nursing Home Reform (CANHR)
1610 Bush Street
San Francisco CA 94109

Carers National Association (CNA)
20 Glasshouse Yard
London EC1A 4JS

Centre for Dispute Resolution (CEDR)
Princes House
95 Gresham Street
London EC2V 7NA

Centre for Policy on Ageing (CPA)
25-31 Ironmonger Row
EC1V 3QP

Counsel and Care for the Elderly
Twyman House
16 Bonny Street
London NW1 9PG

Elder Mediation Project (EMP)
27 Ridgmount Gardens
London WC1E 7AS

Family Law Consortium of Solicitors, Mediators and Counsellors
2 Henrietta Street
London WC2E 8PS

Family Mediators Association (FMS)
PO Box 2028
Hove BN3 3HU

Gerontological Society of America
1275 K Street NW
Washington DC 20005-4006 USA

Help the Aged
St James's Walk
Clerkenwell Green
London EC1R 0BE

Justice Center of Atlanta
976 Edgewood Avenue NE
Atlanta GA 30307 USA

Kansas Legal Services of Olathe
465 South Parker
Suite 103
Olathe KA 66061 USA

Kansas Office on Aging
610 W 10th Street
Topeka KA 66612 USA

The Law Society
113 Chancery Lane
London WC2A 1PL

Mediation UK
Alexander House
Telephone Avenue
Bristol BS1 4BS

National Aging Resource Center on Elder Abuse (NARCEA)
810 First Street NE
Suite 500
Washington DC USA

National Citizens Coalition for Nursing Home Reform
1424 16th Street NW
Suite 102
Washington DC 20036 USA

National Eldercare Institute on Elder Abuse and
State Long Term Care Ombudsmen Services (NEIEASLTCOS)
2033 K Street NW
Suite 304
Washington DC 20006 US

National Family Mediation (NFM)
9 Tavistock Place
London WC1H 9SN

National Institute of Dispute Resolution (NIDR)
1726 M Street NW
Suite 500
Washington DC 20036 USA

National Institute for Social Work (USA)
5 Tavistock Place
London WC1H 9SS

National Senior Citizens Law Center
1815 H Street
Suite 700
Washington DC 20006 USA

The Relatives and Residents Association
5 Tavistock Place
London WC1H 9SS
San Francisco Community Boards
1540 Market Street
Suite 490
San Francisco CA 94102

San Francisco Consortium for Elder Abuse Prevention
Mount Zion Medical Center
PO Box 7921
San Francisco CA 94120

San Francisco Long Term Care Ombudsman Program
1453 Mission Street
Room 520
San Francisco CA 94103

San Francisco Police Department
850 Bryant Street
San Francisco CA 94102

Society of Professionals in Dispute Resolution (SPIDR)
815 15th Street NW
Suite 530
Washington DC 20005 USA

Standing Conference of Ethnic Minority Senior Citizens
5 Westminster Bridge Road
London SE1 7XW

UK College of Family Mediators
24-32 Stephenson Way
London NW1 2HX

The University of the Third Age (U3A)
26 Harrison Street
London WC1H 8JG

Voluntary Sector Dispute Resolution Service
National Council of Voluntary Organisations
Regent's Wharf
8 All Saints Street
London N1 9RL