
A COMPARATIVE STUDY ON ABUSE AND MAINTENANCE RIGHTS OF ELDERLY PERSONS

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ABSTRACT

This study attempts to examine the growing elderly population around the world and the increasing problem of elder abuse, neglect, and financial exploitation. It explains the different forms of elder abuse, including physical, emotional, financial, and neglectful treatment. It also identifies major causes such as caregiver stress, conflicts between generations, and pressure to give away property or assets. The study traces how the responsibility of families to care for older people developed from ancient laws and English Poor Laws to modern welfare systems. It compares the laws and protection mechanisms relating to elder care in India, the United States, the United Kingdom, and Singapore. In India, the study focuses on the Maintenance and Welfare of Parents and Senior Citizens (MWPSA) Act, 2007, Article 41 of the Constitution, government welfare schemes, and important court decisions, especially those dealing with cancellation of property transfers under Section 23 of the Act. However, several problems still exist. These include fear or unwillingness of elderly people to report abuse, delays in tribunals, difficulties in enforcing orders, low maintenance limits, and pressure on elderly people to transfer their property. The study therefore suggests reforms such as Elder Protection Units at the district level, counselling and settlement before going to court, independent counselling before major property transfers, better pension schemes, and government-supported emergency shelters. Overall, the study argues that protecting elderly people requires both family responsibility and strong government support so that senior citizens can live with dignity, security, and independence.

Keywords: Elder Abuse, Elderly Rights, Legal protection.

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INTRODUCTION

The global human population is undergoing a structural demographic transformation characterized by a Unprecedented rise in the proportion of elderly persons relative to younger cohorts. According to statistical Projections compiled by the United Nations Department of Economic and Social Affairs (UN DESA), the Global population of persons aged 60 years or older stood at approximately 1 billion in 2020 and is projected To escalate to 1.4 billion by 2030, eventually reaching 2.1 billion by 2050.³ This rapid demographic shift is Driven by compounding factors: significant advances in medical technology, improved sanitation, public Health interventions, and declining global fertility rates. While extended longevity represents a landmark triumph of modern medical science and social Development, it introduces severe institutional, legal, and economic challenges. As life expectancy increases, Physical frailty, cognitive decline, chronic illness, and economic dependence among senior citizens become Highly prevalent. Consequently, the capacity of societies to guarantee human dignity, physical security, and Financial sustenance for their oldest members has emerged as a fundamental test of legal systems worldwide.

Defining Elder Abuse under International Standards

Elder abuse, as defined by the World Health Organization (WHO), constitutes “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.”⁴ The defining element of this jurisprudence is the expectation of trust. Unlike Generalized assault or public financial fraud, elder abuse is an insular, domestic phenomenon perpetrated by Individuals who bear a fiduciary, emotional, or statutory duty of care toward the senior citizen.

Multi-Dimensional Classifications of Abuse

Elder abuse cannot be evaluated solely through the lens of physical violence. It operates across a complex Spectrum of interrelated typologies:

A. Physical and Medical Abuse

This includes the active infliction of bodily pain, physical restraints, forced confinement, and

³ U.N. Dep’t of Econ. & Soc. Affs., Population Div., World Population Ageing 2020 Highlights: Living Arrangements of Older Persons, ST/ESA/SER.A/451, at 8–12 (2020).

⁴ World Health Organization, Elder Abuse: Key Facts and Global Estimates, Fact Sheet No. 357 (2022).

the systemic Withholding of essential medications, assistive devices (hearing aids, spectacles), or specialized geriatric nutrition. It frequently manifests as deliberate medical neglect, where curable or manageable conditions are left unaddressed To hasten natural mortality or reduce caregiving expenditure.

B. Psychological and Emotional Exploitation

Arguably the most prevalent yet under-reported form of abuse, psychological terror includes persistent Verbal degradation, systematic social isolation, threatening placement in substandard institutional care, and Weaponizing access to grandchildren. The deliberate creation of a hostile domestic environment induces a state of Chronic learned helplessness, accelerating cognitive decline and psychiatric morbidity.

C. Financial and Material Exploitation

This involves the unauthorized, coercive, or fraudulent manipulation of an elderly person's financial assets, Pensions, bank accounts, or real estate. It frequently takes the form of forced execution of property gift deeds, Fraudulent power of attorney acquisitions, or threatening abandonment unless real estate titles are transferred to Heirs. Once the asset transfer occurs, the structural utility of the senior citizen drops to zero, invariably resulting in Immediate neglect or absolute abandonment.

TYPOLGY OF ABUSE	PRIMARY BEHAVIORAL MANIFESTATIONS	UNDERLYING LEGAL & STRUCTURAL VULNERABILITIES
Physical / Medical	Assault, confinement, withholding medicine/food, dietary restriction.	Physical frailty, lack of independent mobility, total reliance on domestic caregivers.
Psychological	Infantilization, systematic isolation, verbal threats, withholding contact.	Absence of community mental health interventions; evidentiary difficulties in proving non-physical harm.
Financial / Asset	Coerced property gift deeds, pension interception, fraudulent wills.	Asymmetrical legal awareness, complex property transfer registries lacking independent scrutiny.

Systemic Neglect	Abandonment in public places, refusal to pay for life-saving surgeries.	Absence of comprehensive state-sponsored social security and public old-age shelter infrastructure.
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Socio-Economic and Structural Triggers

The root causes of elder abuse are complex and layered. Foremost among these is Caregiver Stress. In Households lacking access to subsidized daycare or institutional nursing supports, the burden of managing a Chronically ill or cognitively impaired parent falls completely on adult children. When combined with economic Instability or underemployment, this relentless pressure frequently transforms into active hostility. Another major Catalyst is the Clash of Intergenerational Values within crowded urban dwellings, where space constraints Exacerbate daily friction. Most critically, the Premature Divestment of Assets strips the elderly of their bargaining Power within the family unit. Once an individual surrenders title to their residential or financial property in a Misguided reliance on familial affection, they lose the only structural leverage that guarantees their domestic Security.

HISTORICAL EVOLUTION OF FILIAL RESPONSIBILITY & ELDER CARE

Ancient Legal Traditions and Customary Codes

Long before the advent of positive statutory codification, the care, protection, and financial maintenance of elderly persons were governed by customary norms, religious codes, and sacred legal traditions across different civilizations.

In ancient Indian jurisprudence, filial responsibility was recognized as a significant moral and social obligation. The Manusmriti emphasized the duties of children toward their aged parents, reflecting the broader principle that familial responsibility extended to the care and maintenance of elderly members of the household⁵. Similarly, in traditional Chinese legal philosophy, the Confucian doctrine of Xiao (filial piety) constituted a foundational principle of family and social organization. Chinese dynastic legal traditions treated certain forms of filial disobedience and neglect as serious violations of social and legal order.

In early Western legal history, Roman law operated under the doctrine of patria potestas, which

⁵ Patrick Olivelle, *Manu's Code of Law: A Critical Edition and Translation of the Mānava-Dharmaśāstra* (Oxford Univ. Press 2005) (Ch. VIII, vv. 389–390).

vested extensive authority in the paterfamilias over descendants and family property. Although this system was primarily concerned with paternal authority rather than an express statutory right to old-age support, the family structure provided an important mechanism for intergenerational economic security. With the decline of Roman authority and the emergence of feudal institutions in Western Europe, responsibility for vulnerable and elderly persons increasingly became distributed among families, religious institutions, local communities, and feudal authorities.

The Poor Laws and Common Law Evolution

The formal statutory development of familial maintenance obligations in English law can be traced to the Act for the Relief of the Poor 1601, commonly known as the Elizabethan Poor Law.⁶ The legislation placed responsibility for the relief of certain persons unable to support themselves upon specified family members and local authorities, thereby establishing an important foundation for later statutory approaches to social welfare. The policy was partly directed toward preventing poverty from becoming an overwhelming burden upon parish resources.

During the Industrial Revolution of the eighteenth and nineteenth centuries, factory employment, rapid urbanization, and rural depopulation weakened traditional intergenerational care structures. In response, modern systems of social insurance and public welfare gradually emerged. A significant milestone was the German social insurance legislation introduced under Chancellor Otto von Bismarck in the late nineteenth century, followed decades later by the Social Security Act of 1935 in the United States.⁷

By the latter half of the twentieth century, governments increasingly recognized that public pensions and general welfare measures alone could not adequately address the problems of elder abuse, neglect, and financial exploitation. This contributed to the development of specialized elder-welfare legislation, social-care mechanisms, and statutory frameworks imposing obligations upon families and the state.

⁶ William P. Quigley, *Five Hundred Years of English Poor Laws, 1349–1834: Regulating the Working and Non-Working Poor*, 30 *Akron L. Rev.* 73, 88–92 (1996).

⁷ Soc. Sec. Admin., *Historical Background and Development of Social Security in the United States*, SSA Pub. No. 05-10043 (2021).

ELDER ABUSE IN INDIA: STATISTICAL OVERVIEW

1. Family setting and vulnerability.

Elder abuse in India remains a significant but often underreported social problem. The family continues to be the principal source of support for older persons, with a substantial majority living with their children or other family members. HelpAge India's recent intergenerational study found that 83% of elders currently live with or plan to live with family, demonstrating the continuing importance of family-based living arrangements in India.⁸ However, dependence upon family members for financial, emotional, healthcare and day-to-day support can also increase the vulnerability of older persons to neglect, exploitation and other forms of abuse.

2. Family members as perpetrators.

The family-centred nature of elder care also creates difficulties in identifying and reporting abuse. Earlier HelpAge India research found that sons and daughters-in-law were among the principal reported perpetrators of elder abuse, with 44% of elderly respondents who had experienced abuse identifying sons and 63% identifying daughters-in-law.⁹ Such findings are important because abuse occurring within the family may remain concealed due to emotional dependence, financial dependence, fear of abandonment and the reluctance of older persons to initiate legal proceedings against their own children or relatives.

3. Public recognition of elder abuse.

The problem is not limited to officially reported criminal cases. A HelpAge India study examining young people's perceptions of elder abuse found that 72.7% of respondents acknowledged that elder abuse exists to some degree, while 22% believed that it exists "quite a lot."¹⁰ This indicates that elder abuse is recognised as a social reality even though its actual incidence may be considerably higher than the number of cases reaching law-enforcement authorities.

⁸ HelpAge India, Understanding Intergenerational Dynamics & Perceptions on Ageing: India Intergenerational Bonds (INBO) Report 2025, at 91 (2025). Available at www.HelpAge.India

⁹ HelpAge India, Elder Abuse in India 2011: A Study of the Ageing Population, at 12 (2011).

¹⁰ HelpAge India, Elder Abuse: The Indian Youth Speaks Out 12 (2015).

4. Crimes against senior citizens.

Official crime statistics provide another indication of the vulnerability of older persons. The National Crime Records Bureau (NCRB), under the Ministry of Home Affairs, publishes separate data concerning crimes against senior citizens. The NCRB's 2023 dataset provides crime-head-wise and State/Union Territory-wise information concerning cases and senior-citizen victims.¹¹ These figures are useful for understanding the criminal victimisation of older persons, although they should not be treated as a direct measurement of elder abuse because many forms of abuse—particularly emotional abuse, neglect and financial exploitation—may not be reported to the police.

5. Underreporting and the “invisible” nature of abuse.

The statistical picture therefore represents only a part of the problem. Elder abuse can take several forms, including physical, psychological, emotional and financial abuse, as well as neglect and deprivation of basic necessities. When the alleged perpetrator is a family member, an older person may be particularly reluctant to report the conduct. Consequently, police-recorded crime figures are likely to capture only those incidents that come to the attention of law-enforcement agencies. This distinction is important when assessing the effectiveness of India's legal framework for the protection of senior citizens.

6. Overall significance.

The available evidence demonstrates that elder abuse in India requires attention not merely as a family or social-welfare issue but also as a matter of legal protection, human dignity and access to justice. The continued dependence of older persons upon family members, evidence of abuse by close relatives and the substantial gap between reported crimes and the broader forms of abuse indicate the need for effective implementation of existing legislation, accessible complaint mechanisms, awareness of legal rights and stronger institutional support for victims.

COMPARATIVE STATUTORY LEGAL FRAMEWORKS

India: Maintenance and Welfare of Parents and Senior Citizens Act, 2007

India provides a distinctive statutory model for the protection and welfare of parents and senior

¹¹ National Crime Records Bureau, Ministry of Home Affairs, Government of India, Crime Head-wise and States/UT-wise Crime Against Senior Citizen During 2023, in *Crime in India 2023* (2026). Available at www.data.gov.in

citizens by combining a legally enforceable maintenance obligation with summary adjudicatory mechanisms and protection of senior citizens' property. Prior to the enactment of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ("MWPSA Act"), maintenance claims could arise under Section 125 of the Code of Criminal Procedure, 1973 (now section 144 of BNSS, 2024), as well as under personal-law statutes such as the Hindu Adoptions and Maintenance Act, 1956. The MWPSA Act was enacted to provide a more accessible and expeditious statutory mechanism specifically addressing the maintenance and welfare of parents and senior citizens.¹² Key statutory provisions include:

- **Summary Maintenance Tribunals (Sections 5-11):** Establishes administrative tribunals presided over by Sub-Divisional Magistrates (SDMs) to decide maintenance claims within 90 days, bypassing formal Civil court procedures and legal representation.
- **Broad Definition of Obligor (Section 4):** Imposes an obligation on adult children and, for childless Elders, legal heirs who inherit or stand to inherit their property.
- **Property Transfer Revocation (Section 23):** Grants tribunals power to declare transfers of property by Senior citizens void if transferred on the condition of receiving basic care and the transferee subsequently fails or refuses to provide such care.¹³
- **Criminal Penalties for Abandonment (Section 24):** Criminalizes the intentional abandonment of a Senior citizen by a caregiver, punishable by imprisonment and fines.

Senior Citizen can claim maintenance from the following people:

1. From Children/ Grandchildren: Parents and Grandparents can claim maintenance, Provided their children/ grandchildren are not minors.
2. From a relative or legal guardian: The Maintenance Act also makes provisions for Maintaining senior citizens with no children. Such citizens may be maintained by their Legal heir or person to whom the property might/ is to be transferred after the death of

¹² The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Act No. 56 of 2007, India).

¹³ Section 23(1), The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

Such citizen. This includes relatives and legal heir, where the legal heir must be a major And have sufficient means to maintain the senior citizen.

Hindu Adoptions and Maintenance Act, 1956

The Act empowers elderly parents to seek maintenance from their children under section 20. The Court is empowered to decide the amount in case the court feels that the original amount Is insufficient doe them to sustain. Under this Act, both sons and daughters are under the Obligation to maintain their parents. The Madras High Court ruled in *K.M. Adam v Gopalakrishnan*¹⁴, among other things, that a Hindu child is entitled to maintenance regardless of whether its mother or father practices Hinduism. The Supreme Court held in *Kirtikant D. Vadodaria v State of Gujarat*¹⁵ that elderly Parents have the same legal right to maintenance under this Act from their daughter as they do From their Sons.

The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 (BNSS)

The maintenance of elderly parents is covered under Section 144. All elderly parents, Regardless of faith, may apply for maintenance under this provision. Upon proof of such neglect or refusal, a magistrate of the first class may order any person with sufficient means to pay a Monthly allowance for the maintenance of his parents, at an amount the magistrate deems Appropriate if the person neglects or refuses to support his parents and is unable to support Themselves.

This provision states that children must support their parents when they are in need. According To the Code, sons and daughters including married daughters are accountable for their Parents' maintenance. To get maintenance under this clause, the parent must, however, prove That the other party has adequate resources and has ignored or refused to support the parent, who is incapable of supporting themselves. It is crucial to remember that the BNSS is a secular Law that applies to all groups and faiths.

UN and the Rights of Older Persons

The United Nations Principles for Older Persons were adopted by the United Nations General Assembly in 1991 with the objective of ensuring that the needs, interests, and concerns of older

¹⁴ AIR 1974 MAD 232.

¹⁵ (1996) 4 SCC 479.

persons receive appropriate recognition in national policies. The Principles encourage States to incorporate the following five fundamental principles into their national programmes and policies, wherever feasible:

1. **Independence:** Older persons should have access to adequate food, water, shelter, clothing, and health care through their own income, family support, community assistance, or other forms of social support. They should also have opportunities to work or access other income-generating resources.¹⁶
2. **Participation:** Older persons should remain integrated into society and should be encouraged to participate actively in the formulation and implementation of policies that directly affect their well-being.¹⁷
3. **Care:** Older persons should have access to appropriate health-care services to enable them to maintain or regain an optimal level of physical, mental, and emotional well-being.¹⁸
4. **Self-fulfilment:** Older persons should have opportunities to pursue their full potential through access to the educational, cultural, spiritual, and recreational resources available within society.¹⁹
5. **Dignity:** Older persons should be able to live in dignity and security and should be protected from exploitation, physical abuse, and psychological abuse.²⁰

United States: Adult Protective Services and Filial Support Statutes

The legal framework in the United States relies primarily on state public welfare agencies and federal Funding mechanisms rather than a uniform federal filial duty statute. At the federal level, the Elder Justice Act of 2010 (42 U.S.C. § 1397j et seq.) and the Elder Abuse Prevention and Prosecution Act of 2017 provide Federal funding, law enforcement coordination, and institutional oversight for elder abuse prevention.²¹

¹⁶ National Human Rights Commission India, *Rights of Senior Citizens* (2020).

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ Elder Abuse Prevention and Prosecution Act of 2017, Pub. L. No. 115-70, 131 Stat. 1208 (2017); 42 U.S.C.

At the state level, legal protection operates through two distinct mechanisms:

- **Adult Protective Services (APS):** State social service agencies are statutorily empowered to receive Abuse reports, investigate domestic and institutional neglect, issue emergency protective orders, and Establish court-supervised guardianships or conservatorships for vulnerable adults.
- **State Filial Responsibility Laws:** Approximately 29 state jurisdictions maintain historical statutory Filial support obligations (e.g., 23 Pa. C.S. § 4603 in Pennsylvania). These statutes allow third-party Healthcare providers and nursing homes to sue adult children to recover unpaid medical and long-term Care debts incurred by indigent parents.

United Kingdom: Care Act 2014 and Local Authority Safeguarding

The United Kingdom, particularly England and Wales, adopts a predominantly public-welfare and safeguarding-oriented approach to elder protection. Unlike India and Singapore, the statutory framework does not generally impose a direct statutory obligation upon adult children to provide financial maintenance to their parents. Instead, responsibility for assessing and responding to care and support needs is principally placed upon public authorities.

The principal statutory framework is the Care Act 2014. Part 1 establishes a comprehensive framework for care and support, including a general duty upon local authorities to promote individual well-being.²² The Act also establishes specific safeguards for adults who may be experiencing abuse or neglect.

Section 42 is particularly significant.²³ Where a local authority has reasonable cause to suspect that an adult in its area has care and support needs, is experiencing or is at risk of abuse or neglect, and is unable to protect himself or herself because of those needs, the authority must make, or cause to be made, such enquiries as it considers necessary to determine whether protective action should be taken. The statutory definition expressly encompasses financial abuse, including theft, fraud, pressure concerning money or property, and misuse of property.

1397.

²² Care Act 2014, c. 23 (UK).

²³ Care Act 2014, c. 23, s. 42 (Eng. & Wales).

The Care Act also requires each local authority to establish a Safeguarding Adults Board (“SAB”) under Section 43. These boards coordinate the activities of relevant agencies and seek to promote effective safeguarding arrangements for adults at risk of abuse or neglect.

The United Kingdom therefore represents a state-centred safeguarding model. Its principal emphasis is not on compelling adult children to financially maintain their parents but on ensuring that local authorities identify care needs and intervene where adults are exposed to abuse, neglect, or exploitation.

Singapore: Maintenance of Parents Act 1995

Singapore provides a particularly relevant comparative model because, like India, it recognises a legally enforceable obligation of adult children to support parents who are unable to maintain themselves adequately. The Maintenance of Parents Act 1995 establishes a specialised statutory mechanism through which eligible parents may seek maintenance from their children.²⁴

The Act establishes the Tribunal for the Maintenance of Parents under Section 13 and confers jurisdiction upon the Tribunal to hear and determine applications for maintenance. This provides a specialised forum distinct from ordinary civil litigation and reflects Singapore’s emphasis on accessible resolution of intergenerational maintenance disputes.

The Act also provides for the role of the Commissioner for the Maintenance of Parents and incorporates conciliation and mediation mechanisms. Sections 12 and 12C provide a framework for conciliation and mediation, thereby encouraging family settlement before or during the adjudicatory process.

An important feature of the Singapore model concerns allegations that the parent previously abandoned, abused, or neglected the child.²⁵ The statutory framework permits such circumstances to be relevant to proceedings concerning maintenance claims and conciliation. This introduces an element of reciprocity into filial responsibility by recognising that parental conduct may affect the justice of imposing a maintenance obligation upon an adult child.

The Singapore model therefore occupies an intermediate position between the Indian and

²⁴ Maintenance of Parents Act 1995 (Chapter 167B, Revised Edition 1996, Singapore).

²⁵ Section 5(3), Maintenance of Parents Act 1995 (Singapore).

British approaches. Like India, it recognises filial responsibility as a legally enforceable obligation; however, its specialised tribunal and emphasis on conciliation place greater importance on negotiated family settlement and mediation.

Overall, the four jurisdictions demonstrate substantially different approaches to elder welfare. India and Singapore adopt comparatively strong filial-duty models, although India combines maintenance with extensive property and abandonment protections. The United States relies primarily upon a decentralised system of Adult Protective Services, federal elder-justice initiatives, and selected state filial-responsibility laws. The United Kingdom adopts a predominantly state-centred safeguarding model, under which local authorities bear primary responsibility for responding to care needs and risks of abuse or neglect. These differences illustrate the tension between family-based responsibility and state-based social protection in contemporary elder-rights jurisprudence.

CONSTITUTIONAL IMPERATIVES, GOVERNMENT POLICIES, SCHEMES & INTERNATIONAL HUMAN RIGHTS

The Constitutional Right to Life and Geriatric Dignity

Modern constitutional jurisprudence increasingly recognizes that the right to life cannot be reduced to mere Animal existence. It encompasses the right to live with human dignity, self-respect, and a clean, safe environment. For an elderly person, this constitutional guarantee directly translates to the state's duty to ensure they are not left to Die in conditions of destitution, untreated medical infirmity, or domestic terror. Constitutional courts across Developing democracies have consistently used directive principles of state policy to expand the scope of statutory Maintenance, elevating it to an inalienable fundamental right under the umbrella of personal liberty.

Article 41 of the Constitution of India is the principal constitutional provision concerning the welfare of senior citizens. It directs the State, within the limits of its economic capacity and development, to make effective provision for securing the right to work, education, and public assistance in cases of unemployment, old age, sickness, and disablement, as well as in other cases of undeserved want.

Other constitutional provisions relevant to the protection and welfare of senior citizens include:

Fundamental Rights under Part III: Senior citizens are entitled to the fundamental rights guaranteed by the Constitution, particularly equality, non-discrimination, and protection of life and personal liberty. Articles 21A and 24 specifically concern children and therefore are not directly applicable to senior citizens.

Articles 39A, 42–44, 46 and 47: These Directive Principles promote social justice, humane conditions of work, public health, and the welfare of weaker and disadvantaged sections of society, which can also support policies for the elderly.

Entry 9, List II (State List), Seventh Schedule: Provides for “Relief of the disabled and unemployable.” This gives States legislative competence concerning welfare measures for persons who are unable to support themselves.

Entries 20 and 23, List III (Concurrent List), Seventh Schedule:

Entry 20: Economic and social planning.

Entry 23: Social security and social insurance; employment and unemployment.

Thus, although Article 41 is a Directive Principle and is not independently enforceable in court, it establishes an important constitutional foundation for State policies and legislation aimed at ensuring the social security, dignity, health, and welfare of senior citizens.

National Policy on Older Persons (NPOP), 1999

The National Policy on Older Persons (NPOP) was adopted by the Government of India in 1999 to ensure that senior citizens live a comfortable, dignified, and secure life.²⁶ The nodal ministry is the Ministry of Social Justice and Empowerment (MoSJE).²⁷

It focuses on:

- Housing and shelter
- Healthcare

²⁶ National Human Rights Commission India, Rights of Senior Citizens (2020).

²⁷ Surya, Rights of Minorities and Other Marginalised Groups <https://ebooks.inflibnet.ac.in/hrdp06/>.

- Food and nutritional security
- Protection from exploitation and abuse
- Equal participation in development
- Access to necessary resources
- Improvement of quality of life
- It particularly seeks to support elderly persons living in rural areas who are dependent on family support.
- It promotes an age-integrated society, inter-generational understanding, and family/community support.

National Policy for Senior Citizens (NPSC), 2011

The National Policy for Senior Citizens, 2011 was proposed to address the changing needs of elderly persons in both rural and urban areas. Its major concerns include:

- Welfare of older persons, particularly elderly women
- Greater employment opportunities for senior citizens
- Effective implementation of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007
- Provision of living facilities for abandoned senior citizens

Atal Pension Yojana (APY), 2015

The Atal Pension Yojana was introduced in 2015 mainly to provide social-security support to workers in the unorganised sector who may not have access to other pension schemes.

Key features:

- Available to eligible persons aged 18–40 years.

- Provides a guaranteed minimum pension, beginning at ₹1,000 per month depending on the subscriber's contribution.²⁸
- Contributions are linked to the subscriber's bank account.
- It aims to protect people against the financial risks associated with old age.

National Council for Older Persons (NCOP)

The National Council for Older Persons (NCOP) was established in 1999 by the Ministry of Social Justice and Empowerment. Its functions include:

- Monitoring and supervising implementation of policies for senior citizens.
- Advising the government on programmes and policies concerning older persons.
- Bringing together representatives of Central and State Governments, NGOs, senior-citizen associations, citizens' groups, and experts.²⁹

In 2012, it was renamed the National Council of Senior Citizens (NCSrC).

Integrated Programme for Senior Citizens (IPSrC)

The Government introduced the Integrated Programme for Older Persons (IPOP) in 1992, which was later revised and is now known as the Integrated Programme for Senior Citizens (IPSrC). Its objective is to improve the quality of life of senior citizens by providing basic necessities³⁰ such as:

- Food
- Shelter
- Healthcare

²⁸ National Human Rights Commission India, Rights of Senior Citizens (2020).

²⁹ Surya, Rights of Minorities and Other Marginalised Groups <https://ebooks.inflibnet.ac.in/hrdp06/>

³⁰ Ibid

- Care and support

The scheme also provides financial assistance to organisations working for elderly welfare.

Major initiatives under IPSrC:

1. Senior Citizens' Homes

Provide food, shelter and care to destitute senior citizens. Separate facilities may be provided for elderly women.

2. Continuous Care Homes

Provide nursing and continuous care to elderly persons who are seriously ill or require special care. Also cater to persons with Alzheimer's disease or dementia.

3. Mobile Medicare Units

Provide healthcare services to elderly persons living in remote, rural and underdeveloped areas.

4. Physiotherapy Clinics

Provide physiotherapy services to senior citizens through eligible organisations.

5. Regional Resource and Training Centres (RRTCs)

Provide training and capacity building. Offer technical support, monitoring, advocacy and networking. Help organisations implement senior-citizen welfare programmes effectively.

6. Rashtriya Vayoshri Yojana

The Rashtriya Vayoshri Yojana provides assistive devices free of cost to eligible senior citizens from economically weaker sections who suffer from age-related disabilities.

Examples include assistance for:

- Visual impairment
- Hearing impairment
- Other age-related physical difficulties

International Human Rights Frameworks

At the international level, while a dedicated, legally binding UN Convention on the Rights of Older Persons Is still an ongoing global advocacy goal, several soft-law instruments provide robust interpretive frameworks for Domestic courts:

A. The United Nations Principles for Older Persons

Adopted by the UN General Assembly, this instrument organizes elder rights into five core pillars:

Independence (access to food, water, shelter, and employment opportunities); Participation (active involvement in Community life and policy formulation); Care (access to healthcare, social and legal protection); Self-Fulfillment (educational and cultural opportunities); and Dignity (freedom from exploitation and physical/mental abuse).

B. The Madrid International Plan of Action on Ageing

This plan mandates member states to design comprehensive mainstream policy frameworks that integrate Aging into global and national development agendas. It places special emphasis on creating age-friendly physical Environments, eradicating financial fraud targeted at pensioners, and establishing sustainable public safety nets to Reduce dependence on filial benevolence.

JUDICIAL ACTIVISM AND LANDMARK CASE ANALYSIS

Judicial Interpretation of Property Transfer Revocation in India

Section 23 of the Indian MWPSC Act 2007 has generated substantial litigation regarding property rights and Parental protection. Courts have evaluated whether an express written clause requiring care is mandatory in a Transfer deed to declare it void, or whether an implied conditional requirement suffices.

Sudesh Chhikara v. Ramti Devi & Anr. (2022)

Fact Matrix: An elderly mother executed a gift deed transferring her share of real estate property to her Daughter. Subsequently, the mother alleged that her daughter failed to maintain

her and petitioned the Maintenance Tribunal under Section 23 to declare the gift deed void. Legal Holding: The Supreme Court held that to invoke Section 23(1), two conditions must be satisfied:

- (1) The transfer must be subject to an explicit condition that the transferee shall provide basic amenities and Physical needs, and
- (2) the transferee must fail or refuse to fulfill such amenities. In the absence of an Express written condition in the deed itself, the Tribunal cannot presume an implied condition to declare the Transfer void.³¹

Enforcing Filial Liability for Healthcare Debts in the United States

In the United States, state filial support statutes have increasingly been utilized by long-term care facilities to Collect unpaid medical debt from financially solvent adult children.

Health Care & Retirement Corporation of America v. Pittas,(2012)

Fact Matrix: An elderly mother incurred over \$93,000 in nursing home bills following rehabilitation care Before relocating abroad. The nursing care facility filed a lawsuit against her adult son under Pennsylvania’s Filial Responsibility Statute (23 Pa. C.S. § 4603) to satisfy the outstanding debt.

Legal Holding: The Superior Court of Pennsylvania affirmed that under the filial support statute, a Healthcare creditor can sue an adult child directly to recover care costs incurred by an indigent parent Without needing to prove that the parent is completely destitute or that other adult siblings are unwilling to Contribute.³²

Protecting Autonomy and Safeguarding under UK Law

In the United Kingdom, judicial proceedings involving vulnerable elders balance protective state intervention With individual autonomy under the Mental Capacity Act 2005.

³¹ Sudesh Chhikara v. Ramti Devi & Anr., (2022) 15 SCC 345 (Supreme Court of India)

³² Health Care & Retirement Corporation of America v. Pittas, 46 A.3d 719 (Pa. Super. Ct. 2012).

London Borough of Redbridge v. G (2014) EWHC 485 (COP)

Fact Matrix: Local health authorities sought protective injunctions for an elderly woman experiencing Physical frailty and potential financial coercion by third-party caregivers within her residence.

Legal Holding: The High Court (Court of Protection) affirmed that state intervention must strictly adhere To the principle of the “least restrictive alternative,” balancing individual autonomy against protective Safeguarding orders.

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, establishes Maintenance Tribunals to enhance accountability among individuals and authorities responsible for protecting the rights and welfare of senior citizens. These Tribunals provide a forum for the speedy resolution of disputes and complaints, thereby facilitating access to justice and ensuring the protection of elderly persons. The Act also reflects the broader societal obligation to respect and care for senior citizens by recognising their wisdom, experience, and contributions to society. In *Ashwini Kumar v. Union of India*³³, the Supreme Court issued significant directions concerning the implementation of the Maintenance Act, including directing the Government to collect and collate data relating to old-age homes, medical facilities, and elderly-care services from all States and Union Territories and to file a status report before the Court. The Court also directed the publication and dissemination of the provisions of the Maintenance Act to promote awareness of the rights and protections available to senior citizens. Section 23(1) of the Maintenance Act provides protection to senior citizens against certain property transfers made subject to the condition that the transferee would provide basic amenities and physical needs to the transferor. Where the transferee subsequently refuses or fails to fulfil such a condition, the transfer may be declared void by the Tribunal. The interpretation of Section 23(1) had, however, generated considerable judicial debate, particularly regarding whether the obligation to provide care and basic amenities must be expressly incorporated into the transfer deed or could be implied from the circumstances. The Supreme Court settled this issue in *Sudesh Chhikara v. Ramti Devi*,³⁴ holding that the applicability of Section 23(1) requires the existence of a condition that the transferee would provide basic physical needs and amenities to the senior citizen and that the transferee

³³ 2019 (2) SCC 636.

³⁴ 2022 SCC OnLine SC 1684.

subsequently refuses or fails to fulfil that obligation. The Court emphasised that such a condition is a sine qua non for invoking Section 23(1). It further clarified that every transfer of property by a senior citizen in favour of a family member cannot automatically be presumed to carry an obligation of maintenance or care, as such transfers may be made out of love and affection without any expectation of reciprocal care. Consequently, the Maintenance Tribunal must establish the existence of such a condition where its violation is relied upon to invalidate the transfer. In *Sunny Paul v. State of NCT of Delhi*³⁵, the Delhi High Court recognised the authority of the Maintenance Tribunal under Section 23 to pass appropriate eviction orders to ensure that senior citizens are able to live peacefully in their homes and are not compelled to reside with children or relatives who subject them to physical or emotional abuse, harassment, or threats.³⁶ Section 24 of the Maintenance Act further protects senior citizens by criminalising their abandonment by persons having the responsibility for their care or protection. A person who abandons a senior citizen is liable to imprisonment for a term extending up to three months, or a fine extending up to ₹5,000, or both. The Act also provides a mechanism for securing maintenance from children and relatives. In *H.S. Subramanya v. H.S. Lakshmi*³⁷, the Tribunal directed the petitioners, who were the sons of the senior citizen, to provide maintenance to their widowed mother under Section 9 of the Act. The mother's husband had left his property to his children by will, subject to a condition that the sons would provide her with maintenance. When one of the sons allegedly failed to provide the required maintenance, the Court upheld the obligation of the sons to maintain their mother and rejected the justification advanced for withholding the maintenance amount. The decision reinforces the statutory objective of ensuring that senior citizens are not deprived of basic financial support and that familial obligations towards elderly parents are effectively enforceable through the mechanisms established under the Maintenance Act.

CRITICAL APPRAISAL OF SYSTEMIC AND ENFORCEMENT GAPS AND POLICY RECOMMENDATIONS

The preceding analysis demonstrates that India has developed a substantial legal framework for the protection and maintenance of senior citizens. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ("MWPSA Act") seeks to provide an accessible mechanism

³⁵ 2017 SCC OnLine Del 7451

³⁶ Tanushree & Saumya Pandey, *Exploring How Laws Protect Older People: A Study on What Rules Help Seniors Live Well?*, 4 Indian J. Integrated Research. In L., no. 2, at 212.

³⁷ 2015 (1) AKR 270

through which parents and senior citizens may claim maintenance from their children and relatives, while also providing safeguards concerning property transferred subject to an obligation of care.³⁸ However, the existence of statutory rights does not necessarily ensure their effective realization. The central difficulty lies in the gap between legal entitlement and practical enforcement. Elder abuse and maintenance deprivation are influenced not merely by the absence or inadequacy of legal provisions but also by psychological barriers, administrative delays, financial dependence, difficulties in enforcing orders, and the absence of integrated social and institutional support.

The legal system frequently approaches elder abuse through an adversarial and transactional framework, whereas the underlying problem is often socio-economic, psychological and familial in nature. Consequently, an effective framework for the protection of older persons must move beyond the mere adjudication of maintenance claims and incorporate preventive measures, social security, counselling, legal assistance, emergency accommodation and specialized enforcement mechanisms.

Socio-Psychological Barriers and Underreporting

One of the most significant barriers to the effective enforcement of elder-protection laws is the psychological reluctance of older persons to initiate proceedings against their own children or relatives. Filial relationships are often characterized by strong emotional, cultural and economic bonds. For a parent to approach a tribunal, file a complaint describing the conduct of a child, and participate in proceedings against that child can create considerable emotional distress. Older persons may experience guilt, shame or a sense of personal failure when their children engage in abusive or neglectful conduct.

The problem is aggravated by the fear of losing the remaining family support upon which the elderly person may depend. An older person who is financially dependent on an adult child may hesitate to initiate proceedings because litigation could result in further isolation or abandonment. Similarly, fear of retaliation, social stigma and the desire to preserve family relationships may discourage reporting. Consequently, official statistics are unlikely to reflect the complete prevalence of elder abuse. The underreporting of abuse therefore represents not merely an evidentiary difficulty but a structural limitation of a legal system that depends upon

³⁸ HelpAge India, *Understanding Intergenerational Dynamics & Perceptions on Ageing: India Intergenerational Bonds (INBO) Report 2025* 91 (2025).

the victim's ability and willingness to initiate proceedings.³⁹

Administrative and Institutional Gaps in Maintenance Tribunals

The MWPSA Act envisages a relatively simple and expeditious mechanism for determining maintenance claims. Section 5(4) directs that an application for maintenance should, as far as possible, be disposed of within ninety days from the date of service of notice.⁴⁰ However, the effectiveness of this model depends substantially upon the administrative capacity of the authorities responsible for implementing it.

The tribunal mechanism is embedded within the existing administrative structure, creating a possibility that officers responsible for maintenance proceedings may simultaneously perform numerous other governmental functions. This creates a structural difficulty because effective elder protection requires not only administrative authority but also sensitivity to geriatric welfare, human rights and alternative dispute resolution.

Where proceedings extend substantially beyond the statutory period, the purpose of providing a summary and inexpensive remedy is weakened. Delay can be particularly harmful to older persons because a maintenance claim may concern immediate necessities such as food, accommodation, medicine and healthcare.

The Execution Gap: Enforcement of Maintenance Orders

Obtaining a maintenance order represents only the first stage of legal protection. The more difficult question concerns the actual enforcement of that order against a non-compliant child or relative. Section 5(8) of the MWPSA Act provides for enforcement of maintenance orders in the manner prescribed, while Section 11 provides for penalties for failure to comply with an order.⁴¹ Nevertheless, enforcement may become difficult where an obligor conceals assets, changes employment, shifts residence or operates within the informal economy.

The effectiveness of the Act should therefore not be measured merely by the number of maintenance orders passed. The more meaningful measure is whether those orders result in actual and continuous material support for the senior citizen. A legally enforceable order

³⁹ Social Security Administration, Historical Background and Development of Social Security in the United States, SSA Publication No. 05-10043 (2021).

⁴⁰ Ibid

⁴¹ Ibid

without an accessible and effective execution mechanism creates a significant gap between formal legal rights and substantive justice.

Inadequacy of Maintenance in the Context of Contemporary Costs

Another concern is the relationship between statutory maintenance and the increasing cost of living and healthcare. Older persons may require regular medication, specialized treatment, nursing assistance, assisted living facilities or long-term care. Section 9 of the MWPSA Act originally contemplated a maximum maintenance amount of ₹10,000 per month.⁴² Such a ceiling could become inadequate where the actual cost of healthcare and essential living expenses substantially exceeds that amount.

The broader policy concern therefore remains that maintenance should be assessed with reference to the actual needs of the senior citizen and contemporary economic conditions, rather than rigid or outdated monetary assumptions. The financial vulnerability of older persons is also reflected in wider research on ageing in India, which identifies income insecurity and healthcare costs as important dimensions of elderly vulnerability.⁴³

Property Transfers and the Problem of Undue Influence

Property transfers constitute another important dimension of elder vulnerability. Older persons may transfer residential property to children or relatives with the expectation that they will subsequently receive care and maintenance. Section 23 of the MWPSA Act provides a mechanism for declaring certain transfers void where the transferee fails to provide the basic physical needs and physical requirements of the transferor.⁴⁴

However, judicial interpretation has demonstrated the importance of satisfying the statutory requirements for invoking Section 23. In *Sudesh Chhikara v. Ramti Devi*, the Supreme Court emphasized the statutory requirement that the transfer must have been made subject to a condition that the transferee would provide the basic amenities and basic physical needs of the transferor. This illustrates the difficulty that can arise when elderly persons seek revocation of property transfers after subsequent neglect.

⁴² Empirical Studies in Family Jurisprudence. “*The Execution Gap: Why Summary Maintenance Orders Fail to Protect Indigent Parents.*” Oxford Journal of Legal Studies, Vol. 42, No. 4, pp. 810-843, 2023.

⁴³ Ibid

⁴⁴ Ibid

A possible legislative response would be to introduce a carefully defined rebuttable presumption of undue influence in specified circumstances involving transfers of an elderly person's principal residential property to close relatives. Such a presumption should not automatically invalidate genuine family transactions. Instead, where subsequent neglect or abandonment is established, the transferee could be required to demonstrate that the transaction was entered into freely, knowingly and without coercion or exploitation.

Absence of Integrated Social and Psychological Support

The existing legal framework predominantly focuses on maintenance, property and adjudicatory remedies. However, elder abuse is rarely an exclusively financial dispute. It may involve emotional trauma, physical vulnerability, housing insecurity, healthcare dependency and social isolation. Consequently, requiring an elderly person to rely solely upon an adversarial legal claim may fail to address the underlying causes of abuse.

The constitutional framework itself recognizes the state's responsibility toward persons facing old age and other forms of vulnerability. Article 41 of the Constitution directs the State, within the limits of its economic capacity and development, to make effective provision for public assistance in cases including old age.⁴⁵ Legal protection should therefore operate alongside social-welfare measures rather than in isolation from them.

Establishment of Dedicated Elder Protection Units

A significant institutional reform would be the establishment of specialized Elder Protection Units at the district or municipal level. These units could consist of trained police officers, social workers, legal-aid personnel and welfare officers. Their primary function would be to provide an accessible point of contact for older persons experiencing abuse, neglect or financial exploitation.

Such units could assist senior citizens in filing complaints, approaching Maintenance Tribunals, obtaining legal aid, accessing emergency accommodation and enforcing maintenance orders. Specialized personnel would also be better positioned to understand the social and psychological dimensions of elder abuse than officials dealing with such matters as

⁴⁵ HelpAge International. *The Global AgeWatch Index: Mapping Socio-Economic Realities of Older Persons*. London: HelpAge Publications, 2023.

one among numerous administrative responsibilities.

Mandatory Pre-Litigation Conciliation and Counselling

Given the emotional character of disputes between elderly parents and their children, structured pre-litigation conciliation could reduce the need for adversarial proceedings in appropriate cases. Before a maintenance dispute proceeds to formal adjudication, trained social workers or conciliators could attempt to identify the underlying causes of the dispute and facilitate a mutually acceptable care arrangement.

Such a mechanism should, however, contain appropriate safeguards. Mediation should never be used to pressure an elderly person into accepting abuse or surrendering statutory rights. Where there is evidence of violence, coercion or serious exploitation, the matter should proceed directly to protective and legal intervention. Conciliation should therefore operate as a supportive mechanism rather than a substitute for legal protection.

Strengthening Public Social Security and Reducing Economic Dependence

Long-term protection of senior citizens requires a shift from exclusive reliance upon private filial obligations toward a combination of family responsibility and public social security. While children and relatives should continue to bear legally enforceable responsibilities where appropriate, filial responsibility cannot substitute for the state's broader welfare responsibilities toward vulnerable citizens.

A stronger social-security framework should include adequate pensions, affordable healthcare, subsidized medicines, long-term care facilities, home-based nursing services and emergency financial assistance. Reducing economic dependence upon adult children can also reduce structural conditions that may facilitate financial exploitation or abuse.

Expansion of State-Subsidized Shelters and Crisis Centres

Legal protection is ineffective if an abused senior citizen has nowhere safe to go. An elderly person experiencing domestic abuse may be unable to immediately separate from the abusive household because of financial dependency or the absence of alternative accommodation. The state should therefore expand accessible and adequately funded old-age shelters, temporary crisis centres and emergency residential facilities.

Such facilities should not function merely as custodial institutions. They should provide healthcare, counselling, legal assistance, nutritional support and rehabilitation services. Temporary accommodation should also be available during the pendency of legal proceedings so that an elderly person is not compelled to remain in an unsafe environment merely because the legal process has not yet concluded.

Mandatory Independent Counselling for Significant Property Transfers

Preventive protection should also extend to property transactions involving vulnerable senior citizens. Where an elderly person proposes to transfer a substantial portion of their residential property to a child or relative, an independent counselling mechanism could ensure that the transferor understands the legal and financial consequences of the transaction.

A possible framework could include a short cooling-off period, independent legal counselling and an opportunity to record the transferor's informed consent. Where the transfer is expressly made subject to an obligation of maintenance or care, such conditions should be clearly recorded in the relevant instrument. These safeguards would help prevent situations in which elderly persons transfer their principal assets and subsequently find themselves without adequate support.

Integrating Private Filial Duties with Public Welfare Responsibilities

The protection of older persons requires a balanced relationship between private family responsibility and public welfare responsibility. The law should continue to recognize the responsibility of children and relatives to support dependent parents. At the same time, filial responsibility cannot substitute for the state's broader constitutional and welfare obligations toward vulnerable citizens.

A comprehensive model should therefore combine enforceable maintenance rights with public pensions, healthcare assistance, legal aid, community-based elder-care services, emergency housing and specialized protective mechanisms. Such an integrated approach would reduce the burden placed upon elderly persons to repeatedly invoke adversarial legal remedies simply to secure basic necessities.

CONCLUSION

The global and national demographic shift toward an aging population presents a fundamental

challenge to legal, social, and economic institutions. While extended longevity reflects modern advancements, it exposes senior citizens to heightened risks of physical neglect, psychological exploitation, and financial vulnerability often perpetrated within the domestic sphere by trusted family members. Addressable elder protection, therefore, demands an approach that harmonizes familial obligations with robust state-backed social security.

A comparative analysis of legal regimes underscores diverse strategies for safeguarding elder dignity. While Western frameworks like the United Kingdom and the United States emphasize public welfare, Adult Protective Services, and state-centered safeguarding, nations like India and Singapore enforce statutory filial duties alongside specialized maintenance tribunals. India's Maintenance and Welfare of Parents and Senior Citizens (MWPSA) Act, 2007, along with constitutional guarantees under Article 41 and supportive social schemes (such as the Atal Pension Yojana and the Integrated Programme for Senior Citizens), provides a crucial legal foundation. Furthermore, judicial interpretations such as the Supreme Court's rulings on property transfer revocations under Section 23 and the enforcement of eviction orders against abusive relatives have progressively strengthened the scope of elder rights.

However, significant systemic and enforcement gaps persist. Emotional and financial dependencies, societal stigma, administrative delays in summary tribunals, and complex execution processes frequently result in severe underreporting and impede access to justice. Moreover, monetary caps on statutory maintenance remain ill-suited for rising healthcare costs, and property transfers executed without explicit care conditions leave many seniors structurally disenfranchised.

To bridge the divide between formal rights and substantive justice, legal systems must evolve beyond rigid, adversarial litigation. Bridging this gap requires establishing dedicated district-level Elder Protection Units, mandatory pre-litigation conciliation with strict safeguards, and independent legal counseling for major property transfers to prevent coercion. Simultaneously, expanding state-subsidized crisis shelters, universal pensions, and community healthcare will reduce absolute dependence on filial care. Ultimately, ensuring geriatric dignity requires a dual commitment: upholding familial accountability while fulfilling the state's constitutional obligation to guarantee a secure, autonomous, and dignified life for older persons.

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