



Balancing Human Rights and Criminal Justice: Legal Protection for Senior Citizens in India

Sub-Theme: Equality and Fairness in the Justice System

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Abstract

The rights, dignity, and welfare of senior citizens must be protected by robust legal and institutional measures, as India's population is ageing at a rapid pace. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and provisions under the Bharatiya Nyaya Sanhita (BNS) are the primary focus of this article, which examines the intersection of human rights and criminal justice. It underscores critical obstacles, such as neglect, elder abuse, and societal indifference, which are further exacerbated by insufficient infrastructure, limited awareness, and gaps in implementation. The study emphasizes the necessity of a comprehensive, rights-based approach to resolve these issues, underscoring the importance of capacity-building initiatives, amendments to existing laws, and collaborative efforts between the government, judiciary, civil society, and private sectors. The article endeavours to cultivate a more inclusive legal framework that guarantees justice and dignity for India's senior citizens by suggesting practical solutions, including public-private partnerships, law enforcement training programs, and increased legal protections.

I. Introduction

The rapidly ageing population of India is resulting in a significant demographic transition in the country.¹ The number of individuals aged 60 and older is anticipated to double in the future decades, a trend that is being driven by increased life expectancy and improved healthcare, according to projections. This demographic shift is indicative of progress; however, it also presents distinctive obstacles for senior citizens, who are becoming more susceptible to the swiftly evolving societal system. Nuclear families and urban migration are replacing traditional joint family systems, which historically provided security and care for the elderly. This competitive and fast-paced environment has exacerbated the vulnerabilities of many senior

citizens, who are now confronting isolation, neglect, financial insecurity, and abuse as a result of this societal evolution.²

The objective of this article is to investigate the intersection of criminal justice and human rights in order to address these challenges. It concentrates on the examination of how the criminal justice system and legal frameworks can guarantee the protection and well-being of senior citizens while simultaneously preserving their fundamental rights to security, equality, and dignity. The study aims to identify gaps and propose solutions that more closely align legal protections with the evolving requirements of the elderly by examining the efficacy of existing laws, such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and their enforcement.

The significance of this discussion is that it acknowledges that senior citizens, who have made significant contributions to society, deserve to live their later years with respect and compassion. It is not only a moral and ethical obligation to ensure their rights, welfare, and dignity, but also a constitutional mandate. A multidimensional approach that incorporates legal safeguards, societal awareness, and institutional support is necessary to balance human rights and criminal justice for senior citizens.³ From this perspective, the article establishes the

¹ James, K. S., and Srinivas Goli. "Demographic changes in India: Is the country prepared for the challenge." *Brown J. World Aff.* 23 (2016): 169.

² Luthar, Suniya S. "The culture of affluence: Psychological costs of material wealth." *Child development* 74, no. 6 (2003): 1581-1593.

³ Kountouros, Haris, and Nicola Rees. "Dignity as a theoretical and legal construct in the context of care for older persons and the developing human rights agenda for older persons." In *Towards Human Rights in Residential Care for Older Persons*, pp. 185-210. Routledge, 2015

foundation for a thorough examination of the legal safeguards that senior citizens in India enjoy.

II. Legal Framework for Senior Citizens in India

India's legal framework for the protection of senior citizens has been developed to address their evolving requirements and vulnerabilities, with a particular focus on ensuring their rights, welfare, and dignity. The cornerstone of this framework is the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which establishes a specific mechanism to resolve the financial and emotional insecurities experienced by the elderly. Furthermore, these safeguards are further fortified by the provisions of the recently enacted Bharatiya Nyaya Sanhita (BNS) and the function of human rights commissions.

Overview of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, was implemented to alleviate the increasing obstacles encountered by senior citizens in a society that is swiftly urbanizing. This legislation acknowledges the familial and societal responsibilities that are owed to the elderly and endeavours to guarantee their maintenance and well-being through legal enforcement mechanisms.

Key Provisions and Objectives

The Act imposes a legal obligation on legitimate heirs, grandchildren, and children to provide support to their parents or senior relatives who are incapable of self-support.⁴ The term "maintenance" is defined extensively to encompass food, clothing, residence, and medical care, thereby guaranteeing that the elderly can live with dignity. The law also grants tribunals the authority to hear complaints and issue maintenance orders, with a maximum of ₹10,000 per month. However, this limit may be adjusted in accordance with the circumstances.

The Act's provision to protect the property of senior citizens is a critical feature. It enables the elderly to revoke property transfers to children or relatives in the event that the promised care

⁴ Raj, Utsav, and Abhiruchi Galhotra. "The Maintenance and Welfare of Parents and Senior Citizens Act, 2007- Helping the conditions of the elderly in India." *Indian Journal of Community and Family Medicine* 5, no. 2 (2019): 157-161.

and maintenance are not provided. This guarantees that senior citizens maintain some degree of control over their assets, thereby mitigating the likelihood of exploitation. Additionally, the Act requires the establishment of old-age institutions in each district to provide shelter and care for elderly individuals who are destitute.

Enforcement Mechanisms and Institutional Support

In order to expedite the resolution of cases of abuse and maintenance, the law provides for the establishment of Appellate Tribunals and Maintenance Tribunals at the district level. These tribunals are intended to provide a cost-effective and expeditious redressal mechanism, thereby circumventing the intricacies of conventional courts. District Social Welfare Officers (DSWOs) are also appointed to assist senior citizens in filing complaints, ensuring compliance with tribunal orders, and promoting awareness of their rights under the Act.

In spite of these provisions, the Act's implementation continues to be a challenge as a result of societal resistance, inadequate institutional support, and an inadequate level of awareness. It is imperative to fortify enforcement mechanisms and raise awareness among families and communities regarding the elderly's requirements in order to accomplish the Act's objectives.

Other Relevant Legal Provisions

The Bharatiya Nyaya Sanhita (BNS) and the endeavours of human rights commissions, in addition to the Senior Citizens Act, offer supplementary safeguards for senior citizens. Bharatiya Nyaya Sanhita Provisions Regarding Elder Abuse and Exploitation the Indian Penal Code (IPC) has been

superseded by the BNS, which includes provisions that are specifically designed to address crimes against vulnerable populations, such as senior citizens. These provisions address a variety of forms of elder abuse, including emotional harassment, financial exploitation, and physical violence. For example, Section 303 (BNS) penalizes family members who neglect or abandon senior citizens, thereby ensuring criminal liability for such conduct.

- Section 400 (BNS): Protects senior citizens from financial exploitation by concentrating on fraudulent acts involving property. The BNS endeavours to enhance the protection of senior citizens within the broader criminal justice framework by criminalizing elder-specific offences.

The Function of State and National Human Rights Commissions

State Human Rights Commissions and the National Human Rights Commission (NHRC) are instrumental in advocating for the rights of senior citizens.⁵ They provide a platform for addressing grievances related to elder abuse, neglect, and exploitation.

- Advisory and Monitoring Role: The NHRC provides the government with guidance on policies and laws that pertain to senior citizens, and it supervises their implementation to guarantee that they adhere to human rights standards.
- Grievance Redressal: The commissions offer senior citizens a means to report violations of their rights, frequently intervening to ensure that law enforcement and administrative bodies take prompt action.
- Awareness Campaigns: The commissions collaborate with NGOs and civil society organizations to increase awareness of the rights and protections that are available to senior citizens.

The legal framework for protecting senior citizens is strengthened by the integration of human rights advocacy with these provisions, which comprehensively address their requirements. Nevertheless, the necessity of ongoing endeavours to reconcile the disparities between policy and practice is underscored by persistent obstacles, such as low awareness, lack of enforcement, and societal stigma.

⁵ Ray, Arun. *National Human Rights Commission of India: Formation, Functioning and Future Prospects*. Vol. 1. Atlantic Publishers & Dist, 2003.

III. Human Rights and Senior Citizens Human Rights Perspective

In recognition of their inherent value as equal members of society, human rights serve as the foundation for safeguarding the dignity, security, and justice of senior citizens.⁶ The right of older persons to exist with

dignity, free from abuse, neglect, and discrimination, is underscored by the Universal Declaration of Human Rights (UDHR) and international frameworks such as the Madrid International Plan of Action on Ageing, 2002. In the Indian context, the Constitution of India guarantees fundamental rights, including the Right to Life and Personal Liberty (Article 21) and the Right to Equality (Article 14), which are applicable to senior citizens. These principles are the foundation of a variety of legal provisions and policy initiatives, such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which demonstrates the impact of human rights on domestic legislation.

The intersection of elder law and human rights is concerned with the protection of their financial stability, access to healthcare, and liberation from exploitation.⁷ These rights also include the safeguarding of emotional and psychological well-being, thereby fostering an environment in which the elderly can participate in societal and familial activities without fear of marginalization or maltreatment. The propagation of human rights has a direct impact on the development and execution of legal frameworks that are specifically tailored to accommodate the needs of senior citizens.

Challenges in Ensuring Human Rights

Senior citizens in India encounter numerous obstacles in the practical application of human rights protections, despite their robust theoretical foundation.⁸ In urbanized and nuclear family settings, elderly individuals are frequently side-lined or left to fend for themselves, and neglect and societal indifference continue to be significant issues. The traditional family connections that once guaranteed respect and care are deteriorating, leaving numerous senior citizens susceptible to emotional neglect and isolation.

⁶ Rodriguez-Pinzon, Diego, and Claudia Martin. "The international human rights status of elderly persons." *Am. U. Int'l L. Rev.* 18 (2002): 915.

⁷ Duffy, Anita, Michael Connolly, and Freda Browne. "Unravelling elder abuse through a human rights lens: a case study." *British Journal of Nursing* 33, no. 16 (2024): 772-777.

⁸ Bob, Clifford, ed. *The international struggle for new human rights*. University of Pennsylvania press, 2009.

Financial exploitation and elder abuse exacerbate these challenges, with fraud, coercion, and property-related disputes being exceedingly prevalent.⁹ Senior citizens are frequently coerced into transferring property or relinquishing financial control, only to be abandoned subsequently. Furthermore, their dignity and security are further compromised by instances of emotional harassment and physical abuse, which are frequently committed by family members or caregivers. The fear of retaliation, societal stigma, or the desire to safeguard family relationships are among the reasons why many elderly individuals hesitate to report such abuse.

A multidimensional approach that integrates human rights principles with effective legal protections and societal awareness is necessary to address these challenges. It is imperative that policymakers, law enforcement, and civil society collaborate to reduce neglect and abuse, thereby guaranteeing that senior citizens live with dignity, security, and justice. This perspective serves as a crucial link between criminal

justice and human rights in the context of safeguarding the elderly.

IV. Effectiveness of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, is a substantial legislative measure that is designed to safeguard the rights and welfare of elderly citizens in India. Nevertheless, its potential to guarantee justice and dignity for senior citizens is restricted by a variety of obstacles, including institutional support, societal attitudes, and implementation.¹⁰

Implementation Challenges

The absence of awareness among senior citizens and their families is a significant impediment to the Act's efficacy. Numerous elderly individuals, particularly those residing in rural regions, are oblivious of their rights under the Act and the mechanisms that are available for redress. Families are frequently unaware of the legal obligations that are placed on them to support their elderly parents. The Act is often underutilized as a result of this lack of awareness, with senior

⁹ Soneja, Shubha. "Elder abuse in India." *World Health Organization* https://www.who.int/ageing/projects/elder_abuse/alc_ea_ind.pdf (2011).

¹⁰ Issac, Thomas Gregor, Abhishek Ramesh, Shiv Shanker Reddy, Palanimuthu T. Sivakumar, Channaveerachari Naveen Kumar, and Suresh Bada Math. "Maintenance and Welfare of Parents and Senior Citizens Act 2007: a critical appraisal." *Indian Journal of Psychological Medicine* 43, no. 5_suppl (2021): S107-S112.

citizens often suffering in silence due to fear or ignorance.¹¹ The absence of awareness among senior citizens and their families is a significant impediment to the Act's efficacy. Numerous elderly individuals, particularly those residing in rural regions, are oblivious of their rights under the Act and the mechanisms that are available for redress. Families are frequently unaware of the legal obligations that are placed on them to support their elderly parents. The Act is often underutilized as a result of this lack of awareness, with senior citizens often suffering in silence due to fear or ignorance.

Institutional Gaps

Another critical factor that influences the Act's effectiveness is the role of enforcement agencies. District Social Welfare Officers (DSWOs) and Maintenance Tribunals, who are responsible for the implementation of the Act, frequently lack the necessary training and sensitivity to address elder-specific issues. Enforcement agencies frequently fail to act promptly, resulting in delays in the resolution of disputes. Moreover, the system's overall efficacy is diminished by the fragmentation of coordination among a variety of stakeholders, including police, tribunals, and welfare officers. Additionally, there are substantial deficiencies in infrastructure and resources.¹² The Act mandates the establishment of old-age homes and the provision of other welfare facilities; however, numerous states have yet to comply with these obligations. The elderly are frequently unable to receive adequate care due to the absence of basic amenities, trained personnel, and funding in existing old-age homes. These institutional deficiencies not only impede the Act's

implementation but also underscore the general disregard for the welfare of senior citizens in public policy.

Societal Acceptance

The cultural and familial opposition to the Act's provisions is a critical impediment to its success. In the traditional societal structure of India, it is frequently considered taboo to pursue legal action against one's offspring or family members. Despite the fact that senior citizens may be neglected or abused, they may be hesitant to report grievances or approach tribunals for fear of ostracism or harm to their family relationships. This resistance is especially evident in rural

¹¹ Menon, Hema V., and Swati R. Chinye. "Critical Evaluation of Maintenance and Welfare of Parents and Senior Citizens Act, 2007." *Indian JL & Legal Rsch.* 2 (2021): 1.

¹² Noor, Gazala. "Maintenance, Welfare and Protection of the Rights of Parents and Senior Citizens: A Socio- Legal Analysis." *Part 1 Indian J. Integrated Rsch. L.* 2 (2022): 1.

and conservative communities, where the concept of elder rights is frequently overshadowed by familial obligations and honour. Furthermore, legal action against family members is stigmatized, which deters senior citizens from asserting their rights. This stigma is further perpetuated by the societal expectation that the elderly should endure hardships silently rather than disrupt familial harmony. Families may also perceive the Act's provisions, such as maintenance obligations, as an undue burden, which can lead to resentment and neglect toward senior citizens.¹³

V. Role of the Criminal Justice System

The criminal justice system is essential in safeguarding senior citizens from abuse, neglect, and exploitation, thereby preserving their dignity and rights.¹⁴ It functions as a mechanism for deterrence and redress, addressing violations of elder rights through legal and judicial processes. Nevertheless, the system is confronted with obstacles that impede its capacity to deliver timely and effective justice to senior citizens, thereby requiring targeted reforms.

Addressing Elder Abuse and Neglect

The physical, financial, emotional, and social dimensions of elder abuse and neglect are pervasive issues that senior citizens encounter. Financial exploitation, which includes fraud and coercion to transfer property or assets, and physical abuse, such as infliction of injury or restraint, are prevalent forms of abuse. The mental well-being of the elderly is frequently compromised by emotional abuse, which frequently entails isolation, intimidation, and threats. Their vulnerability is further exacerbated by neglect, which is defined as the failure to provide fundamental necessities such as food, shelter, and medical care.¹⁵ These issues are addressed by the criminal justice system through a variety of provisions in laws such as the Bharatiya Nyaya Sanhita (BNS) and the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Section 303 of the BNS criminalizes the abandonment and neglect of senior citizens, for example, while the Senior Citizens Act guarantees the preservation of property rights and the

¹³ Kapur, Sarita. "Senior Citizens—Protections in Law, an Overview." *Ageing Issues and Responses in India* (2020): 171-184.

¹⁴ Brandl, Bonnie, Carmel Bitondo Dyer, Candace J. Heisler, Joanne Marlatt Otto, Lori A. Stiegel, and Randolph W. Thomas. *Elder abuse detection and intervention: A collaborative approach*. Springer publishing company, 2006.

¹⁵ Fearing, Gwendolyn, Christine L. Sheppard, Lynn McDonald, Marie Beaulieu, and Sander L. Hitzig. "A systematic review on community-based interventions for elder abuse and neglect." *Journal of elder abuse & neglect* 29, no. 2-3 (2017): 102-133.

recovery of maintenance. The system's role in providing redress is underscored by case studies. A senior citizen in Mumbai successfully reclaimed her property from her son, who had abandoned her after coercing her into transferring ownership, in one notable case. The Maintenance Tribunal's intervention illustrated the Act's potential when employing it effectively. Nevertheless, such occurrences are exceptions, necessitating the consistent application of legal protections, as a result of systemic barriers.

Judicial Precedents

Judicial interpretation of laws that safeguard senior citizens has further fortified their rights. In India, courts have frequently underscored the societal and familial responsibilities that they have toward the elderly, while simultaneously ensuring their dignity and security. In the case of "Ajay Kumar v. Lata @ Sharuti," the Supreme Court emphasized the significance of the right of senior citizens to maintenance, noting that children and successors are legally required to provide for their ageing parents. In the same vein, courts have overturned coercive property transfers in cases of property disputes, recognizing the right of senior citizens to revoke such transactions if they were not treated with care. The judiciary's proactive role in interpreting laws in a manner that prioritizes the welfare of senior citizens is emphasized by these judgments. Elder abuse is discouraged by such precedents, which also raise awareness of their rights. Nevertheless, the broader impact of these rulings is frequently restricted by the absence of pervasive reporting and enforcement, necessitating improved judicial outreach and accessibility.

Challenges within the System

Although the criminal justice system plays a critical role, it encounters substantial obstacles in meeting the requirements of senior citizens. Senior citizens are frequently discouraged from seeking legal remedies due to the lengthy judicial procedure and the pendency of cases. Delays in the resolution of cases can render justice ineffective or irrelevant due to the advanced age and health issues of the parties involved. Maintenance Tribunals, while intended to facilitate expediency, occasionally lack the necessary resources and personnel to deal with cases in a timely manner, resulting in protracted disputes. An additional obstacle is the absence of training for law enforcement personnel regarding elder-specific matters. The sensitivity and awareness necessary to effectively address cases involving senior citizens are frequently lacking in police and other enforcement agencies. Elder abuse may be disregarded as family disputes, or senior citizens may encounter challenges in filing complaints as a result of unresponsive law enforcement. This gap must be bridged by law enforcement officers participating in training programs and sensitization seminars to ensure that they can address elder-specific cases with empathy and efficiency.

VI. Deficiencies in the Current Legal Framework

The effectiveness of the legal framework in India for safeguarding senior citizens is restricted by a number of deficiencies, despite its robust intent. These deficiencies encompass a lack of comprehensive protections and discrepancies between policy design and practical implementation, which render senior citizens susceptible to exploitation, neglect, and abuse.

Key Deficiencies Identified

The absence of comprehensive protections for senior citizens is one of the most significant deficiencies. Although the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, offers critical protections, its primary emphasis is on property-related matters and financial maintenance. The broader spectrum of challenges that senior citizens encounter, such as emotional neglect, physical abuse, and access to healthcare and social security, is not adequately addressed by this restricted scope. For example, the current system fails to address critical aspects of elders' well-being due to the absence of a unified legal framework that integrates elder-specific issues such as healthcare accessibility, pension security, and mental health support.

Moreover, the policy formulation process fails to adequately address the specific requirements of the elderly. Policies and laws frequently implement a one-size-fits-all approach, neglecting to consider the distinctive vulnerabilities of senior citizens, including diminished earning capacity, dependence on family or caregivers, and reduced mobility. The elderly, particularly those residing in rural or economically disadvantaged areas, are further burdened by the absence of customized measures, such as age-friendly infrastructure or dedicated health insurance schemes.

Gap between Policy and Implementation

The intent of extant legal provisions is undermined by the gap between policy and its implementation, which presents a substantial challenge. Although the Maintenance Act requires the establishment of tribunals, old-age institutions, and welfare schemes, their implementation is inconsistent among states. Many tribunals are understaffed, and old-age institutions lack sufficient facilities and resources, rendering them unattractive or inaccessible to senior citizens who require assistance.

Additionally, senior citizens encounter practical obstacles when attempting to obtain legal protections. Many elderly individuals are unable to seek assistance due to their lack of awareness of their rights and available remedies. Despite their awareness, they are discouraged from pursuing justice by logistical barriers, including financial constraints, physical immobility, and a lack of legal assistance. Additionally, the absence of a streamlined grievance redressal mechanism frequently results in extended delays and discourages senior citizens from reporting instances of abuse or neglect.

The pressing necessity for a more responsive and integrated legal framework is underscored by these

discrepancies between policy and practice. These deficiencies can be resolved by strengthening implementation mechanisms, assuring sufficient funding for welfare programs, and promoting collaboration among policymakers, enforcement agencies, and civil society. This will result in a more inclusive system for senior citizens.

VII. Conclusion and Recommendations

The safeguarding of senior citizens in India necessitates a delicate balance between societal demands and rights, ensuring that the individual rights of the elderly are maintained without disrupting familial and societal harmony. In a changing socio-economic landscape, senior citizens have a constitutional right to live with dignity and security. However, these rights must be reconciled with the responsibilities and limitations of families. This necessitates a legal framework that not only enforces the rights of senior citizens but also cultivates an environment of mutual respect and intergenerational solidarity.

A comprehensive, rights-based, and inclusive legal framework is necessary to guarantee the welfare and justice of senior citizens. Comprehensive safeguards that address healthcare, mental well-being, and social inclusion should be included in such a framework, in addition to financial maintenance and property-related protections. India's legal system can be used as a model for addressing the unique vulnerabilities of its ageing population by incorporating the principles of justice, equity, and human rights.

A collaborative approach that involves sustained efforts by the government, judiciary, and society is urgently required. The judiciary must actively interpret these laws to deliver justice effectively, while policymakers must ensure that laws are inclusive and adaptable. Community organizations and civil society can be instrumental in advocating for elder rights, providing assistance to the elderly, and increasing awareness. The dignity and justice of senior citizens can only be guaranteed in practice through collective action.

Recommendations for Improvement

1. Strengthening the Legal Framework

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, must be amended to offer broader protections in order to accommodate the changing requirements of senior citizens. These amendments may encompass the following:

- Increasing the maintenance amount to account for inflation and the increasing cost of living.

- Broadening legal safeguards to encompass all forms of elder abuse, including emotional and psychological abuse.

- Ensuring that old-age residences comply with quality standards by mandating regular inspections.

Additionally, criminal law should include elder-specific protections, such as expedited trial procedures and enhanced penalties for offences against senior citizens, to address the urgency of these cases.

2. Capacity Building and Awareness

It is imperative that law enforcement and judiciary personnel participate in training programs to acquire the necessary knowledge and sensitivity to address elder-specific issues. It is imperative that welfare officials, police officers, and judicial officers receive training in order to identify indicators of elder abuse, respond promptly to complaints, and offer empathetic support to the elderly.

Furthermore, awareness campaigns that are directed at families and communities have the potential to significantly alter societal perceptions of senior citizens. These campaigns should underscore the significance of respecting and caring for the elderly, emphasizing both moral and legal obligations. Community-based initiatives may motivate families to regard senior citizens as valuable contributors to society, rather than as liabilities.

3. Collaborative Approaches

Senior citizens are confronted with issues that cannot be resolved solely through the legal system. It is essential to adopt a collaborative approach that involves social institutions, legal professionals, and policymakers. In order to develop policies that are reflective of the requirements and aspirations of senior citizens, policymakers should engage in consultations with stakeholders, including the latter themselves. Legal professionals have the ability to advocate for elder rights in court and through public interest litigation.

Public-private partnerships (PPPs) provide a novel approach to addressing resource deficits and improving the welfare infrastructure for senior citizens. Quality old-age homes, healthcare facilities, and community centres for the elderly can be established through collaboration between government agencies, NGOs, and corporations. PPPs can also facilitate technology-driven solutions, such as mobile applications and helplines, to connect senior citizens with legal and social support networks.