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RIGHTS OF OLDER CITIZENS IN INDIA: A SOCIO-LEGAL STUDY

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Abstract

“An investigation into the socio-legal framework that governs the rights of senior persons in India is the focus of this study. There are considerable hurdles that India must overcome in order to ensure the well-being of its senior citizens, since the country's population is rapidly ageing and is expected to reach 319 million old by the year 2050. Through the course of this research, constitutional provisions, legislative frameworks, policy efforts, and judicial interventions that are intended to safeguard the rights of the elderly are analysed. In addition, it investigates the sociocultural background of ageing in India, including the deterioration of conventional family support networks and the emergence of vulnerabilities. This report suggests comprehensive changes to increase the protection of aged rights in India. These reforms are proposed through critical examination of implementation gaps and comparative comparison with international norms. According to the results, India has developed a progressive legislative framework; nevertheless, there are still substantial problems in effectively implementing this framework. In order to build a society that is more age-inclusive, it is necessary to coordinate efforts across the governmental, social, and family domains.”

Keywords. Elderly rights, Senior citizens, Aging in India, Constitutional provisions, Maintenance and Welfare of Parents and Senior Citizens Act, Elder abuse, Age discrimination

1. Introduction

A population that is quickly getting older is one of the characteristics that is causing India to go through a big demographic transformation. The United Nations Population Fund (UNFPA, 2022) projects that India's senior population (defined as those aged 60 and above) would expand from 104 million in 2011 to around 319 million by the year 2050. This will represent almost twenty percent of the country's total population. In a nation that has traditionally relied on family-based care systems, this demographic transition poses a singular set of issues that must be overcome in order to guarantee the

well-being and preservation of the rights of senior individuals.

Through the institution of the joint family, the sociocultural fabric of Indian society has traditionally placed great emphasis on the concept of filial piety and veneration for the elderly among its members. However, modernisation, urbanisation, and globalisation have led to changes in family structures, migration patterns, and developing societal norms, all of which have contributed to the erosion of traditional support networks for the elderly (Liebig & Rajan, 2023). As a consequence of this, senior persons are increasingly vulnerable to a variety of threats, such as

increased economic insecurity, difficulties in obtaining healthcare, abuse, neglect, and social isolation.

India has built a multi-layered socio-legal framework in response to these developing concerns. This framework includes constitutional provisions, legislative enactments, policy initiatives, and judicial interventions that are all geared at protecting the rights of the old. The Maintenance and Welfare of Parents and Senior Citizens Act, which was passed in 2007, is a significant piece of legislation that provides children with the legal obligation to give financial support for their ageing parents.

Within the scope of this research study, the entire socio-legal environment that governs the rights of the aged in India is investigated. The efficiency of the mechanisms that are now in place is evaluated, and implementation holes are identified. Further investigation into comparative viewpoints is included, as well as suggestions for reform actions that would enhance the protection system. For the purpose of providing a comprehensive knowledge of the topic, the research makes use of a mixed-methods approach, pulling from a variety of data sources, including case studies, policy assessment, legal analysis, and secondary data review.

This research makes a contribution to the developing discourse on ageing with dignity and the forming intergenerational social compact in modern India by locating the rights of the aged within the larger sociocultural and legal environment of India. It places an emphasis on the necessity of a rights-based approach to the care of older people, which strikes a balance between traditional values and contemporary legal safeguards.

2. Constitutional and Legal Framework

2.1 Constitutional Provisions

Although the Indian Constitution does not specifically address the rights of the elderly, it does lay the groundwork for the preservation of

their rights through a number of distinct sections. According to the Constitution of India from 1950, Article 41, which is a Directive Principle of State Policy, instructs the state to make measures for public assistance in situations of old age within the scope of its economic capabilities. Despite the fact that Directive Principles are not legally binding, they still serve as a guide for the creation of state policy and legislative action. As an additional point of interest, the basic rights that are contained in Part III of the Constitution are applicable to all citizens, including senior people. Article 14 ensures that all individuals are treated equally before the law, Article 19 defends a variety of liberties, and Article 21 protects the right to life and personal liberty, which has been expansively construed by the judicial system to encompass the right to live with dignity (Mathew, 2021). It was in the case of Justice K.S. Puttaswamy v. Union of India (2017) that the Supreme Court of India confirmed that dignity is an essential component of the right to life. This revelation has major consequences for the rights of the elderly.

2.2 Legislative Framework

2.2.1 Maintenance and Welfare of Parents and Senior Citizens Act, 2007

The Maintenance and Welfare of Parents and Senior Citizens Act (MWPSA Act) is the most comprehensive piece of law in India that addresses the rights of senior citizens. In accordance with the provisions of the Act, children and heirs are legally obligated to provide maintenance to senior citizens who are unable to provide for themselves. Additionally, the Act establishes Maintenance Tribunals for the purpose of expeditiously resolving maintenance claims, criminalises the act of abandoning senior citizens, mandates medical facilities for senior citizens, and safeguards the property rights of elderly individuals against the transfer of their property through coercion (Government of India, 2007).

According to the Act, a senior citizen is defined as any individual who is sixty years old or older, and it establishes a cap for maintenance claims at ₹10,000 per month maximum. The Maintenance Tribunals possess the authority to issue decisions within a period of ninety days. The Act stipulates that neglecting elderly persons can result in imprisonment for a period of up to three months or a fine of up to ₹5,000, or both, depending on the circumstances (Rajan & Balagopal, 2021).

In the MWPSA Amendment Bill, 2019, significant improvements are proposed to be made to the existing legislation. These improvements include broadening the definition of maintenance, extending the responsibility to provide maintenance to relatives, increasing the maintenance amount ceiling, broadening the definition of abandonment, and increasing the penalties for violations (Government of India, 2019). On the other hand, the change is still being considered by Parliament.

2.2.2 Other Relevant Legislation

Several other laws indirectly address elderly concerns:

1. **The Code of Criminal Procedure, 1973 (Section 125):** Provides for maintenance of parents by their children if they are unable to maintain themselves.
2. **The Protection of Women from Domestic Violence Act, 2005:** Protects elderly women from domestic violence, including economic and emotional abuse.
3. **The Hindu Adoption and Maintenance Act, 1956:** Obligates Hindu men to maintain their aged or infirm parents.
4. **The Muslim Personal Law (Shariat) Application Act, 1937:** Under Islamic law, children have a duty to maintain their elderly parents.
5. **The Rights of Persons with Disabilities Act, 2016:** Addresses the needs of elderly persons with disabilities.

6. **The Mental Healthcare Act, 2017:** Provides protections for elderly persons with mental health conditions.

2.3 Policy Initiatives

With its introduction in 1999 and subsequent revision in 2011, India's National Policy on Older Persons (NPOP) is the country's first comprehensive policy framework that addresses issues that are specific to the elderly. In accordance with the Ministry of Social Justice and Empowerment (2011), the policy intends to improve the financial security, healthcare, and housing conditions of older persons, as well as their general welfare, via the collaboration of many sectors.

Using the National Policy on Pensions as a foundation, the Atal Vayo Abhyuday Yojana, which was formerly known as the National Action Plan for Senior Citizens, was initiated with the purpose of putting into action specific policy objectives through various interventions. These interventions include the establishment of integrated senior citizen care centres, the development of programs for elderly healthcare and nutrition, and the promotion of intergenerational bonding (Ministry of Social Justice and Empowerment, 2020).

In addition, there are programs such as the Indira Gandhi National Old Age Pension Scheme, which offers financial assistance to the elderly and the poor, the Pradhan Mantri Vaya Vandana Yojana, which offers pension plans for senior citizens, and the Rashtriya Vayoshri Yojana, which offers assistive devices to senior citizens who are living below the poverty line (Dey et al., 2022).

3. Socio-Cultural Context of Aging in India

3.1 Traditional Value Systems and Changing Dynamics

The notion of dharma, which means duty, is the foundation of India's traditional approach to caring for the elderly. Dharma places an emphasis on respecting elders and fulfilling one's obligations to one's family. A supporting environment for ageing in situ was traditionally

supplied by the joint family structure. This environment consisted of many generations living together, which ensured care, companionship, and the transmission of knowledge from one generation to the next (Shah, 2020).

The modern India, on the other hand, is seeing enormous shifts in the architecture of families and the interactions between generations. Various factors, including modernisation, urbanisation, preferences for nuclear families, workforce engagement of women (who have historically been main carers), migration from rural to urban areas, and globalisation, have together contributed to the weakening of traditional support structures (Kumar & Choudhary, 2022). 5 percent of old men and 11 percent of elderly women lived alone in 2019, according to the National Sample Survey Office (NSSO, 2019). This finding reflects the rising trend of isolation among the elderly population.

3.2 Elder Abuse and Neglect

In Indian society, elder abuse is becoming an increasingly prevalent problem. This type of abuse is frequently characterised by physical, psychological, emotional, or financial exploitation of the elderly. According to the findings of a study that was carried out by HelpAge India (2023), roughly twenty-five percent of older respondents reported having experienced some form of abuse. The most common form of abuse identified by respondents was emotional abuse, which accounted for fifty-two percent of the total. It was determined that 47 percent of the culprits were sons, and 43 percent were daughters-in-law.

According to Shankardass's research from 2020, some of the elements that contribute to elder abuse are economic reliance, property disputes, intergenerational conflicts, substance misuse by family members, and mental strain experienced by carers. It is significant that the majority of cases of abuse are not reported because of emotional attachment to abusers, fear of revenge, worry about family reputation,

lack of understanding about legal redress, and physical immobility that restricts access to support services.

3.3 Economic Insecurity

The fraction of India's old population that is economically vulnerable is disproportionately high. There are a number of factors that contribute to financial insecurity, including the lack of comprehensive social security, restricted pension coverage, and a decline in labour force participation with increasing age. According to the Longitudinal Ageing Study in India (LASI, 2021), just 23.4% of senior people in India got pension benefits, and 52.4% of them remained working beyond the age of 60 because they were forced to do so due to financial need rather than because they chose to do so.

As a result of lower rates of employment involvement, widowhood, and gender-based inheritance inequities, older women experience greater rates of economic reliance than senior men do (Chanana & Talwar, 2021). This is a particular cause for worry because elder women are more likely to be economically dependent than males. There are extra issues that rural old people experience as a result of the unpredictability of the agriculture sector, the limited alternative livelihood possibilities, and the insufficient access to financial services.

4. Healthcare and Well-being

4.1 Health Status and Healthcare Access

There is a double burden of communicable and non-communicable illnesses that are affecting the older population in India. According to the India Ageing Report (WHO, 2023), around forty-five percent of the older population is affected by chronic illnesses. These diseases include cardiovascular issues, diabetes, respiratory disorders, musculoskeletal difficulties, and sensory impairments. It is estimated that 17.8 percent of the older population is affected by mental health issues such as dementia and depression; yet, these conditions continue to be underdiagnosed and less often treated.

However, despite the fact that there are policy provisions for preferential treatment, access to healthcare creates substantial problems. According to the findings of the Longitudinal Ageing Study conducted in India, 27.5% of senior people reported having difficulties gaining access to healthcare services owing to financial restrictions, transportation impediments, and extended waiting times (LASI, 2021). There is still a significant amount of money spent out of pocket, with 37 percent of households with older members incurring catastrophic health expenses.

4.2 Geriatric Care Infrastructure

India is experiencing a severe lack of specialised geriatric care infrastructure, which is a significant requirement. There are around 0.7 geriatricians for every 100,000 senior people in India, as stated by the Ministry of Health and Family Welfare (2022). This ratio is much lower than the suggested ratio of 5 geriatricians for every 100,000 elderly people. According to Verma and Khanna (2023), the National Program for Health Care of the Elderly, which was initiated in 2011, has the objective of establishing specialised geriatric departments at medical colleges and district hospitals. However, the execution of this program is not uniform among jurisdictions.

There are around 1,500 institutions across the country that provide long-term care services to a population of over 104 million senior people. These facilities, which include houses for the elderly, continue to be insufficient. Furthermore, there are substantial issues regarding the implementation of quality standards, the control of regulatory agencies, and the cost of current facilities (Sharma & Kapoor, 2022).

5. Implementation Challenges and Gaps

5.1 Legal Implementation Barriers

Despite progressive legislation, implementation of elderly rights protection faces several challenges:

1. **Limited Awareness:** The elderly and the authorities responsible for

implementation have a low level of understanding of the requirements of the law, which makes it difficult to effectively utilise protective measures.

2. **Procedural Complexities:** Individuals who are old are discouraged from taking legal remedies due to the lengthy processes, documentation requirements, and delays that are associated with the proceedings of the Maintenance Tribunal.
3. **Enforcement Deficiencies:** The implementation of maintenance orders and fines for non-compliance is made more difficult by monitoring methods and follow-up processes that are inadequate.
4. **Resource Constraints:** The operational efficacy of implementation agencies is hindered when they are not provided with appropriate financial and human resources (resource allocation).
5. **Coordination Gaps:** There is a reduction in the overall impact of legislative requirements due to the fragmented tactics that are used across numerous ministries and the absence of coordinated implementation strategies.

5.2 Policy Implementation Challenges

Policy initiatives similarly encounter implementation hurdles:

1. **Budgetary Limitations:** According to the Ministry of Finance (2023), the allocations for welfare programs for the elderly comprise less than 0.04% of GDP, which creates substantial limitations on the scope and quality of the programs.
2. **Administrative Silos:** The fragmentation of responsibilities between ministries and departments leads to the duplication of efforts, difficulties in coordination, and inefficiencies in execution.

3. **Monitoring Deficiencies:** There are limitations to the refining of evidence-based policy due to the absence of proper monitoring methods, outcome assessment frameworks, and impact evaluation processes.
4. **Urban-Rural Disparities:** In terms of implementation, there is a regional unevenness, with rural regions seeing more major gaps in service delivery and infrastructure.
5. **Capacity Constraints:** When it comes to successful program implementation, particularly at the local government level, limited institutional capacity, skilled human resources, and technical competence are all factors that prevent it from happening.

6. Comparative Perspectives

6.1 International Standards

With the adoption of the Madrid International Plan of Action on Ageing (MIPAA) by the United Nations in 2002, global standards for addressing ageing populations were established. The MIPAA places an emphasis on three priority areas: older persons and development, advancing health and well-being into old age, and ensuring environments that are enabling and supportive (United Nations, 2002). Further articulation of criteria of independence, participation, care, self-fulfilment, and dignity may be found in the United Nations Principles for Older Persons.

Despite the fact that India has ratified these international frameworks, there are still certain gaps in the country's domestic policies that are not entirely aligned with international norms. These gaps are mainly concerning universal social security, age discrimination legislation, healthcare systems that are tailored to the old, and measures that prevent elder abuse.

6.2 Comparative Analysis with Other Jurisdictions

Several jurisdictions offer instructive approaches to elderly rights protection:

1. **Japan:** Includes the implementation of a comprehensive Long-Term Care Insurance system that offers universal coverage for services related to the care of older individuals and is financed by mandated insurance contributions.
2. **Norway:** Utilises a rights-based approach by means of the Patients' and Users' Rights Act, which ensures that senior individuals are legally entitled to receive high-quality medical treatment and social services.
3. **Australia:** The comprehensive approach to addressing elder abuse is accomplished by the use of a national framework for the prevention of elder abuse, which incorporates legal safeguards, awareness activities, service coordination, and research.
4. **Singapore:** In recognition of the contributions that senior citizens have made to the development of the nation, the Pioneer Generation Package is put into effect. This package offers financial aid, assistance with disabilities, and healthcare subsidies to senior residents.

These comparative frameworks highlight potential reform directions for strengthening India's elderly rights protection system through rights-based approaches, integrated service delivery models, specialized elder abuse prevention mechanisms, and universal social security provisions (Singh & Prinja, 2023).

7. Judicial Interventions

The Indian judiciary has played a pivotal role in interpreting and expanding elderly rights protection through landmark judgments:

1. **Ashwani Kumar v. Union of India (2018):** The Supreme Court issued extensive directions that mandated the execution

of the National Policy for Senior Citizens. These directions included forcing governments to create old-age facilities in each district, ordering frequent revisions of pension rates, and required that hospitals specialise in providing treatment for elderly patients.

2. **Dr. Ashwani Kumar v. Union of India (2016):** The Court emphasised the right of older residents to receive good treatment and to be treated with respect, and it directed the government to fully execute the Miller-Whitney Public Service Commission Act.
3. **S. Hemalatha v. Government of Andhra Pradesh (2017):** The supply of food, clothes, a place to live, medical attention, and treatment are all forms of maintenance, according to the Andhra Pradesh High Court, which confirmed this definition.
4. **Paramjit Kumar Saroya v. Union of India (2014):** A decision was made by the Delhi High Court that the MWPSA Act is more important than personal laws when it comes to concerns of maintenance for older persons.

Through these interventions, the judiciary has established that the rights of the elderly are fundamental to constitutional guarantees of dignity and equality; it has expanded the interpretation of maintenance to include quality healthcare and emotional support; it has emphasised the responsibility of the state in ensuring the welfare of the elderly; and it has reinforced the primacy of dedicated legislation for the elderly over personal laws. (Raju, 2021).

8. Reforms and Way Forward

8.1 Legal and Policy Reforms

1. **Legislative Enhancements:** Accelerate the adoption of the MWPSA Amendment Bill, which includes provisions for increased maintenance payments, more stringent penalties for non-compliance,

and wider protection against exploitation.

2. **Universal Social Security:** A robust universal social security system for the aged should be developed. This system should include substantial pension payments that are adjusted to inflation and the expansion of coverage beyond those who fall below the poverty line.
3. **Age Discrimination Legislation:** Encourage the passage of specific legislation that would outlaw age-based discrimination in a variety of fields, including employment, healthcare, financial services, and others.
4. **Elder Abuse Prevention Framework:** The establishment of a national framework for the prevention of elder abuse should include the establishment of standardised reporting procedures, protection officers, shelter houses, and rehabilitation programs.
5. **Integrated Policy Approach:** Within the context of a coordinated implementation structure, a uniform National Elderly Policy Framework should be developed. This framework should incorporate healthcare, social security, housing, and legal protection.

8.2 Implementation Strengthening

1. **Institutional Mechanisms:** The establishment of a National Commission for Senior Citizens that is equipped with investigation powers, regulatory authority, and monitoring capacities is going to be necessary in order to supervise the execution of welfare programs for the aged.
2. **Capacity Building:** The capacity of implementation agencies should be strengthened by providing individuals engaged in the delivery of services to the elderly with specialised training, accessible technological resources, and opportunities for professional growth.

3. **Monitoring Systems:** For the purpose of informing evidence-based policy revisions, rigorous monitoring and evaluation frameworks should be developed. These frameworks should include standardised indicators, frequent data collecting procedures, and periodic effect evaluations.
4. **Technology Integration:** Leverage digital technology for the purpose of delivering services in an efficient manner. Some examples of these technologies are online maintenance claim filing, telemedicine services for geriatric healthcare, and digital interventions for financial inclusion.
5. **Local Governance Engagement:** Specifically mandated tasks, resource allocations, and performance accountability procedures should be implemented in order to strengthen the role that local governing institutions play in the welfare of the aged.
4. **Productive Aging:** Senior volunteer programs, mentorship efforts, and job possibilities that are user-friendly for the elderly should be implemented in order to create chances for the sustained social and economic participation of elderly people.
5. **Community-Based Care:** Addressing the issue of isolation and providing alternatives to community-based care may be accomplished through the establishment of neighbourhood support networks, community day care centres for the elderly, and social involvement platforms.

9. Conclusion

This in-depth research of the rights of senior persons in India finds a complicated relationship between the existence of progressive legislative frameworks and the ongoing difficulties that are associated with their implementation. There are major gaps in the process of turning these safeguards into lived realities for India's fast rising senior population, despite the fact that India has constructed a foundation for the protection of elderly rights through constitutional provisions, specific legislation, governmental efforts, and judicial interventions.

The weakening of conventional support systems makes it necessary for the state and society to strengthen its procedures in order to guarantee the wellbeing of the elderly. In order to go forward, India has to make a paradigm change from a welfare-based approach to a rights-based framework that recognises senior persons as rights-holders who are entitled to dignity, autonomy, participation, care, and protection from discrimination and abuse.

In order to effectively defend the rights of the aged, a multi-faceted strategy that incorporates legal, legislative, institutional, and socio-cultural initiatives is required. The strengthening of legal provisions, the enhancement of implementation mechanisms,

8.3 Socio-Cultural Interventions

1. **Intergenerational Programs:** Establishing systematic intergenerational interaction programs in educational institutions, community centres, and urban planning can help to cultivate mutual understanding and support among people of different generations.
2. **Awareness Campaigns:** Establish all-encompassing awareness campaigns that bring attention to the rights of elders, the support services that are available, and the protocols for reporting instances of elder abuse.
3. **Family Support Systems:** Programs that provide respite care, training for carers, financial incentives, and counselling assistance should be developed in order to increase the capacity of families to provide care for their loved ones.

the development of comprehensive social security systems, the improvement of healthcare access, the prevention of elder abuse, the creation of surroundings that are age-friendly, and the promotion of intergenerational solidarity are all included in this context.

While India is in the process of navigating its demographic shift, the protection of the rights of the elderly is not just a legal requirement but also a civic necessity that reflects the country's dedication to inclusiveness, decency, and social justice. India is able to establish a framework for the protection of old rights that is more responsive and effective by tackling current difficulties via coordinated reforms. This framework will honour India's historic values of respect for elders while also adjusting to the realities of the modern world.

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