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CIVILISATIONAL PROGRESS AND THE ROLE OF MEDIATION IN PROMOTING HUMAN RIGHTS

Navirathorn Chaiyu
Sisaket Rajabhat University, Thailand
email: chaiyu@srru.ac.th

ABSTRACT

This article examines the interrelated evolution of civilisation, human rights, and mediation, contending that societal advancement is closely associated with the institutionalisation of non-violent dispute resolution mechanisms and the acknowledgment of inherent human dignity. As societies developed from relatively simple tribal structures into complex nation-states, approaches to conflict management shifted from coercion and force toward diplomacy and formal legal systems. Concurrently, human rights emerged as a fundamental normative pillar of modern civilisation, embodying a collective commitment to justice, equality, and the rule of law. Mediation, functioning both as a longstanding cultural practice and a contemporary legal instrument, operates as a crucial link between cultural plurality and universal human rights principles. It facilitates constructive dialogue and negotiated settlements while preserving fundamental freedoms. Drawing on examples from post-conflict settings and international peacebuilding initiatives, this study demonstrates that mediation not only addresses disputes effectively but also strengthens civilisational norms and protects human rights, particularly within diverse and pluralistic societies.

Keywords: Human Rights; Mediation; Conflict; Civilisation

INTRODUCTION

Since antiquity, humanity's ability to resolve conflicts beyond coercive means has significantly shaped the nexus between civilisational progress and the protection of human rights. This relationship emerges from a range of underlying factors, which are examined in this study. Mediation, as a practice that predates formal legal institutions, represents one of the earliest expressions of organised social reasoning and reflects an understanding that durable peace depends on mutual consent rather than domination. The contemporary international order anchored in the Universal Declaration of Human Rights and subsequent legal instruments draws upon centuries of accumulated insight into safeguarding human dignity through dialogue. Yet, paradoxically, this normative foundation has become increasingly fragile, often constrained by the very power imbalances that mediation seeks to address (Al-Fatih et al., 2023).

The modern human rights regime is currently confronted with an unprecedented enforcement crisis. The issuance of an arrest warrant against Vladimir Putin by the International Criminal Court in 2023 for alleged war crimes in Ukraine underscored a persistent structural dilemma: international institutions possess moral legitimacy but lack effective coercive capacity, while sovereign states retain coercive power yet frequently disregard normative authority (Maxey et al., 2025). This tension is not novel; the collapse of the League of Nations illustrated the limitations of mediation absent enforceable mechanisms in restraining expansionist ambitions. What distinguishes the contemporary era is the accelerated pace of rights violations within an interconnected world, where information circulates instantaneously but accountability mechanisms lag behind. Atrocities such as the persecution of the Rohingya in Myanmar, the detention of Uyghurs in Xinjiang, and widespread femicide across Latin

America exemplify the shortcomings of existing mediatory frameworks in preventing escalation.

The significance of mediation in the human rights domain extends beyond dispute settlement; it functions as a critical mechanism for systemic transformation. The 2016 peace agreement in Colombia between the government and the FARC illustrates how sustained mediation can address both immediate violence and the structural inequalities underlying prolonged conflict. Norwegian facilitators invested years in cultivating trust between deeply antagonistic parties, culminating in an agreement that incorporated land reform, political participation for former combatants, and transitional justice measures thereby recognising that sustainable peace is inseparable from the protection of economic and social rights. However, the subsequent rejection of the initial agreement in a national referendum revealed a critical limitation: elite-driven mediation processes risk losing legitimacy when broader societal participation is insufficient.

Scholarly discourse increasingly acknowledges that rapid technological advancement has generated new categories of human rights violations that challenge conventional mediation frameworks. Algorithmic discrimination in sectors such as finance, employment, and criminal justice operates at a scale and velocity that renders individualised dispute resolution inadequate. Instances in which facial recognition systems misidentify large populations, or automated content moderation suppresses legitimate political expression across regions, illustrate harms that are both diffuse and systemic. Revelations during the 2021 whistleblower disclosures involving Facebook further demonstrated how platform design choices privileging engagement over safety contributed to the amplification of ethnic tensions in Ethiopia during the Tigray conflict. Such phenomena exemplify forms of structural violence embedded within technological systems contexts for which traditional mediation mechanisms were not designed.

Climate change introduces an additional temporal dimension that complicates the mediation of rights claims. Small island states in the Pacific, facing existential threats from rising sea levels, seek accountability from historically high-emitting nations whose industrialisation generated the crisis. However, the principal beneficiaries of fossil fuel-driven development belong to past generations, while its most severe consequences will affect future populations (Bedner & Van Huis, 2010). This raises profound questions regarding intergenerational justice and representation: how can mediation occur between parties separated by time? The Paris Agreement sought to address this challenge through voluntary commitments and periodic review mechanisms, yet emissions trajectories remain inconsistent with global temperature targets. This gap highlights not merely issues of compliance, but the structural limitations of consensus-based frameworks when long-term existential risks confront short term economic priorities.

Finally, the global resurgence of authoritarian governance has significantly reshaped the context in which human rights mediation operates. When leaders such as Viktor Orbán in Hungary undermine judicial independence, or Daniel Ortega in Nicaragua suppress political opposition, the foundational assumption of good-faith engagement erodes. Mediation presupposes a willingness to compromise; it becomes ineffective when one party seeks total domination. The Russian invasion of Ukraine exemplifies this dilemma, as diplomatic efforts persisted even amid documented atrocities in Bucha and systematic attacks on civilian infrastructure. This raises a fundamental question: what is the role of mediation when the conduct of a party negates the possibility of genuine negotiation? The tension between the normative ideal of dialogue and the empirical reality of eliminationist violence constitutes a central challenge for human rights mediation in an era marked by democratic regression.

RESEARCH METHODS

This study adopts a qualitative research approach grounded in documentary and critical interpretive analysis. It examines a wide range of sources, including institutional frameworks, treaty provisions, judicial decisions, commission reports, and documentation produced by international organisations, complemented by relevant secondary scholarly literature.The historical dimension of the research traces the evolution of mediation practices across different civilisations through the analysis of archaeological findings, legal codes, philosophical writings, and ethnographic studies. Particular emphasis is placed on African, Asian, and indigenous traditions, which have often been overlooked in predominantly Western-oriented scholarship.The analytical framework centres on institutional analysis, exploring both formal structures and procedural mechanisms while critically assessing underlying power dynamics and structural inequalities embedded within mediation processes. In addition, a comparative approach is employed to identify points of convergence and divergence among regional human rights systems, thereby demonstrating how diverse civilisational contexts influence the conceptualisation of rights as well as approaches to dispute resolution.

DISCUSSION

A. Civilisation and Human Right

The concept of human rights can be understood as a historical response to the recurring experiences of organised violence within human civilisations. Early legal systems, such as the Code of Hammurabi (c. 1750 BCE), represent initial efforts to regulate power through publicly articulated standards of justice. Although the code prescribed harsh penalties and reinforced social hierarchies distinguishing free individuals, commoners, and enslaved persons, it nonetheless introduced a transformative principle: that authority is subject to normative constraints (Ask, 2021). Procedural elements such as the presentation of evidence and sworn testimony anticipated later developments in due process. While these provisions did not yet constitute rights inherent to all individuals, they established the foundational idea that the exercise of power requires justification.

The period commonly referred to as the Axial Age (approximately 800–200 BCE) marked a significant shift toward moral universalism across diverse civilisations. In ancient China, Confucius advanced the concept of ren (humaneness or benevolence), emphasising that ethical governance depends on the dignified treatment of individuals rather than instrumental considerations. Similarly, in South Asia, Gautama Buddha promoted ahimsa (non-violence) and challenged rigid social hierarchies by asserting the universality of suffering and the potential for enlightenment. In the Greek world, Stoic philosophers articulated early formulations of natural law theory, arguing that reason itself reveals universal moral principles applicable to all human beings, irrespective of political membership. Together, these intellectual traditions contributed to the emergence of a shared moral framework that transcended local customs and laid the groundwork for later human rights discourse.

During the medieval era, the coexistence of religious universalism and political fragmentation both advanced and limited the development of rights consciousness. Islamic legal thought, as elaborated by scholars such as Al-Mawardi and Ibn Taymiyyah, articulated protections for non-Muslim communities (dhimmis) and introduced constraints on sovereign authority through consultative mechanisms (shura). In Europe, the Magna Carta established the principle that rulers are bound by law. Its provisions particularly those safeguarding individuals from arbitrary detention became foundational to later legal doctrines such as habeas corpus.

The expansion of European empires from the fifteenth century onward generated profound tensions within emerging theories of human rights. The Valladolid Debate, involving Bartolomé de las Casas and Juan Ginés de Sepúlveda, raised fundamental questions about the humanity and rights of indigenous peoples in the Americas. While advocacy efforts, including those of Las Casas, documented widespread atrocities and contributed to early humanitarian discourse, the very framing of the debate revealed that recognition of rights remained contingent upon dominant power structures. Subsequent developments, including the transatlantic slave trade, further demonstrated that abstract acknowledgment of universal humanity did not prevent systematic exploitation when reinforced by economic and racial ideologies.

The Enlightenment marked a decisive transformation by grounding human rights in rationality rather than theological authority. John Locke, in his Second Treatise of Government, argued that rights to life, liberty, and property are inherent and precede the formation of political institutions. These philosophical principles were translated into political declarations such as the American Declaration of Independence and the Declaration of the Rights of Man and of the Citizen, both of which proclaimed the universality of rights. However, their coexistence with slavery and colonial domination exposed the limitations of proclaimed universality. The Haitian Revolution forced a confrontation with these contradictions by demonstrating that rights claims could be appropriated by the oppressed to demand genuine inclusion.

In the nineteenth century, the expansion of rights discourse occurred alongside new forms of exclusion. Abolitionist movements succeeded in dismantling formal slavery across much of the Atlantic world, yet imperial expansion intensified, often justified through narratives that portrayed colonised populations as unprepared for self-governance and rights(Strating et al., 2024). The Berlin Conference, which partitioned Africa without local participation, exemplified how rights remained dependent on recognition by dominant powers. Anti-colonial thinkers such as Dadabhai Naoroji employed the language of liberal rights to critique imperial exploitation, illustrating how colonised societies strategically engaged with and reinterpreted European political thought.

The twentieth century, marked by unprecedented atrocities including the Armenian genocide, the Holocaust, and mass violence under authoritarian regimes catalysed the formation of the modern international human rights system. The adoption of the Universal Declaration of Human Rights represented an effort to establish a universal minimum standard of human dignity. The involvement of figures such as Eleanor Roosevelt, Charles Malik, P. C. Chang, Hernán Santa Cruz, and Hansa Mehta contributed to a document that aspired to cross-cultural legitimacy. Its foundational assertion that all human beings are equal in dignity and rights marked a significant normative milestone.

Subsequent legal developments, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as the Convention on the Elimination of All Forms of Discrimination Against Women, established a comprehensive normative framework. Nevertheless, enforcement has remained a persistent limitation. The Rwandan Genocide demonstrated the insufficiency of legal norms in the absence of effective enforcement mechanisms. The creation of the International Criminal Court in 2002 represented an attempt to institutionalise accountability, yet its jurisdictional constraints and the non-participation of major powers underscore ongoing structural challenges (Saraswati & Narzullayev, 2025).

Regional human rights systems further illustrate the diversity of civilisational approaches to rights protection. The European Court of Human Rights has developed extensive jurisprudence on civil and political liberties. The Inter-American system, shaped by

experiences of authoritarian rule, has emphasised protections against enforced disappearance and torture. Meanwhile, the African Charter on Human and Peoples' Rights integrates collective rights and duties, reflecting a communitarian philosophical orientation.

Contemporary debates continue to question the universality of human rights. The Bangkok Declaration emphasised sovereignty and developmental priorities, while the Cairo Declaration on Human Rights in Islam situated rights within an Islamic legal framework. These perspectives highlight enduring tensions between universalist and culturally specific conceptions of rights, raising fundamental questions about whether human rights are universally inherent or historically contingent constructs. This debate remains central to the role of mediation, particularly in determining whether it should reconcile competing value systems or uphold non-negotiable normative standards.

B. Relevance of Meditation in Modern Society

The widespread integration of mediation across diverse spheres of contemporary social life reflects both the increasing strain on formal adjudicative systems and a growing awareness that adversarial legal processes often intensify, rather than resolve, underlying conflicts. In many jurisdictions, family courts experience significant backlogs, with disputes over divorce and child custody consuming substantial judicial resources while rarely producing mutually satisfactory outcomes. The institutionalisation of court-connected mediation programs—first systematically developed in regions such as California in the late twentieth century—demonstrated that structured dialogue facilitated by trained mediators could resolve such disputes more efficiently and with higher levels of participant satisfaction. This model has since been adopted internationally. For example, legislative reforms such as the Family Law Act 1975 (as amended in 2006) in Australia mandate mediation prior to litigation in parenting disputes, reflecting the recognition that enduring familial relationships require cooperative, rather than adversarial, resolution mechanisms.

In the commercial sphere, mediation has become an integral component of international dispute resolution, largely due to the cost, rigidity, and time-intensive nature of arbitration. Institutions such as the International Chamber of Commerce have reported substantial use of mediation in resolving cross-border disputes spanning construction, trade, and intellectual property(Teo, 2024). The adoption of the UNCITRAL Model Law on International Commercial Mediation has further strengthened the legal infrastructure by facilitating the recognition and enforcement of mediated settlements across jurisdictions. This trend reflects a pragmatic understanding within the business community that preserving ongoing commercial relationships often outweighs the benefits of definitive legal victories. The mediated settlement between Samsung and Apple in 2018 exemplifies how mediation can produce outcomes that maintain business continuity while resolving protracted disputes (Isra et al., 2017).

At the community level, mediation centres emerged as responses to both judicial congestion and dissatisfaction with formal legal responses to everyday conflicts. Initiatives such as the San Francisco Community Boards, established in 1976, introduced neighbourhood-based mediation facilitated by trained volunteers. These programs addressed disputes ranging from interpersonal disagreements to minor commercial conflicts, grounded in the premise that many legal disputes are fundamentally social in nature and require communicative engagement rather than formal adjudication. Similarly, the Community Dispute Resolution Centers Program in New York institutionalised a statewide network of mediation services, demonstrating high settlement rates and reinforcing the effectiveness of dialogue-based approaches.

Mediation has also been adapted to criminal justice through restorative justice frameworks, which challenge conventional punishment-oriented paradigms. Legislative innovations such as the Children, Young Persons and Their Families Act 1989 in New Zealand institutionalised

family group conferencing, bringing together offenders, victims, and their respective support networks to collaboratively determine appropriate responses to wrongdoing. Evidence suggests that such approaches can reduce recidivism and enhance victim satisfaction. Community-based initiatives, including the Hollow Water First Nation healing model in Manitoba, further illustrate the potential of mediation to address even serious offences within culturally grounded frameworks. Nonetheless, these models have attracted critical scrutiny, particularly regarding the risks of coercion and the potential marginalisation of victims' experiences.

In employment contexts, mediation serves as a mechanism for addressing disputes ranging from discrimination claims to interpersonal workplace conflicts. The mediation program administered by the Equal Employment Opportunity Commission in the United States resolves a substantial number of complaints annually, often at early stages, thereby preserving professional relationships and enabling more flexible solutions than litigation. Corporate responses to systemic workplace concerns such as those undertaken by Microsoft in addressing gender discrimination complaints demonstrate the role of mediation in facilitating organisational change through dialogue rather than solely through punitive measures.

Environmental disputes further highlight the adaptability of mediation in addressing complex, multi-stakeholder conflicts involving competing economic, ecological, and cultural interests. Mediation initiatives, such as those concerning the Hin Namno Protected Area in Laos, have brought together governments, local communities, and conservation organisations to negotiate land-use arrangements. These processes acknowledge that environmental conflicts are not merely technical disputes but involve deeply embedded value differences, requiring negotiated solutions such as benefit-sharing agreements and adaptive management strategies that traditional adjudication cannot easily provide.

Finally, the emergence of online dispute resolution (ODR) represents the digital transformation of mediation practices. Platforms operated by companies such as eBay manage millions of disputes annually through a combination of automated systems and human facilitation, demonstrating the scalability of mediation in digital marketplaces. At the supranational level, the European Union has developed an ODR platform to enable cross-border consumer dispute resolution, thereby addressing the practical limitations of litigation for low-value claims(Yu et al., 2025). These developments underscore the role of mediation as a flexible, accessible, and increasingly indispensable mechanism for dispute resolution in modern, interconnected societies.

C. Contemporary Challenges in mediating Human Right Disputes

A central difficulty in the mediation of human rights disputes lies in the inherently non-negotiable character of certain rights. This creates a fundamental distinction between mediating commercial or interpersonal conflicts and addressing situations of systemic oppression. Practices such as torture, sexual violence, or ethnic cleansing are not matters open to compromise; rather, they violate peremptory norms of international law (*jus cogens*) from which no derogation is permitted. In such contexts, the foundational premise of mediation namely, the pursuit of mutually acceptable outcomes becomes untenable when one party's position is intrinsically unlawful. Consequently, a problem of selectivity emerges: while mediation may be appropriate for disputes involving resource distribution, policy formulation, or remedial arrangements, it is largely unsuitable for addressing mass atrocities or eliminationist violence. Determining these boundaries in practice, however, remains a complex and contested task (Roper et al., 2026).

The effectiveness of human rights mediation is further undermined by the absence of robust enforcement mechanisms, rendering agreements susceptible to non-compliance. The Doha Agreement, intended to resolve conflict in Yemen, illustrates this limitation, as key parties

disregarded provisions and resumed hostilities. Unlike private law contexts where mediated settlements can be enforced through contractual or judicial means international human rights agreements often lack coercive backing. Institutions such as the International Court of Justice can issue rulings or provisional measures, yet they depend on state compliance. The failure of Myanmar to adhere to such measures concerning the protection of the Rohingya underscores the limitations of normative authority when confronted with entrenched political and military power.

Debates surrounding cultural relativism present an additional layer of complexity. On one hand, critiques of universal human rights frameworks highlight their historical roots in Western intellectual traditions and question their global applicability. On the other hand, appeals to cultural specificity are sometimes invoked to justify practices that inflict significant harm, including gender-based violence or systemic discrimination. Mediators must therefore navigate a delicate balance between respecting cultural diversity and preventing its misuse as a legitimising tool for oppression. This challenge becomes particularly acute in internally divided societies, where competing social groups such as younger generations, women, or LGBTQ+ individuals contest dominant cultural norms (Nersessian, 2018).

Victim participation introduces both normative and practical challenges within mediation processes. Mechanisms such as those employed by the Extraordinary Chambers in the Courts of Cambodia have sought to incorporate victims as active participants, allowing them to present testimony and contribute to reparative measures. While such inclusion enhances the legitimacy and moral depth of proceedings, it may also lead to retraumatisation, particularly when victims confront unrepentant perpetrators. Additionally, large-scale atrocities raise questions of representation: ensuring meaningful participation for vast numbers of victims is administratively difficult, and reliance on representative mechanisms risks privileging more articulate or resource-rich individuals while marginalising the most vulnerable (Khoo, 2025).

The proliferation of armed non-state actors further complicates mediation efforts by fragmenting authority and multiplying negotiating parties. The conflict in Syria exemplifies this dynamic, where negotiations have involved state forces, diverse opposition groups, Kurdish factions, extremist organisations, and external actors such as Russia, Iran, Turkey, and the United States. Efforts such as the Geneva peace talks on Syria have repeatedly faltered, in part because no single negotiating framework has successfully encompassed all relevant stakeholders, and excluded actors retain the capacity to undermine agreements through continued violence.

Technological developments have introduced new forms of rights violations that operate at a scale and speed beyond the capacity of traditional mediation frameworks. The role of Facebook in amplifying hate speech during violence against the Rohingya illustrates how algorithmic systems can contribute to widespread harm. In such cases, mediation must address not isolated incidents but systemic design features embedded within complex technological infrastructures. The opacity of algorithms and the global reach of digital platforms complicate both accountability and the monitoring of remedial commitments, raising fundamental questions about how mediation can function in contexts where decision-making is automated and diffused.

Climate change presents an unprecedented challenge by generating rights conflicts that are both transnational and intergenerational. Projections by institutions such as the World Bank indicate that large-scale displacement potentially affecting hundreds of millions will intensify disputes over responsibility, resettlement, and resource allocation. The case of Tuvalu, which faces existential risks from rising sea levels, exemplifies the complexities of mediating claims involving historical responsibility, future harm, and questions of sovereignty and cultural preservation (Vinuesa, 1998). Efforts by Pacific states to establish cooperative frameworks

have encountered resistance from more economically powerful countries such as Australia and New Zealand, highlighting a persistent pattern in which those most capable of providing assistance are often least willing to assume binding obligations.

CONCLUSION

Mediation in human rights contexts must move beyond neutrality and operate within a principled framework grounded in non-negotiable norms, where its purpose is not to compromise fundamental rights but to facilitate accountability, remedies, and guarantees of non-repetition. This requires mediators with strong expertise in human rights law, power analysis, and trauma-informed practice, alongside institutional innovations such as hybrid mechanisms combining mediation and adjudication, inclusive participation of marginalized groups, and robust regulatory frameworks to prevent the legitimization of violations. At the same time, technological mediation must be designed to address digital inequalities, ensuring fair participation. Ultimately, mediation contributes to human rights advancement by translating legal norms into practical realities, centering victims, promoting transparency and accountability, and addressing global challenges such as climate change through equitable principles. Properly structured, mediation serves as a bridge between universal human rights standards and diverse societal contexts, with the key challenge being the creation of dialogic processes that make rights not only normative ideals but lived experiences.

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