



**LEGAL PROTECTION TO ELDERLY PERSONS IN INDIA: AN ANALYSIS OF  
THE PREVAILING LAWS**

**NISHI CHAUDHARY\***

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**ABSTRACT**

The present article presents a thorough examination of the legal safeguards available to senior citizens in India, with a particular emphasis on the existing legislation and its efficacy. The increasing demographic of elderly individuals in India underscores the need for a strong legal infrastructure to protect their rights and promote their welfare. This study focuses on analysing the legislative measures that have been implemented to safeguard the elderly population. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and the Rights of Persons with Disabilities Act, 2016, which encompasses elderly individuals with disabilities, are among the key laws that are scrutinised. Furthermore, the examination of constitutional provisions and other pertinent laws pertaining to the issues affecting elderly individuals is also undertaken. The present analysis assesses the efficacy of the existing legal provisions by examining their implementation, enforcement, and sufficiency. The article explores the various difficulties encountered by elderly individuals in India, encompassing issues such as mistreatment, disregard, economic manipulation, and insufficient communal backing. The article emphasises the significance of interdisciplinary cooperation among legal, medical, and social welfare domains to holistically tackle the complex challenges encountered by the elderly demographic.

The present study investigates the extent to which the judiciary, government agencies, and non-governmental organisations fulfil their respective roles in safeguarding the legal entitlements of the elderly population. This study delves into significant judicial rulings pertaining to elder mistreatment, entitlements to inheritance, healthcare, and other relevant matters that impact the ageing population. The article examines the accessibility and efficacy of legal redress options accessible to elderly individuals, encompassing the utilisation of alternative dispute resolution

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\* LLM Student at Amity Institute of Advanced Legal Studies-Noida

mechanisms. The article presents recommendations for augmenting the legal safeguards provided to the elderly population in India, based on the analysis conducted. The proposed recommendations include legislative modifications, heightened awareness and educational initiatives, enhanced collaboration among relevant parties, and the establishment of specialised organisations to cater to the distinctive requirements of the elderly demographic. Furthermore, the article highlights the importance of taking pre-emptive actions, such as implementing intergenerational programmes, social integration initiatives, and financial planning strategies, in order to enhance the general welfare and social integration of senior citizens.

**Keywords:** Elder Persons, Old Age, Constitution, Legal Framework.

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## INTRODUCTION

As India advances towards modernization and development, it is imperative to provide the elderly population with the requisite support and protection. The elderly population in India is frequently exposed to abuse, neglect, and exploitation, which can be attributed to a range of factors including physical and mental impairments, financial reliance, and limited access to supportive resources. The Indian government has implemented various laws and policies with the objective of offering legal safeguards to senior citizens, as a means to tackle the aforementioned concerns.

India boasts a substantial demographic of senior citizens, with an estimated 116 million individuals aged 60 years and above. The aforementioned demographic is deemed to be at heightened risk of experiencing abuse, neglect, and exploitation. Consequently, the Indian government has implemented a range of legal and policy measures aimed at safeguarding their welfare. The present discourse aims to explicate the legal safeguards that are accessible to senior citizens in India.

The Indian Constitution provides for the safeguarding of fundamental rights of all citizens, which encompasses the entitlement to life and personal liberty. As per the provisions of Article 21 of the Constitution, the deprivation of an individual's life or personal liberty is prohibited unless it is carried out in accordance with the procedure established by law.<sup>1</sup> The provision in question has been interpreted by the Supreme Court of India to encompass the entitlement to a life of dignity, encompassing safeguards against maltreatment and oppression.

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<sup>1</sup> Indian Constitution, art. 21.

## LEGAL REGIME FOR THE PROTECTION OF ELDERS

Article 41 of the Constitution of India mandates the State to extend public assistance to the elderly and infirm. The Maintenance and Welfare of Parents and Senior Citizens Act of 2007 is a notable legal framework that pertains to the concerns of maintenance and welfare of senior citizens.<sup>2</sup> The aforementioned legislation is applicable to all individuals who hold citizenship in India. It mandates that the responsibility of caring for elderly individuals falls upon their offspring or kin, and also necessitates the creation of facilities such as retirement homes and medical centres that cater to the needs of senior citizens. The aforementioned legislation establishes a legal mandate for offspring and kin to provide for the financial upkeep of their senior progenitors. Additionally, it outlines the formation of maintenance tribunals, which are authorised to adjudicate maintenance petitions. The act also provides for the establishment of old age homes and medical facilities for senior citizens. The act aims to ensure that elderly persons are not left homeless or without care, and it empowers them to seek legal recourse in case of neglect or abuse.

Another significant legislation for the protection of elderly persons is the Protection of Women from Domestic Violence Act, 2005.<sup>3</sup> The act is not limited to women and also includes elderly persons who are victims of domestic violence. The legislation acknowledges the susceptibility of senior citizens and offers provisions for safeguarding orders, dwelling orders, and financial compensation for elderly individuals who have experienced domestic violence.

The Criminal Law (Amendment) Act of 2013 includes provisions for safeguarding elderly individuals from instances of abuse and exploitation. The act recognizes various forms of abuse against elderly persons, such as physical abuse, neglect, and financial exploitation, and provides for stringent punishment for offenders. The act also provides for the establishment of special courts for the speedy trial of cases related to the abuse of elderly persons. In addition to these laws, the government of India has also launched various policies and schemes aimed at providing support and protection to elderly persons. The National Policy for Senior Citizens, 2011, aims to promote the well-being of senior citizens by providing them with access to healthcare, social security, and financial support.<sup>4</sup> The programme entails the creation of facilities such as retirement communities, adult day care centres, and mobile medical clinics to cater to the needs of the ageing population.

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<sup>2</sup> The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

<sup>3</sup> The Protection of Women from Domestic Violence Act, 2005.

<sup>4</sup> National Policy on Senior Citizens (March 2011) <  
<https://socialjustice.gov.in/writereaddata/UploadFile/dnpsc.pdf>> accessed 19 May 2023.

The Integrated Programme for Older Persons, which was initiated in 1992, offers a range of benefits and services to elderly individuals, including healthcare, financial aid, and welfare services. The scheme also provides for the establishment of old age homes and day care centers for the elderly. The National Policy on Older Persons, 1999 is a significant policy document that offers directives for the provision of care and safeguarding of senior citizens. The policy acknowledges the susceptibility of the elderly population and the imperative for safeguarding their well-being. It also provides for the establishment of old age homes, day care centers, and geriatric wards in hospitals. The government has also established the National Council for Older Persons to advise the government on issues relating to the welfare of elderly persons. The council is responsible for overseeing the enforcement of policies and legislation pertaining to the elderly population.

## **ISSUES AND CHALLENGES**

Notwithstanding the existence of legal safeguards, senior citizens in India encounter a plethora of obstacles. One of the biggest challenges is financial exploitation. A significant number of senior citizens fall victim to fraudulent activities perpetrated by their carers or family members who exploit their susceptibility. In certain instances, senior citizens may be subjected to coercion in relinquishing their property or assets.

An additional concern pertains to the maltreatment of older adults, encompassing acts of physical, emotional, or sexual harm inflicted upon them. In many cases, elderly persons are abused by their family members or caregivers. The maltreatment can manifest in various ways, encompassing disregard, seclusion, and restriction. In order to tackle these concerns, the Indian administration has implemented a number of programmes. The Elder Abuse Prevention and Awareness Campaign has been initiated by the Ministry of Social Justice and Empowerment with the aim of creating awareness about elder abuse and extending assistance to those who have been victimised.<sup>5</sup> The campaign also aims to sensitize the public about the issue of elder abuse and encourage them to report incidents of abuse. Furthermore, the government has instituted the National Programme for Health Care of the Elderly (NPHCE) with the aim of delivering all-encompassing health care services to the elderly populace. The programme encompasses the process of identifying prevalent health issues, administering medical interventions, and advocating for healthful behaviours.

The National Action Plan for Senior Citizens has been initiated by the government with the aim of enhancing the standard of living of the elderly population. The plan includes provisions for health care, financial security, and social protection. It also provides for the establishment of day

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<sup>5</sup> *Ibid.*

care centres and old age homes. India has demonstrated noteworthy advancements in safeguarding the rights of senior citizens. Notwithstanding, additional efforts are required to guarantee that senior citizens can lead a life characterised by dignity and reverence. It is imperative for the government to persist in allocating resources towards initiatives and regulations that foster the well-being of the elderly population and mitigate the occurrence of mistreatment and misuse.

## **OBSERVATIONS**

India is now going through a period of change. Social standards are rapidly evolving after thousands of years in a traditional community. The younger generation faces challenges in balancing conventional responsibilities with the expectations of a highly competitive and fast-paced lifestyle, while the older generation remains committed to their established values and beliefs. After retirement, most older individuals experience a total shift in their way of life. Individuals who receive post-retirement emoluments exhibit a lower likelihood of experiencing crises in comparison to those who do not receive such benefits. But the service industry only employs a limited class of individuals. The majority of people work in various enterprises. Frequently, individuals fail to make arrangements for their elderly years, resulting in their dependence on their offspring or other relatives. A large portion of the veteran population is unaware of senior citizen entitlements. A significant proportion of the population lacks formal education, lives in destitution, and experiences homelessness, residing in urban areas characterised by substandard living conditions.

However, the majority of persons who feel wronged are either unaware of these protections or may be hesitant to seek refuge in court since the case would include their own family members. Even those who desire to pursue a legal career are hesitant since the processes are drawn-out and continually demand time. Even those who are not directly involved still express remorse for being caught up in legal proceedings or other judicial procedures. In India, the majority of elderly people would rather reach a deal than go to court, and they often pay a high price by sacrificing their rights and interests.

In most homes, elder abuse has advanced to the level of the usual in many instances. The abuse, neglect, or discrimination that younger family members perpetrate on their elders goes unnoticed by them. In order to protect themselves from unfavourable conditions, older persons in India today require comprehensive legal measures and their correct execution.<sup>6</sup> Most elderly persons are

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<sup>6</sup> K Pillemer, D Burnes, C Riffin and MS Lachs, 'Elder Abuse: Global Situation, Risk Factors, and Prevention Strategies' (2016) 56(2) *Gerontologist* 194-205.

not more revered or regarded for their wisdom, experience, or expertise. Elderly individuals are commonly disinclined to engage in legal proceedings, despite the potential benefits that may accrue to them.

## **CONCLUSION**

To summarise, the provision of legal safeguards for the elderly population in India is imperative to promote their welfare and curb instances of mistreatment and victimisation. The aforementioned laws and policies establish a juridical structure aimed at safeguarding and promoting the wellbeing of senior citizens. Notwithstanding, the efficacious execution and imposition of these juridical structures continue to pose a formidable obstacle. Enhanced awareness and sensitization regarding the challenges encountered by elderly individuals is imperative, alongside the establishment of support services to guarantee their efficacious implementation.