

Name: Radhika Ajaybhai Sharma

Qualifications: B.Com, LL.B, LL.M (Human Rights), PhD pursuing

Designation: Teaching Assistant at Smt. Raniben Madhabhai Bhadarka Law
College, Palsana

Affiliating Institute: Veer Narmad South Gujarat University
Surat, Gujarat

Email Id: 17radharadha@gmail.com

Mo. No.: 9773426086

A STUDY ON THE LEGAL PROTECTION OF ELDERLY PEOPLE IN INDIA

ABSTRACT

“मातृदेवोभवः पितृदेवोभवः” are Sanskrit phrases that express feelings towards parents. In our Indian culture, parents are considered equal to God. The elderly stage of life is the most vulnerable phase in the human life cycle. The elderly play an important role in any society, representing a wealth of experience, wisdom, and guidance, and their opinions carry significant weight in society and a nation’s cherished heritage. In the old age stage, the elderly require a high level of care and protection. To enhance the standard of living and investigate for senior citizens, care requires continuous financial, social, emotional, and health support. To safeguard the lives and dignity of parents and the elderly, we must prioritize their rights and obligations. India's population is experiencing a shift towards the elderly. The India Ageing Report 2023 gives an important path for ensuring that elderly people have access to the support and care they require to live a healthy, dignified, and peaceful life. The article highlights the problems faced by the elderly people and the legal framework, and Government policies & schemes that are in place in India to safeguard the legal protection of the elderly.

KEYWORDS: Elderly, Legal Protection, Rights, Problems

INTRODUCTION

“मातृदेवोभवः पितृदेवोभवः” are Sanskrit phrases that express feelings towards parents. In our Indian culture, parents are considered equal to God. However, in the contemporary world, as nuclear families proliferate and larger families break apart, the elderly are becoming more and more vulnerable. This might result in a lack of access to necessities such as food, shelter, and medical treatment, which can have a substantial impact on their quality of life. If the elderly population maintains strong connections with their loved ones and actively engages with the world, it can help alleviate their sense of isolation and loneliness.

In Indian culture, elderly people are highly respected and cared for, not just as a moral duty, but also as a way of seeking blessings and good karma. One of the unavoidable realities of human existence is ageing. In Hindu culture, elders are seen as sources of wisdom, experience, and guidance and their opinions are highly valued in society. Their spiritual well-being is

considered crucial, and their views and contributions are highly respected. Their skills and creativity are greatly appreciated, and their emotional and spiritual health is valued. It is imperative to recognize that age-related biases and prejudices can significantly obstruct senior citizens from actively participating in cultural events¹.

In 1999, the National Policy on Older Persons (NPOP) was announced to strengthen the commitment to the well-being of older people. The policy emphasizes the rights of elderly citizens as provided and recognized by the Indian Constitution. The National Policy for Senior Citizens was enacted and updated the National Policy on Older Persons in the year 2011. The policy seeks to improve the well-being of senior adults in India and to offer a framework for action on ageing. According to the National Policy for Senior Citizens March 2011, India has one-eighth of the world's elderly population. The majority of them will work as long as they can physically continue to work, never retiring in the traditional meaning of the word².

However, the rights of elderly people are protected under the Constitution of India, the Criminal Procedure Code, the Domestic Violence Act, etc. Therefore, there is a need for separate acts to be enacted. A separate act relating to the elderly was passed by Parliament in the year 2007 named the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [MWPSA Act, 2007]. According to Section 2(h) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (MWPSA Act, 2007), "any Indian citizen who has completed sixty years or above" is defined as a senior citizen, older person, or elderly person. The primary objective of this law is to make it easier to provide maintenance and welfare to parents and senior citizens, and also protect the life and property of elderly persons (BARE ACT, 2018).

The India Ageing Report 2023 gives an important path for ensuring that elderly people have access to the support and care they require to live a healthy, dignified, and peaceful life. The report is based on the most recent data available from the Longitudinal Ageing Survey in India (LASI), 2017-18, the Census of India, the Government of India's Population Projections (2011-2036), and the United Nations Department of Economic and Social Affairs' World Population

¹Bernard, M. and Rickett, M (2016). The cultural value of older people's experiences of theatre-making: a review. The Gerontologist, gnw093.

²<https://socialjustice.gov.in/writereaddata/UploadFile/dnpsc.pdf>

Prospects 2022. It focuses on the challenges, opportunities, and institutional responses surrounding elderly care in India³.

The ageing population is quickly rising all over the world, especially in India, which raises concerns about the well-being and rights of the elderly. The share of the population over 60 years old is expected to rise from 10.5% in 2022 to 20.8% in 2050 and according to population projections for 2021, India has 39 older people for every 100 children. Population estimates for India in 2021 show that, with considerable regional differences, there would be 16 older people for every 100 working-age individuals. During 2000 and 2022, the country's total populations increased by 34%, while the population of 60 years and above increased by 103%. During the same period, the population of people 80 years and above increased by 128% (International Institute for Population Sciences & United Nations Population Fund, 2023). According to various sources, the number of elderly individuals in India is projected to reach 159 million by 2025⁴.

Each year on October 1st, we celebrate the International Day dedicated to older persons. The elderly population is growing and as a result, the problem of human health difficulties is rising. To improve the quality of life and explore alternatives for elderly people, care involves physical, social, emotional, health, and financial support. To preserve the lives and dignity of parents and the elderly, we must focus on their rights and our responsibilities to them. This article addresses the issues that the elderly experience, as well as their legal rights in India, and discusses the gaps that exist.

LITERATURE REVIEW

1. (International Institute for Population Sciences & United Nations Population Fund, 2023) According to the report in comparison to other social security plans, awareness of the Maintenance and Welfare of Parents and Senior Citizens Act is very low.
2. (Sahoo, Govil, James, & Prasad, 2021)

³[https://india.unfpa.org/sites/default/files/pub-pdf/20230926_india_ageing_report_2023_web_version .pdf](https://india.unfpa.org/sites/default/files/pub-pdf/20230926_india_ageing_report_2023_web_version.pdf)

⁴Bose, M. and Banerjee, S. (2019). Equity in distribution of public subsidy for non communicable diseases among the elderly in India: an application of benefit incidence analysis. BMC Public Health, 19(1). <https://doi.org/10.1186/s12889-019-8089-y>

Despite the government's efforts to address these concerns through the National Policy for Older Persons and different social systems, there are significant gaps in health care utilization and expenditure, particularly among lower socioeconomic groups.

3. (Bhardwaj, 2020)

States that the provisions' effective implementation is required to ensure that elderly people and parents' issues are handled as soon as possible and that they are not harassed by repeated adjournments. The Conciliation Officer must not be overloaded with many administrative obligations. Even after the implementation of the 'Digital India' project, the tribunal has failed to include an online gateway.

4. (Singh, Raghuwinder, & Kumari, 2020)

Senior citizens are valuable resources because they have a wide range of human resource knowledge, diverse experiences, and deep insights. As a result, the government should pay attention to it and make an effort to enhance public knowledge of the difficulties affecting senior citizens and the system, as well as the objective for why the law was created, which must result in legal-scale welfare.

5. (Ghosh, 2019)

The report advises addressing society's digital gap, investigating the potential of elderly people as consumers, and analyzing the impact of literacy on internet adoption. To meet the demands of the elderly, marketers think about developing web-based platforms that are age-friendly.

6. (Narayana, 2019)

To reformulate the Indira Gandhi National Old Age Pension Scheme (IGNOAPS), the article identifies four areas of policy intervention: increasing pension expenditure by accounting for inflation; connecting pension expenditure to economic growth; addressing inclusion and exclusion errors; and expanding coverage to all elderly people living in families below the poverty line.

OBJECTIVES OF THE STUDY

The objective of this study is to examine the basic problems faced by the elderly in India, examine the legal rights of the elderly in India, and identify various lacunas in the legal protection of the elderly.

RESEARCH METHODOLOGY OF THE PAPER

The Doctrinal Method and the Secondary Method were used to acquire data for the article. Doctrinal research has offered a theoretical framework for understanding the concepts and principles at hand, focusing on the letter of the law rather than its actual application. Bare acts, books, journals, government press notes, government publications, articles, and so forth are examples of secondary data sources.

BASIC PROBLEMS FACED BY ELDERLY

The International Institute for Population Sciences (IIPS) and the United Nations Population Fund (UNFPA) published the India Ageing Report 2023⁵, which lists several problems that India's elderly population faces.

1. Financial Security:

Governments may be subject to substantial expenses as the elderly retire and their healthcare needs grow. Elder abuse has been proven to be connected with lower income or poverty. Low financial resources have been identified as a contextual or situational stressor that contributes to elder abuse. Over 90 million older people depend on their family, relatives, and other people for their financial requirements as they age, making up approximately 2/3 of the population today. To eliminate poverty among the elderly in India and achieve Sustainable Development Goals, the government at all levels must give priority to their plans, policies, and programs (AGEWELL, 2021).

2. Health Issues:

In India, the elderly face a variety of health concerns, including chronic diseases, mental health issues, and impairments. Public Funded Health Insurance exclusively provides inpatient care, whilst Central Government Health Schemes (2.1%) and Employee State Insurance Schemes (0.7%) include outpatient care. Private insurance was held by 1.8% of the population, however, it solely covered inpatient care. The hospitalization rate for the elderly fell from 10.9% in 2014 to 8.5% in 2017-18 (National Sample Survey, 2017-2018). In India, one out of every five old people suffers from mental illness. Approximately 75% of them have a chronic condition and 40% have some kind of disability⁶.

3. Psychological Problems:

⁵<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1961168>

⁶[LASI - Longitudinal Aging Study of India \(lasi-india.org\)](http://lasi-india.org)

(AGEWELL, 2021)As humans age, their anatomical and physiological structures alter. The problem here did not appear to be a lack of funds, but rather a lack of time on the part of others to care for the elderly. The second most important concern was a lack of emotional support from family members. The study sought to determine the effect of the ongoing COVID-19 danger on the elderly. Every fourth senior (2495 out of 10,000) said that the pandemic had resulted in psychological issues, which were their primary concern.

4. Elderly Abuse:

Emotional or verbal abuse can cause pain, grief, terror, abnormal emotional distress, and loss of self-respect or autonomy, among other emotional harms. Abuse includes physical, psychological, and emotional abuse, financial neglect and abandonment, and loss of dignity and respect. The rising number of reports of elder abuse implies that the vast majority of them are prone to it. As the population ages, elder abuse is predicted to increase, causing physical and psychological harm (HelpAge India, 2022).

LEGAL RIGHTS OF ELDERLY

1. Constitution Perspective:

Article 14 emphasizes treating all citizens equally and equality can refer to a variety of things. To guarantee equality, it incorporates both the idea of affirmative action and actual, genuine equality. There have been cases challenged on the grounds of age, employment, retirement, age restrictions at work, education, and so on.

Article 38 states that the state shall seek to enhance the welfare of the people by establishing and defending a social order in which social, economic, and political fairness shall inform all national institutions. The state shall make an effort to reduce income, status, facility, and opportunity inequalities among individuals and groups of people.

Article 41 of the Indian Constitution states that the state shall, within the limits of its economic capacity and development, make effective provisions for securing the right to work, the right to education, and public assistance in cases of unemployment, old age, sickness, and disability.

Article 46 aims to protect the rights and interests of older people in India, particularly those from weaker sections of society. The execution and success of this article, however, are dependent on the states and societies political will, social awareness, and legal enforcement.

Article 47 The state should regard as one of its fundamental obligations the development of its people's nutrition and standard of living, as well as the improvement of public health, and shall endeavor to bring about the prohibition of the consumption of intoxicating drinks and medications that are harmful to health⁷.

2. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007:

The Act includes measures for the financial and social well-being of elderly people and their parents who are unable to maintain themselves. This Act makes adult children and heirs legally obligated to provide for their parents in the form of a monthly allowance. This Act makes claiming monthly maintenance for parents and senior citizens simple and quick. This Act defines parents as biological, adoptive, or step-parents. The Act has made the maintenance application procedure easier by eliminating the need for legal representation. A complaint can also be submitted by an authorized representative or organization.

The bill was passed in 2019, and a newly revised act, namely “The Maintenance and Welfare of Parents and Senior Citizens (Amendment) Act, 2019”. The Bill intends to broaden the scope of the Act and include specific requirements for their security and well-being. Among the important provisions of the Bill are: It broadens the concept of children and relatives who must give support to older adults and parents to include step-children, adopted children, children-in-law, and legal guardians of young children. It eliminates the upper limit of Rs. 10,000 per month for maintenance payments. A helpline has been made available specifically for senior citizens⁸(MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT, 2020-2021).

3. The Protection of Women from Domestic Violence Act, 2005:

In India, the Protection of Women from Domestic Violence Act, of 2005 provides a comprehensive definition of domestic violence, including acts and conduct that can have negative impacts on mental or physical health, safety, life, or well-being.

4. The Code of Criminal Procedure Code, 1973:

Section 125 of the Criminal Procedure Code, which is secular legislation, applies to all religions. According to Section 125, the magistrate has the jurisdiction to order both sons and daughters, even married daughters, to give maintenance to their old parents.

⁷*Constitution of India / Legislative Department / India*. (n.d.). <https://legislative.gov.in/constitution-of-india/>

⁸BARE ACT. (2012). *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [56 of 2007]*. NEW DELHI: Universal Law Publishing Co. Pvt. Ltd.

5. The National Legal Service Authorities Act, 1987 [NALSA]:

The eligibility of senior citizens for free legal aid is determined by the rules established by the individual state governments in this regard. In Gujarat, the income ceiling is Rs.100,000 per year.

6. The Hindu Adoption and Maintenance Act, 1956:

Maintenance is a personal commitment that includes a wife, children, and elderly or infirm parents. The maintenance is similarly defined under Section 3(b) of the Hindu Adoption and Maintenance Act, 1956. It covers food, clothing, shelter, and necessities including education and medical bills.

7. The Government Policies and Schemes:

The Ministry of Social Justice and Empowerment is responsible for the welfare of senior citizens in India. It provides various schemes and programs for the elderly, which include the following (MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT, 2022):

- Pradhan Mantri Vaya Vandana Scheme
- Indira Gandhi National Old Age Pension Scheme (IGNOPS)
- National Programme for the Health Care of Elderly (NPHCE)
- Annapurna Scheme
- Varishta Mediclaim Policy
- Rasthriya Vayoshri Yojana
- Varishta Pension Bima Yojana
- Senior Citizens Welfare Fund
- Reverse Mortgage Scheme
- Pradhan Mantri Jan Arogya Yojana
- National Policy for Older Person
- National Family Benefit Scheme

CONCLUSION:

At the International level, the issue of ageing was first discussed at the United Nations in 1948, at Argentina's urging. From July 26 to August 6, 1982, the World Assembly on Ageing was held in Vienna, where an International Plan of Action on Ageing was agreed. The overall purpose

of the Plan was to increase individual countries' abilities to deal effectively with population ageing while keeping in mind the unique concerns and requirements of elderly people. The Plan aimed to raise awareness of the social, economic, and cultural ramifications of ageing, as well as related humanitarian and development challenges. There are other international efforts to guarantee the rights of the elderly such as the Universal Declaration of Human Rights [UDHR] 1948, the International Plan of Action on Ageing [IPAA], the World Assembly on Ageing [WAA], Madrid International Plan of Action on Ageing [MIPAA, 2002], etc.

RECOMMENDATIONS:

The following recommendations are found from the above research work.

1. To Create Public Awareness Programs:

There are various methods to improve awareness programs for the elderly such as television, radio, social media, newspapers, podcasts, and online resources to promote awareness. Organize workshops, seminars, and other activities in which the elderly can participate and learn about their areas of interest.

2. Anvayaa's Services Should be Available:

Anvayaa's services should be available all over the country, and currently, it is provided only in a few cities in India. Anvayaa is a comprehensive, tech-enabled, personalized platform for senior care that provides an all-in-one solution for all elder care requirements in India. Anvayaa's services are designed to help the elderly with healthcare, medical crises, socialization needs, daily needs, and money administration, as well as any other services that they may require at their homes⁹.

3. Strict Implementation of the Legislation and Government Schemes:

The government has made a concerted effort to enhance the daily lives and protect the interests of the elderly through the implementation of numerous governmental concessions, schemes, and policies exclusively targeted at their welfare. Nevertheless, the execution of these well-intended tools is severely lacking.

4. Free Medical Treatment:

⁹[Parent Care Solutions | Caring For Elderly Parents in Hyderabad, Bangalore, Chennai & Mumbai - Anvayaa](#)

The government is required to provide free elderly health insurance, especially for those elderly who are living alone and have insufficient income, or person who are unable to maintain themselves. The elderly should have access to free medical care, and their health insurance policies should be modified to better meet their needs.

5. Mandate the Fundamental Duties:

The Government should impose and mandate fundamental moral duties on every citizen of India to respect parents or elderly people in India. Children should be educated on the moral obligation and taken as an oath at schools, colleges, and all institutions.

6. Digital Awareness Programs:

The Government or NGOs should take initiatives to make life easier and simpler for the elderly by educating and aware old age people of the use of digital literacy.

REFERENCES

- AGEWELL. (2021). *CHANGING NEEDS OF THE OLD PEOPLE IN INDIA*. New Delhi: Research and Advocacy Center. Retrieved 07 15, 2023, from <https://social.un.org/ageing-working-group/documents/Changing-Needs-of-Old-People-In-India-March-2021.pdf>
- BARE ACT. (2012). *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [56 of 2007]*. NEW DELHI: Universal Law Publishing Co. Pvt. Ltd.
- BARE ACT. (2018). *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (56 of 2007)*. NEW DELHI: PROFESSIONAL BOOK PUBLISHERS .
- Bhardwaj, P. (2020). A Critical Analysis of Senior Citizens' Rights in India. *Amity International Journal of Juridical Sciences*, 64-87. Retrieved 12 15, 2022, from [amity.edu: https://www.amity.edu/UserFiles/Journal/Pradipty%20Bhardwaj.pdf](https://www.amity.edu/UserFiles/Journal/Pradipty%20Bhardwaj.pdf)
- Ghosh, M. (2019). Analysing the Engagement and Attitude of Elderly Towards Digital Platforms in India. *Journal of Creative Communications*, 1-21. doi:<https://doi.org/10.1177/0973258619872085>
- HelpAge India. (2022). *BRIDGE THE GAP Understanding Elder Needs*. Help Age India. Retrieved from <https://www.helpageindia.org/wp-content/uploads/2022/06/Bridge-the-Gap-Understanding-Elder-Needs-a-HelpAge-India-2022-report-1.pdf>
- International Institute for Population Sciences & United Nations Population Fund. (2023). *India Ageing Report 2023, Caring for Our Elders: Institutional Responses*. New Delhi: Lucid Solutions. Retrieved 12 07, 2023, from https://india.unfpa.org/sites/default/files/pub-pdf/20230926_india_ageing_report_2023_web_version_.pdf
- MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT. (2020-2021). *STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT*. Department of Social Justice and Empowerment. NEW DELHI: LOK SABHA SECRETARIAT. Retrieved 04 11, 2022, from

http://164.100.47.193/lsscommittee/Social%20Justice%20&%20Empowerment/17_Social_Justice_And_Empowerment_14.pdf

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT. (2022, 03 16). *Schemes for The Welfare of Senior Citizens*. Retrieved 07 22, 2023, from pib.gov.in:
<https://pib.gov.in/PressReleasePage.aspx?PRID=1806506>

Narayana, M. R. (2019). OLD AGE PENSION SCHEME IN INDIA: DISTRIBUTIONAL IMPACTS. *SOUTH ASIA RESEARCH*, 143-165. doi: 10.1177/0262728019842016

National Sample Survey. (2017-2018). *NSS 75th Round (July 2017 -June 2018)*. Government of India. New Delhi: Ministry of Statistics and Programme Implementation. Retrieved 07 16, 2023, from <https://www.mospi.gov.in/unit-level-data-report-nss-75th-round-july-2017-june-2018-schedule-250social-consumption-health>

National Statistical Office. (2021). *ELDERLY in INDIA 2021*. New Delhi: People's Archive of Rural India. Retrieved 02 18, 2022, from <https://mospi.gov.in/web/mospi/reports-publications>.

Sahoo, H., Govil, D., James, K. S., & Prasad, R. D. (2021). Health Issues, Health Care Utilization and Health Care Expenditure among Elderly in India: Thematic Review of Literature. *ELSEVIER*, 1-7. doi:<https://doi.org/10.1016/J.AHR.2021.100012>

Singh, K. J., R. S., & Kumari, M. (2020). THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT 2007: A STUDY. *EPRA International Journal of Multidisciplinary Research (IJMR) - Peer Reviewed Journal*, 6(9), 174-176. Retrieved from https://eprajournals.com/jpanel/upload/726pm_IJMR-SEP%202020%20FULL%20JOURNAL.pdf#page=182