

TRANSFERRING LEGAL INFORMATION TO THE ELDERLY: ADDRESSING ACCESSIBILITY TO THEIR RIGHTS AND THE RESTRICTIONS THEY ENCOUNTER

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Abstract. The paper addresses areas such as language and legal knowledge in connection with the elders' awareness of their rights based on proper legal communication. The elder population encounter a wide array of legal obstacles, many of which prevent them from obtaining up-to-date legal information, thereby unwittingly imposing restrictions on them. The first part of the paper explains the terms related to the barriers the older people face with particular emphasis on ageism. What is more, it provides data which emphasize the lack of adequate information, leading to the purpose of this paper: improving the methods in which older generations obtain legal advice. The second part of the paper recognizes the most common, in our opinion, problems the elderly find difficult to deal with. Primarily, we try to concentrate on the reasons lying at the heart of that daunting situation which respectively would be access to the Internet and know-how to use electronic devices in order to get different pieces of information, stressing the point why state-of-the-art methods are not the best educational choice for the older generation. Subsequently, we put forward the way of sorting the issue, highlighting the significance of well-performed face-to-face communication which according to our research works best for people over the age of 60. The final part provides conclusions drawn from the results obtained from the literature review, as well as the dire need of implementing some innovative solutions that may help the elderly in everyday life.

Keywords: legal communication, ageism, the elderly, rights, restrictions

INTRODUCTION

Many countries are facing demographic changes including longer lifespans of citizens which results in a bigger number of elderly people who are becoming one of the most numerous age groups. According to the WHO the population is “ageing” faster than ever before. Just in 2020 the children under 5 years old were outnumbered by people aged 60 years and older. Based on the research conducted by WHO (2022), in 7 years, 1 in 6 people in the world will be aged 60 years or over.

Even though the number of older people is growing, the world is still not designed to their needs. One of the many problems the elderly face nowadays is ageism – a term coined and defined in 1975 by Robert Butler as “a process of systematic stereotyping or discrimination against people because they are old, just as racism and sexism accomplish with skin colour and gender. Ageism allows the younger generations to see older people as different than themselves; thus they subtly cease to identify with their elders as human beings.” (Butler, 1975) The Ontario Human Right Commission goes even further referring to ageism as “a tendency to structure society based on an assumption that everyone is young, thereby failing to respond appropriately to the real needs of older persons.” (Spencer, 2009, p.9) That approach culminates in the marginalization, invisibility and even exclusion of older people in the majority of fields. Thus, their rights are refused to be acknowledged.

Consequently, trying to fathom their viewpoint and to point out the unawareness of their rights, in 2008 in Sao Paulo 63 older people were subject to a survey investigating the matter. Only 49.2% recognized their rights among which the most common ones were the free means of transport. In connection with those rights 25% of the participants presumed they were respected, while 44% affirmed that the rights were respected only partially (Komatsu, Martins & Massarollo, 2008).

Overall, roughly half of the elderly are not cognizant of what they are allowed to by law which emphasizes the fact that they are uninformed on their rights. It also may be attributed to the loopholes in transmitting legal information.

MATERIALS AND METHODS

This is a literature review on what has been written on the topic focusing on the lack of proper ways to communicate legal information regarding the older generation.

RESULTS AND DISCUSSION

There are manifold restrictions that the elderly face on a daily basis. It is worth noting that because of the characteristics of the elderly such as “the ability to balance stress and focus on what really matters in life or the skill of creating strong bonds with people” (Watson, 2021) people from this particular age-group have different needs when it comes to information transmission which should be more adjusted to them and personalized. The senior members of the society often struggle also with the disorders that do not refer to other age-groups, i.e. sensory and physical impairments, communication difficulties, Alzheimer’s disease or dementia.

The elderly population also face a variety of legal issues that are common for them as a group and require access to legal information or professional advice. One of them is consumer protection as the elderly may fall victims to scammers or may be taken advantage

of in financial transactions. “Elder fraud cost Americans over the age of 60 more than \$966 million in 2020, according to the FBI’s Internet Crime Complaint Center (IC3)” (Reid, 2023). There are various methods of the elder fraud schemes, e.g. romance scams, home repair fraud, government impersonation schemes, fake prize or grandparent scams. Some of them take place online or via phone calls and messages, in other cases swindlers come directly to the seniors’ home trying to extort money. Although the schemes may take many forms, the goal is always the same - deceive and take advantage of the others. Becoming the victim of fraud abuse may be a traumatic experience for an older person, as this kind of action results, among others, in financial loss. “The elders suddenly lose the money they were saving for retirement, planning to pass down to family members, or using for daily needs like paying bills or grocery purchases.” (Reid, 2023). This kind of abuse also reduces the sense of well-being, and leads to issues such as insomnia, loss of appetite, depression, anxiety and relationship difficulties. That is the reason why having access to information concerning their consumer rights and the knowledge of how to protect themselves from fraud is essential.

Another thing that comes to mind when thinking of legal hassles when one is 60 or older is the matter of writing your own will: “A will is a written document that controls the disposal of a person’s property after death” (The Community Legal Education Association, 2014, p.5). Dying intestate can do more harm than good so it is extremely important to educate people in retirement to make an effort to make it. “If you die intestate, your estate will be distributed according to the inflexible provisions of the law, with no consideration for your personal wishes. In such a case, the law provides benefits only to close relatives. Friends, distant relatives and worthy causes you have supported in the past will receive nothing” (The Community Legal Education Association, 2014, p.8). Thus it is always best to plan the distribution of your assets after your death even if one thinks they do not have anything particularly valuable to offer to the nearest and dearest. In turn, your inheritance is safeguarded while the chosen beneficiary preserves the assets meeting the deceased’s needs. To make that legal process easier, the pensioners require solicitor’s assistance.

All of those have to be taken into account while communicating, conveying knowledge on law and giving legal advice, as they strongly contribute to legal misinformation.

One of the most significant causes of the elderly’s exclusion and marginalization regarding the information is the access to the Internet. Even if some individuals know how to navigate the web, they are not able to look for the legal information they could use. Since that is a widely known issue, the governments are trying to come up with solutions, e.g. the idea of the British Government to adopt “e-services amongst its citizens by pioneering projects such as adoption of online centers, Learn Direct, and Wired up Communities” (Basu, & Duffy, 2010, p.2). Another way of solving the case is creating online portals which are supposed to widen the elders’ knowledge about law systems, for instance NCER.acl.gov. or flcourts.gov. Apart from those many countries have created websites such as direct.gov in the UK (www.direct.gov.uk) and gov.pl in Poland (www.gov.pl) that give the citizens the possibility to access services offered by the government without leaving home.

As it turns out from the research conducted in Northern Ireland on the potential of the Internet as a possible source for providing legal advice to older people, online legal

information may frequently assist older people in identifying potential answers to their legal enquiries. However, the basic knowledge that can be found on the Internet cannot solve complex and intricate legal issues. That is why face-to-face interaction with the lawyer is much needed. Consequently, state-of-the-art sources of the information such as the Internet may not be an adequate substitute for personal communication and legal advice. (Duffy, Basu & Pearson, 2012)

“Many older people, like the population as a whole, do relatively little information seeking when they are facing a problem or critical situation. Often only one source is approached. Additionally many do not seek information until it is really needed—“until the time comes”. For example, many think there is no need to worry about (. . .) an advanced health directive until later in life.” (Edwards & Fontana, 2004, p.5). Thus, the older generation should be tipped with all the information applying to them, as they are not able to look for one thing for hours. Their lack of knowledge and skills hinders them from doing so.

What deserves to be brought up is also the fact that the people approaching retirement are not in possession of the information of what they should be aware of. According to the discussions done in the South of Australia “people didn’t know where to go for help and felt there was no central point for retirement planning” (Edwards & Fontana, 2004, p.58). What is more, after presenting them with all the options available to get legal advice, they found them barely adequate and reliable, including the government departments. Even though they declared them credible it was not enough as they do not provide “a wide range of information” (Edwards & Fontana, 2004, p.59).

The information sources for legal information that are commonly used among the elderly, apart from the above-mentioned, are: magazines, brochures and pamphlets, local newspapers and large city dailies, radio, professionals and face-to-face oral information followed by written information. However, the most valued and preferred ones are people conversant with the law. Unfortunately, family and peers are not considered accurate.

That is another reason why the role played by solicitors in transferring the knowledge about the law is of vital importance to the society. Nevertheless, the obstacles are still likely to occur. The barriers encountered when consulting the legal advisors may be of different nature: the ones connected with the characteristics of the elderly and the ones involving the characteristics of information providers. The first category includes e.g fear that lawyers may be against their best interests or even the general belief that they cannot solve their problems with the help of law as it is considered disempowering. The latter classification include e.g high costs of the professional legal services and issues related to the phenomenon of ageism that may include stereotypes about older people and lack of interest in older people from legal practitioners (Edwards & Fontana, 2004).

A good lawyer should be able to build truthful relationships with their clients as it enables them to fully grasp the essence of the law. There are two types of lawyers, considering their attitude/approach towards clients. The first one is represented by a traditional model of conversation and the other one is called participatory one. The traditional model of client-lawyer relationship is more popular e.g. in Poland, the participatory one prevails in the USA. Only in the latter case does the client have an opportunity to be looked after properly and establish a relationship with a solicitor based on mutual respect and understanding.

While in a traditional model, settlement is much harder to achieve as jurists do not keep in mind the needs of the client, not to mention their lack of patience when explaining the issues. The main problem of the traditional model is severe deficiency of respect owing to the fact that lawyers often do not clue their clients in on legal matters. They discuss the case briefly, hastily moving on to the next topic. Even if the clients ask questions, the matter is discussed in technical terms, not familiar to the laymen. Most of the lawyers from the traditional school tend to look down on their clients which leads to their dissatisfaction.

Whereas lawyers representing the participatory model are usually open to debate and willing to answer all the questions. Both sides - lawyers and clients - work together in order to win the case. When the clients feel at ease, they are eager to cooperate more and so they participate actively in their own cases. Furthermore, they gain knowledge from the experience and are more likely to feel accomplished afterwards, irrespective of the result of the case.

Other approaches of addressing the problems of legal miscommunication and the loopholes in transmitting legal information may be widening the availability of sources.

Moreover, the legal advice and the knowledge about the elders' rights should be transferred to older people in accessible, age-appropriate manner, i.e the specialized terms should be definitely avoided unless they are essential to the gist of the statement. If they are used, they ought to be thoroughly explained. Furthermore, "a public education campaign to raise awareness of issues such as enduring powers of attorney and legal rights" (Edwards & Fontana, 2004, p.7) needs to be organized. It may take various forms, e.g. art workshops for seniors that would positively affect not only their legal knowledge, but also the aesthetic sense, their artistic skills, not to mention the strengthening of the interpersonal relationships. Those kinds of education campaigns in order to be more easily approachable for seniors may also refer to past years that were years of their youth.

CONCLUSIONS

Taking all the matters into consideration, the amount of problems the elderly have to face every day appears unfair. The way the law system works, fails to be efficient for them and that is one of the reasons why they should be better informed about the law, especially the one that applies to them. Elderly people, like all citizens, ought to know their rights and responsibilities but in order to make it happen, the legal information should be passed on to them in an age-appropriate manner.

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