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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **HUMAN RIGHTS OF THE ELDERLY IN INDIA: A COMPREHENSIVE REVIEW OF LEGAL SAFEGUARDS AND POLICY FRAMEWORKS**

AUTHORED BY - SWETA GIRI<sup>1</sup>

## **ABSTRACT**

There is no escaping old age; it is defined as "the gradual deterioration of the functional capacity of the human body's organs." But they are a treasure trove of human resource, brimming with wisdom, insight, and life experience from all walks of life. They are the more seasoned members of the family unit, and as such, they have a deeper grasp of the traditions, customs, beliefs, and history of the group. This article analyses the legal framework, focussing on the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and investigates the constitutional protections afforded to the elderly, particularly the interpretation of Articles 14 and 21. In terms of their goals and execution, national policies like the frameworks from 1999 and 2011 are evaluated. Persistent difficulties, such as neglect, abuse, poor health care, and limited understanding of existing rights, are also addressed in the debate, taking into account judicial techniques and research results. Additional context for evaluating India's present condition may be gained by comparing it to foreign norms. The review finds that while there is a growing framework of policy and legal protections, many elderly people are unable to really exercise their rights due to problems with accessibility and enforcement. To guarantee that the elderly live with respect, safety, and equality under the law, it is crucial to raise consciousness, hold institutions to account, and acknowledge ageing as a rights-based issue.

**Keywords:** Human Rights, Elderly, India, Senior Citizens, Legal Safeguards, Policy Frameworks.

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## 1. INTRODUCTION

As the world's populations continue to age rapidly, the issue of human rights has taken on more significance. Over the years, India's share of elderly individuals has been steadily increasing, thanks to the country's large population<sup>2</sup>. The elderly population has grown substantially due to decreased birth rates, increased life expectancy, better medical treatment, and more accurate census data. Issues of social security, healthcare, dignity, and legal protection for the elderly have come to the fore as a result of this demographic transition.

In the past, family assistance for the elderly was highly valued in Indian culture. The primary care mechanism, providing material, psychological, and social stability, was the united family structure<sup>3</sup>. But this structure has been progressively eroded by migration, urbanisation, and socioeconomic changes. Loneliness, neglect, and financial dependence are becoming more common among the elderly. A robust policy and legal framework is essential to protect their rights in light of these conditions.



The right to live in dignity, free from oppression and exploitation, is guaranteed by human rights, in their widest meaning. There has to be a connection between these rights and the provision of sufficient healthcare, financial stability, safety from abuse, and chances for meaningful engagement in society for the elderly<sup>4</sup>. The elderly in India are covered under the

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<sup>2</sup> Samanta, 'Elderly in India 2021' [2021] Ministry of Statistics and Programme Implementation, National Statistical Office, Social Statistics Division 137.

<sup>3</sup> Sharique Hussain Khan and Rajeev Nain Singh, 'Evaluating The Effectiveness of Police Responses to The Crimes Against Women And Children: Challenges and Best Practices With Special Reference to Sagar District' (2025) 4 International Journal of Innovations in Science Engineering And Management 31.

<sup>4</sup> Anupma Mehrotra and Ananya Mehrotra, 'Artificial Intelligence in Nutritional Planning and Diet Management'

constitution in an indirect manner, but they also have their own set of laws and policies put in place to help them.

### **1.1. Constitutional Provisions and Legislative Rights of Senior Citizens in India**

The fundamental concepts and ideals that govern India are encapsulated in the Constitution of India, which acts as the highest law of the country. Various constitutional laws and legislative measures have been enacted to guarantee the welfare and protection of senior citizens in India, in recognition of their rights.

Specific clauses in Part IV of the Constitution, which lays out the Directive Principles of State Policy (DPSP), highlight the duty of the state to safeguard and advance the rights of its citizens, especially senior citizens<sup>5</sup>.

#### **Article 41**

In certain circumstances, this article mandates that the state establish appropriate measures to guarantee the right to labour and access to public assistance. It acknowledges the importance of providing social and economic assistance to senior citizens and places a clear emphasis on supporting the elderly.

#### **Article 46**

It required under Article 46 to advance the educational and economic interests of the weaker sectors, which includes senior citizen individuals suffering economic difficulties. This provision highlights the government's commitment to safeguarding the economic security of marginalised communities<sup>6</sup>.

Though the DPSP lays out some sound concepts, it's vital to remember that they can't be codified into law<sup>7</sup>. However, when it comes to creating and implementing policies, they act as a moral guide for the government.

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(2024) 3 International Journal of Innovations in Science, Engineering And Management 259  
<<https://ijisem.com/journal/index.php/ijisem/article/view/187>>.

<sup>5</sup> NHRC, 'Sense of Security & Human Rights of Older Persons'

<[https://nhrc.nic.in/sites/default/files/ResearchStudyReport\\_Sense\\_Security\\_HumanRightsOlderPersons\\_AgewellFoundation.pdf](https://nhrc.nic.in/sites/default/files/ResearchStudyReport_Sense_Security_HumanRightsOlderPersons_AgewellFoundation.pdf)>.

<sup>6</sup> AgeWell Foundation, 'Human Rights of Older People in India: A Reality Check' 1.

<sup>7</sup> Kiran Kori, 'Human Rights of Elderly People and Senior Citizens: Indian Perspective' (2021) 7 Commonwealth Law Review Journal 149.

**Table 1 Fundamental Rights and their Applicability to Elderly Citizens in India**

<b>Fundamental Right</b>	<b>Relevant Constitutional Provision</b>	<b>Applicability to the Elderly</b>
<b>Right to Equality</b>	Articles 14–18	Ensures equality before law and equal protection of laws. Prohibits discrimination on grounds of age, thereby safeguarding elderly citizens from unequal treatment.
<b>Right to Freedom</b>	Articles 19–22	Protects freedom of speech, movement, and residence. This allows senior citizens to express themselves freely and live in any part of the country without undue restriction.
<b>Right to Life and Personal Liberty</b>	Article 21	Guarantees the right to live with dignity, which extends to health care, shelter, and protection from abuse or neglect of elderly persons.
<b>Right against Exploitation</b>	Articles 23–24	Protects against human trafficking, forced labour, and other forms of exploitation. These provisions cover cases of economic or physical exploitation of senior citizens.
<b>Right to Freedom of Religion</b>	Articles 25–28	Provides the elderly with the right to practice, profess, and propagate their faith without interference, an important element of dignity in old age.
<b>Cultural and Educational Rights</b>	Articles 29–30	Upholds the right to conserve cultural identity and ensures minorities among the elderly can safeguard their traditions and access educational facilities.
<b>Right to Constitutional Remedies</b>	Article 32	Empowers the elderly to approach the Supreme Court directly in case of violation of their fundamental rights. This acts as the ultimate safeguard.

## 1.2. Maintenance and Welfare of Parents and Senior Citizens Act, 2007

Recognising and defending the rights of senior citizens is a major goal of this law. It tackles matters pertaining to the care and protection of senior citizens in addition to establishing their legal right to support.

An extensive legislative framework addressing the requirements of senior citizens was established in 2007 with the Maintenance and Welfare of Parents and Senior Citizens Act. Senior citizens without children are given the legal right to receive support from family members who own or are expected to inherit their property<sup>8</sup>. A monthly grant of up to ₹10,000 is limited and cases involving maintenance are expedited by tribunals designated by the state. Imprisonment for failure to appear, 60-day appeals to appellate courts, summary procedures, and cost-cutting limitations on solicitors are all included.

With the right to revoke property transfers granted to seniors, the Act stresses the establishment of old-age homes and guarantees housing for 150 senior citizens in each district. Additionally, it establishes penalties for those who are responsible for caring for parents or elderly and then fail to do so.

**Table 2 Provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007**

Provision	Details	Relevance to Elderly Citizens
<b>Right to Maintenance</b>	Adult children and heirs are legally bound to provide maintenance, including food, clothing, residence, medical care, and treatment.	Ensures financial and basic survival needs of parents and senior citizens are met.
<b>Tribunals for Maintenance</b>	State Governments must establish Maintenance Tribunals at the district level for speedy resolution of claims.	Provides an accessible legal forum for elderly persons to seek enforcement of their rights without lengthy procedures.

<sup>8</sup> Twinkle Jaiswal, 'Constitutionalism And Rights of Aged Persons- National and International Perspective' (2016) II Indian Journal of Integrated Research in Law 1.

<b>Application for Maintenance</b>	Parents or senior citizens can apply Directly or through an authorized person/organization.	Simplifies legal access for those who may not be able to file cases on their own.
<b>Limit on Maintenance Amount</b>	The Tribunal can order a monthly allowance, subject to a maximum limit prescribed by the State Government.	Ensures that the maintenance awarded is practical and enforceable.
<b>Protection of Life and Property</b>	The Act provides safeguards against illegal transfer of property, and such transfers made under coercion or fraud can be declared void.	Protects elderly citizens from financial exploitation and property-related abuse.
<b>Establishment of Old Age Homes</b>	State Governments are directed to establish at least one old age home in each district.	Addresses the needs of homeless or neglected elderly persons by providing shelter and basic facilities.
<b>Penalties for Non-Compliance</b>	Failure to comply with maintenance orders can lead to imprisonment or fines.	Acts as a deterrent against neglect and ensures accountability of children and relatives.

### 1.3. Policy Frameworks and Institutional Mechanisms

India has taken steps to address the increasing difficulties associated with ageing via various institutional and national initiatives. First of its kind, the National Policy on Older Persons, 1999 recognised the importance of health care, financial stability, and housing for the elderly and provided a framework for their rights and welfare. After that came the National Policy on Senior Citizens in 2011, which pushed for more robust implementation mechanisms, community backing, and active ageing<sup>9</sup>. In addition to policy initiatives, the Ministry of Social Justice and Empowerment is the central agency for senior citizen programs, and organisations like the National Human Rights Commission (NHRC) and State Commissions are vital for keeping an eye out for abuses, getting the word out, and holding people accountable<sup>10</sup>.

<sup>9</sup> Agewell Foundation, 'Human Rights of Elderly in India: A Critical Reflection on Social Development' [2015] Agewell Research & Advocacy Centre 1.

<sup>10</sup> Priya Maurya and others, 'Understanding Elder Abuse in India: Contributing Factors and Policy Suggestions' (2022) 17 Journal of Population Ageing 5 <<https://doi.org/10.1007/s12062-022-09399-x>>.

Although there are still noticeable gaps in enforcement and outreach, these frameworks do provide the groundwork for protecting the rights of the elderly.

**Table 3 Policy Frameworks and Institutional Mechanisms for Elderly Welfare in India**

<b>Framework/Institution</b>	<b>Key Features</b>	<b>Relevance to Elderly Rights</b>
<b>National Policy on Older Persons, 1999</b>	Emphasized financial security, health care, shelter, and protection from abuse.	First step in creating a structured national approach towards ageing issues.
<b>National Policy on Senior Citizens, 2011</b>	Focused on active ageing, community-based services, and integration of senior citizens into development.	Strengthened commitments with updated priorities in line with demographic changes.
<b>Ministry of Social Justice and Empowerment</b>	Acts as the nodal ministry; implements schemes like Integrated Programme for Older Persons (IPOP).	Central authority responsible for policy execution and welfare schemes.
<b>National Human Rights Commission (NHRC) &amp; State Commissions</b>	Monitor rights violations, recommend reforms, and create awareness.	Provide oversight and ensure accountability for protection of elderly rights.

## **2. LITERATURE REVIEW**

(D’Cunha et al., 2019)<sup>11</sup> Evidently, the researchers came to the conclusion that the elderly experience mental and physical neglect, fundamental needs denial, and inferior social standing. Consequently, the government and other organisations have made provisions and steps to enhance the quality of life for the elderly. However, this can only be put to good use if the elderly are well-informed about their rights and the services that are available to them. This study's findings suggest a reasonable level of knowledge of the elderly's fundamental human rights and the protections afforded to them. The researchers proposed a few solutions, including raising public knowledge of senior welfare services via various awareness programs and observing "International day of elderly persons" in the media. Moving forward, we must educate the youth of today about the challenges encountered by their elders and provide them

<sup>11</sup> S D’Cunha, Sucharita Suresh and Chitra Yathindra, ‘Rights of the Elderly: Awareness Study among Elderly’ (2019) 9 International Journal of Health Sciences and Research 271.

with the knowledge they need to make informed decisions about the resources at their disposal. Because of this, they will be more inclined to assist the elderly and will be more driven to have a positive impact on their lives.

(Sharma, 2025)<sup>12</sup> Caring for and protecting the elderly is of the utmost importance throughout their time of old age. Care involves ongoing financial, social, emotional, and health assistance to improve living standards and conduct research for senior citizens. Parents and the elderly must have their rights and responsibilities prioritised if we value their lives and respect their dignity. The elderly are becoming more prevalent in India's population. The India Ageing Report 2023 lays out a crucial strategy for making sure the elderly have the help they need to age in place with respect and dignity.

(Law, 2011)<sup>13</sup> Based on their findings, the researchers came to the conclusion that, despite specific accommodations for individuals of old age, their situation has not changed due to our current societal attitude towards the elderly. It is well recognised that even while facilities are supplied, there is no way to verify whether they have been using them or not. It is time to rethink how we now treat people in their old age. In actuality, specific tactics and methods at various tiers of policymaking, planning, and programming will need to be implemented or changed to fully utilise this enormous pool of human capital and encourage their active engagement in the larger socioeconomic development process.

(Prakash, 2024)<sup>14</sup> In order to address maintenance and welfare issues faced by the elderly, the study was conducted. There has also been extensive discussion of the constitutional and legal provisions pertaining to the care of the elderly, as well as international laws pertaining to this topic, the numerous welfare initiatives undertaken by the Indian government, and the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The research has also addressed the function of the court in ensuring the upkeep and care of the elderly. We all inevitably reach old age at some point in our lives. The ability of the human body's organs to work properly deteriorates. But they are a treasure trove of human resource, brimming with

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<sup>12</sup> Radhika Ajaybhai Sharma, 'A STUDY ON THE LEGAL PROTECTION OF ELDERLY PEOPLE IN INDIA' (2025) 2 Multidisciplinary national peer-reviewed journal 167.

<sup>13</sup> Shashi Nath Mandal Law, 'Protection of Rights of Oldage Person in India: A Challenging Facet of Human Rights' (2011) 11 Global journal of human social science.

<sup>14</sup> Prem Prakash, 'An Analytical Study of Human Rights and Legal Protection to Elderly Persons in India' (2024) 11 TIJER - INTERNATIONAL RESEARCH JOURNAL 410.

wisdom, insight, and life experience from all walks of life. They are the more seasoned members of the family unit, and as such, they have a deeper grasp of the traditions, customs, beliefs, and history of the group. In terms of knowledge about society and family values, they are more equipped. In the 20th century, as more and more people were exposed to industrialisation, the number of people aged 65 and up grew; the resulting rush towards consumption tore the social fabric apart. Consequently, the elderly face several forms of prejudice, cruelty, and neglect in our culture.

(Balamurugan, 2014)<sup>15</sup> Many forms of violence against middle-class families' elderly members were detailed in the study. Additionally, the issue is contrasted to the current state of families, the strain on nuclear families, and the issues associated with the elderly's natural ageing process, among other things. Providing direction and support to carers is particularly necessary due to the current sacrifices in the caregiving process. The issue of care for the elderly is multifaceted, and a simple solution does not exist. This issue is likewise unsolvable by the government. We live in terrifying times when it comes to the socioeconomic circumstances and the practical repercussions of an ageing population. Although resources are limited, the number of persons aged 65 and over is rising. The answer to such a research examines the elder's quality of life, family caregiving practices, and the role of care in both quantitative and qualitative terms. Some of the issues that older people have include not having enough money to cover their expenses and those of their dependents. Everybody is becoming more concerned about taking care of the old. Instances of maltreatment of elderly individuals that cause them pain and suffering are known as elder abuse. All four types of violence—physical, psychological, economic, and sexual—are possible.

(Rout, 2021)<sup>16</sup> Since the elderly are particularly susceptible to health problems and have historically received less attention in this area, the study sought to examine the Human Rights of the Elderly in India as it relates to their medical treatment. So, looking at this group's human rights stance was the goal of the investigation. In order to protect the human right of the elderly to health care, the study focused on examining regional norms and international documentation. The study aims to address the Human Rights of the elderly in relation to health care and

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<sup>15</sup> J Balamurugan, 'A Study on the Human Rights Violence against Elderly Person with Special Reference to Schedule Caste in Rural India.' (2014) 2 Scholars Journal of Arts, Humanities and Social Sciences 52.

<sup>16</sup> Chintamani Rout, 'Right to Health as Human Right for the Elderly Persons in India' [2021] International Journal of Law Management & Humanities 872.

fundamental determinants of well-being via the use of doctrinal research methodology. Affordability, efficiency, acceptability, and dependability in healthcare, among other topics, are examined and debated in this discourse. Strong political and bureaucratic determination is critical, according to the researcher, and well-planned tactics must be implemented immediately. To integrate the elderly in their social agenda, the government has recently urged its stakeholders to take several initiatives.

(Sarkar & Banerjee, 2019)<sup>17</sup> The protection of senior citizens has been the subject of several laws and government initiatives, but thus far, very little has been accomplished. Since India's culture and society have traditionally been duty-oriented, senior citizens do not want to bring their offspring to court. Senior citizens' knowledge must thus be effectively raised in order for the law to be properly implemented. Lastly, it may be said that the Oldage issue has to be tackled quickly, yet carefully. It is imperative that the Constitution be amended to include a specific clause protecting those over the age of 65 and to include this clause as a basic right. Modern times should not be seen as a safe haven for the elderly due to the decline of the joint family system, the displacement of familiar relationships brought about by the entrance of the nuclear family model, and the general lack of regard for those of a certain age. As a result, the State should be required under the Constitution to adopt appropriate measures for the welfare and additional protection of the senior citizen, including palliative care.

(Bhardwaj, 2020)<sup>18</sup> The rights that safeguard senior citizens are general in nature. Every person is born with a set of fundamental rights that include the guarantee of certain protections under the law. Inferred from the empirical data, the parents' maximum monthly monetary advantages do not exceed Rs.10,000, which is insufficient for their adequate subsistence, particularly in urban areas. Therefore, the Act's monthly ceiling of Rs.10,000 needs to be repealed. The elimination of the cap limit is also included in the 2018 Maintenance and Welfare of the Parents and Senior Citizens (Amendment) Bill. The Maintenance and Welfare of the Parents and Senior Citizens Act of 2007 gave the tribunal some *Suo Motto Cognisance*, which it seldom uses. In order to ensure that petitions are handled promptly, the legislation specifies that they must be completed within 90 days of notice being served.

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<sup>17</sup> Babu Sarkar and Pritam Banerjee, 'Human Rights of Older People in India: An Introspect' (2019) XII Army Institute of Law Journal 70.

<sup>18</sup> Pradipty Bhardwaj, 'A Critical Analysis of Senior Citizens' Rights in India' [2020] Amity International Journal of Juridical Sciences 64.

(Pattnaik, 2018)<sup>19</sup> To protect the rights of the elderly in relation to their offspring and successors, parliament has designed and implemented the Parents and Senior Citizens Bill. That same statute also specifies penalties for anyone who violate its terms. The most tragic aspect, however, is that there is no robust law protecting seniors' rights. As a result, the Indian government should take decisive action to pass laws protecting the country's elder residents. By creating a number of government concessions, programs, and policies expressly for them, the government has done its utmost to improve the quality of life and safety of the elderly. Having said that, this instrument's execution is subpar. Robbery and dacoity are the main reasons why the elderly are targeted in attacks on the streets and in their homes, and this issue has not been sufficiently addressed by legal tools.

(Gupta, 2024)<sup>20</sup> Older people should get more attention and financing since the number of them is expected to double in the next 20 years. Pensions, healthcare, and social care all have associated expenditures that must be carefully considered and managed. Older people should be protected against cruel, inhuman, or humiliating treatment, and their physical and mental health should be promoted by governments.

**Table 4 Insights on Human Rights of the Elderly in India**

Author(s) & Year	Focus of Study	Main Insights
D'Cunha et al. (2019)	Neglect, awareness, and social standing of the elderly	Found widespread neglect and denial of basic needs. Highlighted importance of awareness programs and youth education to improve knowledge of senior welfare services.
Prakash (2024)	Legal provisions and welfare measures	Examined constitutional safeguards, international laws, and the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Emphasized the role of courts in ensuring care and protection of elderly citizens.

<sup>19</sup> Annapurna Pattnaik, 'Right of Elderly Person: A Legal Framework in India' (2018) 6 International Journal of Creative Research Thoughts 1456.

<sup>20</sup> Somya Gupta, 'Equality and Inclusion: Examining Human Rights for Elderly Somya', *Universal conception of Human Rights Law concerning Vulnerable Groups of India*, vol 17 (2024).

<b>Balamurugan (2014)</b>	Violence and caregiving challenges	Documented multiple forms of abuse—physical, psychological, economic, and sexual. Stressed the strain on nuclear families and need for caregiver support alongside government measures.
<b>Rout (2021)</b>	Health rights of the elderly	Analyzed healthcare as a core human right for older persons. Pointed to gaps in affordability, accessibility, and efficiency of medical services, calling for stronger political will and planning.
<b>Sarkar &amp; Banerjee (2019)</b>	Constitutional protection and policy gaps	Argued that existing initiatives remain ineffective due to low awareness and cultural reluctance to seek legal remedies. Suggested explicit constitutional recognition of elderly rights.

### 2.1. Case Study

**Case:** “*Sushanta Kumar Mukhopadhyay vs The State of West Bengal & Ors,*” on 4 August 2023.

The petitioner, a senior citizen, sought protection of his property and enforcement of rights under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Calcutta High Court directed the authorities to act promptly, stressing the State’s duty to safeguard elderly persons from exploitation.

<b>Facts</b>	<b>Judicial Observation</b>	<b>Significance</b>
The petitioner, a senior citizen, alleged neglect and threat to his lawful possession of property, invoking the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.	The Court directed authorities to act promptly under Section 22 of the Act, stressing the State’s duty to protect senior citizens’ life and property.	Reinforced that statutory safeguards for the elderly must be implemented effectively, ensuring dignity, security, and timely administrative response.

### 3. CONCLUSION

The Indian legal framework has taken steps to safeguard the rights of the elderly, but their protection remains inconsistent. The Constitution, particularly Articles 14 and 21, guarantees equality and dignity, yet practical enforcement often depends on statutory measures. The

Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has created a legal duty of care, while national policies of 1999 and 2011 acknowledged ageing as a pressing social concern. This was also evident from the case study of “Sushanta Kumar Mukhopadhyay vs The State of West Bengal & Ors.” Nevertheless, research shows that many older persons continue to face neglect, lack of awareness, and denial of basic needs.

Courts have interpreted the right to life to include dignity in old age, but issues such as elder abuse and inadequate health services still persist. Scholars further argue that the absence of explicit constitutional recognition leaves elderly rights vulnerable, demanding more robust guarantees. With India’s demographic transition, the elderly population is rising rapidly, making it imperative to shift from welfare-based measures to enforceable rights. The task now is to ensure that legal promises translate into lived realities, where ageing is accompanied not by insecurity, but by dignity, protection, and respect under law.

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