
SAFEGUARDING ELDERLY RIGHTS: A SOCIO-LEGAL ANALYSIS OF SENIOR CITIZENS' PROTECTION IN INDIA

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ABSTRACT

The rights and welfare of senior citizens constitute a critical area of social justice and human development. With India's ageing population projected to reach over 300 million by 2050, safeguarding the dignity, economic security, healthcare access, and protection from abuse for the elderly has become an urgent priority. This article, based on an authentic study of senior citizen's rights, analyses the socio-legal landscape in India, highlighting constitutional guarantees, statutory protections, welfare schemes, and existing challenges. It advocates for a rights-based approach to ageing, ensuring that senior citizens lead dignified, secure, and empowered lives.

Keywords: Ageing Population, Elderly Rights, Human Dignity, Social Security

1. Introduction

Ageing is an inevitable stage of human life, often accompanied by physical, emotional, social, and economic challenges. In every society, senior citizens symbolise not only the lived experiences of generations but also the pillars of wisdom, tradition, and cultural continuity. In the Indian context, respect for elders has historically been embedded in cultural and familial values. However, rapid modernisation, urbanisation, migration, and changing family structures have significantly altered the socio-economic realities for older persons, leaving many vulnerable to neglect, economic insecurity, abuse, and social isolation (NHRC, 2020). According to the Census of India and subsequent demographic projections, the proportion of senior citizens is steadily rising, making it imperative for society and the State to address their unique needs and vulnerabilities.

The Constitution of India, along with specific legislations and welfare policies, recognises the need to protect and empower the elderly. However, the effectiveness of these measures is often hindered by inadequate implementation, lack of awareness, bureaucratic delays, and societal apathy. Many elderly persons continue to face economic insecurity, health issues, discrimination, and even violence within their own homes. In this context, a socio-legal analysis becomes essential to assess the adequacy of existing laws, identify gaps in policy, and explore practical strategies to strengthen elderly rights protection in India. This article critically examines the spectrum of senior citizen's rights in India and the practical challenges in realising them. By doing so, it aims to highlight the challenges, assess the efficacy of the current legal framework, and suggest reforms for ensuring that the rights of senior citizens are not only recognised on paper but realised in practice.

2. United Nations and the Rights of Older Persons

The international community has increasingly recognised the need to safeguard the dignity, security, and well-being of older persons in the face of global ageing. In a landmark move, the United Nations General Assembly, adopted the United Nations Principles for Older Persons (1991), marking a significant step towards acknowledging the specific challenges faced by the ageing population and promoting their rights across the globe.

This declaration was guided by a clear vision: to encourage governments, policymakers, and societies to integrate the needs, aspirations, and rights of older persons into national

development frameworks and social protection systems. The overarching goal is to ensure that older persons can age with security, dignity, and autonomy, while being active participants in their families and communities.

The UN Principles for Older Persons outline five core areas that countries are urged to incorporate into their national policies and legislation, wherever possible (United Nations, 1991). These guiding principles are:

2.1 Independence

Older persons should have access to:

- Adequate food, water, shelter, clothing, and healthcare
- Opportunities to work or have access to income-generating activities
- Education and training to maintain independence
- A safe environment adapted to their capacities
- The ability to reside at home for as long as possible

2.2 Participation

- Remain integrated in society
- Participate actively in policy formulation and implementation
- Share their knowledge and skills with younger generations
- Be able to form movements or associations of older persons

2.3 Care

- Benefit from family and community care and protection
- Have access to healthcare to maintain optimal levels of physical and mental well-being

- Access social and legal services to enhance their autonomy
- Be able to enjoy human rights and fundamental freedoms regardless of age

2.4 Self-Fulfilment

- Have access to educational, cultural, spiritual, and recreational resources
- Be able to develop their potential fully

2.5 Dignity

- Live in dignity and security, free of exploitation and abuse
- Be treated fairly regardless of age, gender, ethnicity, disability, or other status

These principles are not legally binding but serve as an ethical and policy framework for countries to develop comprehensive strategies that respect the rights and enhance the quality of life of older citizens. Over time, these principles have inspired multiple national policies and advocacy movements aimed at elderly welfare and rights protection.

Further strengthening the global agenda, the Madrid International Plan of Action on Ageing (MIPAA) was adopted in 2002, urging governments to link ageing policies with human rights principles, combat age discrimination, and create enabling environments for active ageing. The MIPAA also highlighted the role of families, communities, and the State in ensuring that older persons can lead secure, healthy, and meaningful lives (United Nations, 2002).

In addition to these principles, the United Nations has continued to advocate for the promotion of human rights for older persons through agencies such as the UN Department of Economic and Social Affairs (UN DESA) and the Open-Ended Working Group on Ageing (OEWG), which is actively examining the possibility of a dedicated international convention on the rights of older persons.

India, being a signatory to the UN Principles, has adopted several welfare measures and enacted laws such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, reflecting its commitment to aligning national legislation with global standards of elderly rights protection.

3. Concept of Elderly Rights

Elderly rights refer to the entitlements and freedoms that ensure the well-being, dignity, and participation of older individuals in society. These include:

- Right to dignity and respect
- Right to healthcare and access to medical services
- Right to economic security, pensions, and livelihood
- Right to protection against abuse and exploitation
- Right to participation in social, cultural, and political life

Internationally, the Madrid International Plan of Action on Ageing (2002) and the UN Principles for Older Persons (1991) emphasise independence, participation, care, self-fulfilment, and dignity for older persons. While India has endorsed these frameworks, challenges persist in domestic implementation.

4. International Day of Older Persons

According to the World Population Prospects 2024, the global population is projected to continue growing for the next 50 to 60 years, reaching a peak of approximately 10.3 billion by the mid-2080s—up from 8.2 billion in 2024—before gradually declining to around 10.2 billion by the year 2100 (United Nations Department of Economic and Social Affairs, Population Division, 2024). In recognition of the growing demographic significance of the ageing population and the need to promote their rights and welfare, the United Nations General Assembly passed Resolution 45/106 on 14 December 1990, proclaiming 1st October as the International Day of Older Persons (United Nations, 1990). This day has been observed annually since 1991 and serves as a crucial platform to honour the contributions of older persons to society while drawing attention to the challenges they face.

5. Status in India

The World Health Organization (WHO) defines a senior citizen as any person aged 60 years or above, a benchmark also adopted by India. With advances in healthcare and increasing

life expectancy, India is witnessing a remarkable demographic shift. As per the Population Census 2011, India is home to approximately 104 million elderly individuals aged 60 years and above, comprising 53 million women and 51 million men (Office of the Registrar General & Census Commissioner, 2011). A report by the United Nations Population Fund in collaboration with HelpAge India projects that this figure is expected to rise to 173 million by the year 2026. As per the Report of the Technical Group on Population Projections for India and States (2011-2036), the elderly population in India stood at approximately 138 million in 2021, comprising 67 million males and 71 million females. This number is projected to grow by nearly 56 million, reaching around 194 million by 2031. Both the size and proportion of the elderly population in India have been rising steadily over the years. In 1961, elderly individuals constituted 5.6% of the total population, which increased to 8.6% in 2011. The share further rose to 10.1% in 2021 and is expected to reach 13.1% by 2031. According to the 2011 Census, a significant majority of India's elderly population—approximately 71%—resides in rural areas, while only 29% live in urban regions. The Report of the Technical Group on Population Projections for India and States 2011-2036 reveals state-wise data for 21 major states, highlighting considerable variations in the proportion of elderly people. Kerala recorded the highest share of elderly in its population at 16.5% in 2021, followed by Tamil Nadu (13.6%), Himachal Pradesh (13.1%), Punjab (12.6%), and Andhra Pradesh (12.4%). In contrast, Bihar reported the lowest proportion of elderly at 7.7%, followed by Uttar Pradesh (8.1%) and Assam (8.2%) (Kumar, 2024).

Among economically dependent elderly men in 2017-18, it was observed that, in both rural and urban areas, financial support primarily came from their own children, followed by their spouses, grandchildren, and others. A similar pattern of dependence was seen among elderly women as well. According to the Periodic Labour Force Survey (PLFS) 2018-19, around 65% of elderly men and 18% of elderly women in the 60-64 age group were engaged in economic activities. However, there exists a significant rural-urban divide. In rural areas, 72% of elderly men and 21% of elderly women participated in economic activities, whereas in urban areas, the participation rate was notably lower, with only 51% of elderly men and 10% of elderly women engaged in such activities (Kumar, 2024).

The highest crime rate per lakh population against senior citizens (aged 60 years and above) has been recorded in Delhi at 93.8, followed by Gujarat (85.4), Chandigarh (74.5), Madhya Pradesh (73.2), and Chhattisgarh (67.3). In contrast, the Union Territories of Lakshadweep, Dadra & Nagar Haveli, and Puducherry reported no crimes against senior

citizens. Likewise, the states of Assam, Jammu & Kashmir, Jharkhand, Meghalaya, and Uttarakhand recorded less than one crime per lakh population against the elderly (Kumar, 2024).

6. Fundamental Rights and Constitutional Provisions

Although the Indian Constitution does not specifically define elderly rights, it offers key protections that form the basis for their welfare. Article 14 ensures equality before the law, safeguarding senior citizens from discrimination. Article 21 guarantees the right to life and personal liberty, which includes living with dignity and access to healthcare and social security. Additionally, Article 41 directs the State to provide public assistance in cases of old age, sickness, and disability (Government of India, 1950). Collectively, these provisions underpin the legal and policy frameworks aimed at protecting the rights and well-being of senior citizens in India.

7. Legislative Framework for Elderly Rights

India has enacted several legal instruments, including:

- **The Maintenance and Welfare of Parents and Senior Citizens Act, 2007**

Mandates maintenance by children and relatives, provision for old-age homes, and medical care for senior citizens.

- **National Policy on Older Persons (NPOP) 1999**

Emphasises welfare, healthcare, shelter, and protection from abuse for the elderly.

- **Various Government Schemes**

Includes Indira Gandhi National Old Age Pension Scheme, healthcare insurance, travel concessions, and reservation in specific sectors.

8. Comprehensive Rights of Senior Citizens

According to the National Human Rights Commission (NHRC, 2020), senior citizens are entitled to the following fundamental rights

8.1 Right to Dignity and Respect

Senior citizens are entitled to live with dignity, free from discrimination based on age, physical ability, or socio-economic status.

8.2 Right to Healthcare

Access to affordable, quality healthcare, geriatric services, health insurance, and specialised care facilities is essential to elderly well-being.

8.3 Right to Social Security and Financial Independence

Economic security through pensions, provident funds, savings schemes, and other welfare benefits is a critical right to reduce elderly dependency.

8.4 Right to Protection from Abuse

Safeguarding senior citizens from physical, emotional, financial, or psychological abuse, often within families, is a fundamental requirement.

8.5 Right to Shelter and Safe Living

Access to age-friendly housing, old age homes, assisted living facilities, and barrier-free environments is vital for a secure life.

8.6 Right to Participation and Inclusion

Elderly persons have the right to actively participate in social, cultural, economic, and political life, ensuring they remain integrated and valued in society.

8.7 Right to Legal Protection

Legal frameworks such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, provide avenues for elderly persons to claim maintenance and protection.

9. Personal Laws Protecting the Rights of Senior Citizens

In addition to constitutional and statutory protections, the rights of senior citizens in

India are also safeguarded under various personal laws. These laws, based on religious communities, contain provisions that hold adult children or relatives responsible for the maintenance and welfare of elderly parents or dependents. The recognition of such duties in personal laws strengthens the legal foundation for elderly care and establishes family responsibility as a legal obligation, not merely a moral expectation.

9.1 Hindu Adoptions and Maintenance Act, 1956

The Hindu Adoptions and Maintenance Act (1956) (HAMA) provides a legal foundation for elderly parents belonging to the Hindu community to claim maintenance from their children. It acknowledges the responsibility of children to support their aged parents when the latter are unable to maintain themselves. This legal right serves to uphold the dignity, welfare, and security of elderly individuals within the Hindu personal law framework.

The rights granted under this Act are applicable exclusively to persons recognised as Hindus under the law. Individuals who can claim rights under the HAMA include Hindus of any caste or sect, as well as those who follow Buddhism, Jainism, or Sikhism. Additionally, persons who have converted or reconverted to Hinduism are also entitled to its provisions. However, it is important to note that the Act does not automatically apply to members of Scheduled Tribes unless specifically notified by the government.

One of the central provisions relevant to elderly care is Section 20 of the Act, which explicitly states that it is the legal obligation of a child to maintain their aged or infirm parent, provided the parent is unable to sustain themselves financially (Government of India, 1956). This duty ensures that elderly parents are not left destitute or dependent on charity in the absence of state support.

The quantum of maintenance payable to elderly parents is not rigidly fixed. As per Section 23 of the Act, the court has the discretion to determine an appropriate amount for maintenance or revise an already agreed-upon sum, if it finds that the original amount is insufficient to meet the basic needs and well-being of the parents (Government of India, 1956). This provision ensures flexibility and responsiveness to changing economic circumstances.

Importantly, the responsibility of providing maintenance under HAMA, 1956 is not confined to sons alone. Daughters also bear an equal obligation to care for their parents, thereby

reflecting a progressive interpretation of filial duty that aligns with contemporary gender equality norms.

However, the Act does place a limitation concerning step-parents. If a step-parent has biological children of their own, they cannot claim maintenance from a step-child under this law. The obligation to support step-parents arises only when the step-parent lacks natural-born children.

In essence, the HAMA, 1956 reflects the Indian legal system's recognition of familial duties towards the elderly, ensuring that ageing parents receive the financial and emotional support necessary for a life of dignity within the Hindu family structure (NHRC, 2020).

9.2 Muslim Personal Laws

Under Muslim personal law, adult children are legally and morally obligated to maintain their parents, provided they possess sufficient financial means. The duty of care and maintenance is deeply rooted in Islamic traditions and legal interpretations, and it reflects the importance of familial responsibilities towards the elderly in Muslim society.

According to Mulla's Principles of Mohammedan Law, the obligation to maintain parents is recognised even if the parents are not completely helpless. Children are required to support their poor parents, regardless of whether the parents are capable of earning a modest income themselves. Specifically, a son is expected to maintain his mother even under financially challenging circumstances, as long as she is poor, though not necessarily infirm or sick. Furthermore, a son who may be earning only a small amount is still legally bound to support his father, if the father is entirely without income (NHRC, 2020).

Similarly, Tyabji's Principles of Muhammadan Law affirms that under Hanafi law, parents and grandparents who are in need are entitled to maintenance from their children and grandchildren who have the financial capacity to provide such support. This obligation exists even if the parents are physically able to earn but lack adequate resources to sustain themselves with dignity (NHRC, 2020).

In terms of liability, both sons and daughters are responsible for maintaining their elderly parents under Muslim personal law. However, this responsibility becomes enforceable only if the children are financially capable. The duty to support aged parents, while grounded

in personal law, also aligns with broader principles of compassion, responsibility, and justice prevalent in Islamic ethics (NHRC, 2020).

9.3 Christian and Parsi Laws

Unlike Hindu and Muslim personal laws, Christian and Parsi personal laws in India do not contain explicit provisions concerning the maintenance of elderly parents. There is no personal law framework within these communities that imposes a direct legal obligation on children to support their parents.

However, this absence of specific personal law provisions does not leave Christian and Parsi senior citizens without recourse. Parents from these communities who are in need of maintenance can seek relief under secular law, particularly through Section 125 of the Criminal Procedure Code, (1974). This provision allows parents of any religion or background to claim maintenance from children who have sufficient means but neglect or refuse to maintain them.

Thus, while Christian and Parsi personal laws may not directly address the issue of elderly care, India's secular legal system fills this gap, ensuring that all senior citizens have a mechanism to assert their right to financial support and live a life of dignity (NHRC, 2020).

10. Challenges in Realising Elderly Rights

Despite legal frameworks and welfare policies in place, the practical realisation of elderly rights in India faces numerous obstacles. These challenges are complex, interconnected, and often rooted in structural, cultural, and administrative issues. The authentic document reviewed, along with contemporary studies, highlights the following critical issues:

One of the most concerning yet underreported problems is elder abuse and neglect. Senior citizens often face psychological, physical, emotional, and financial exploitation, frequently at the hands of their own family members. This abuse may remain hidden due to dependence on abusers, social stigma, or fear of retaliation. Institutional abuse in care homes and old-age centres has also been reported. According to a HelpAge India survey conducted in 2014, approximately 52% of elderly women reported experiencing abuse, compared to 48% of elderly men, indicating a slightly higher vulnerability among older women. These findings reflect a troubling reality about the treatment of senior citizens in India (HelpAge India, 2019, 2024).

Economic insecurity is another major concern. Many older persons, especially those in the unorganised sector, retire without any pension or stable income. As a result, they become financially dependent on their children or others, which can lead to neglect, exploitation, or humiliation. According to the UNFPA report on ageing in India, over 70% of the elderly rely on others for their daily expenses, highlighting the inadequacy of existing pension and social security systems (UNFPA & HelpAge India, 2017).

The issue of inadequate healthcare access further exacerbates the situation. India's healthcare infrastructure is still not fully equipped to deal with the special needs of geriatric patients. There is a severe shortage of geriatric specialists, age-friendly hospitals, and affordable health insurance schemes for the elderly. Chronic illnesses such as diabetes, hypertension, and arthritis often go unmanaged due to poor access to continuous care and financial constraints (Government of India, 2021).

A widespread lack of awareness among elderly citizens regarding their legal rights and welfare entitlements prevents them from seeking redress or availing government support. Many are unaware of provisions such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, or the assistance available under various state and central schemes. This information gap is more prominent in rural areas, where literacy rates and digital access remain low.

Social isolation is also a growing challenge, fuelled by the erosion of joint family systems, increased urban migration, and the modern nuclear lifestyle. Loneliness, anxiety, and depression are common among older individuals who live alone or are separated from family. According to the Longitudinal Ageing Study in India, a significant percentage of elderly individuals report symptoms of poor mental health, which are directly linked to isolation and neglect (International Institute for Population Sciences, 2024).

Moreover, there is a shortage of institutional care facilities such as affordable and well-managed old-age homes, particularly in rural and semi-urban areas. Existing facilities are either overcrowded or fail to meet basic quality standards, leaving many senior citizens without access to safe and supportive environments. Community-based care models and assisted living arrangements are still underdeveloped.

In addition to these, systemic issues such as bureaucratic delays, inefficient grievance redressal systems, and insufficient budget allocations for elderly welfare schemes further

impede the practical realisation of rights. The convergence between policy and implementation remains weak, calling for stronger monitoring and accountability mechanisms.

11. Recommendations for Strengthening Elderly Rights

To address the gaps in elderly welfare, the following measures are suggested:

- **Policy Reforms:** Update the National Policy on Older Persons to reflect current demographic realities.
- **Legal Strengthening:** Improve implementation mechanisms of the Maintenance Act with stricter enforcement and accessible tribunals.
- **Healthcare Expansion:** Develop geriatric care units in public health systems and promote elderly health insurance schemes.
- **Awareness Campaigns:** Educate senior citizens and families about rights, benefits, and legal protections.
- **Community-Based Programmes:** Encourage community participation, senior citizen groups, and intergenerational activities to reduce isolation.
- **Social Security Coverage:** Ensure universal pension schemes and financial security for unorganised sector workers in old age.

12. Conclusion

Ensuring the rights of senior citizens is a moral, legal, and developmental imperative for India. While constitutional guarantees and legal frameworks exist, effective implementation, awareness generation, and societal attitude shifts are essential to create an age-inclusive society. A comprehensive, rights-based approach grounded in dignity, autonomy, and empowerment is crucial. By integrating these values into governance, legislation, and public awareness, India can build an age-inclusive society that protects and upholds the rights of its rapidly growing elderly population.

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