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EVALUATING ELDER ABUSE WITHIN INDIAN HOUSEHOLDS

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Despite various international conventions and treaties, India still lags in establishing a statutory framework for the protection of the rights of elderly adults. Due to a tremendous surge in the cases of elder Abuse and elder Neglect in India, there is a dire need to address this issue. The legitimate grievances also go unnoticed due to inadequate statutory protection and an unestablished mechanism for addressing the concerns. The current legal system continues to consider family concerns as a private matter; hence, elderly matters remain unresolved. This study evaluates the plight of elderly women who get trapped in a vicious cycle of exploitation due to ignorance, misbehavior, and dependence on children, neglected due to poor medical conditions.

Additionally, this study highlights the critical shortcomings and inadequacies in the current legal system, as well as the need for institutional accountability. Here, the focus is on "QUAD EST NECESSARIUM EST LICITIUM," which implies taking action when needed. Hence, it is high time to take legal action to preserve the rights of the elderly. Ultimately, the research concludes with an urgent need to provide legal protections for senior citizens, ensuring them a dignified life, and implement proper measures to eradicate the gross violations of human rights of this vulnerable group.

Keywords: *Elder Abuse, Elder Neglect, Legal Safeguards, Financial Exploitation, Old-Age Shelter.*

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1. INTRODUCTION

Elder abuse is a serious and complex crime against human dignity that has over time shifted to a personal, secretive problem into an international policy subject that is publicly recognized. The first documented attempt at formulating the problem was in the United Kingdom in the early 1970s when it was termed as granny battering, the term reflected the then-dominant emphasis on physical violence against elderly women in domestic contexts.

The conceptualization of elder abuse has changed greatly over time, with a more detailed and expanded view.² The definition of elder abuse by the World Health Organization (WHO) is a single or repeated act or omission, or both, in any relationship where trust is expected to be observed that causes harm or distress to an older person, thus increasing the scope of protection.³ Moreover, focus on relationships of trust is another factor that separates elderly abuse among other violence forms and the betrayal that is involved in such deeds.

Academically, the elderly abuse is conceptualized as any wilful, careless or even careless act of a caregiver, relative or a loved one that presents a significant risk of injury to an elderly individual.⁴ This entails a broad array of abusive acts such as physical abuse (causing bodily injury), emotional or psychological abuse (verbal insults, humiliation, intimidation), financial abuse (unauthorized use of funds).⁵

Elder abuse has implications that go beyond the physical harm that is caused by it and includes far-reaching psychological and social effects. In most instances, the abuse leads to depression, anxiety, social withdrawal and loss of self esteem, thus, amounting to a severe violation of basic human rights.⁶ Human rights regimes are starting to acknowledge the act of elder abuse as a human right violation in the instruments of rights of life, dignity, and security, as enshrined in the Universal Declaration of Human Rights.⁷

The problem in the Indian context takes a different socio-cultural aspect. The Indian society traditionally has been defined by high familial ties and the joint family system where the elderly people were so respected as the bearers of wisdom, culture and morality.

² G.R. Baker, *Granny Battering*, 2 BRIT. MED. J. 592 (1975).

³ World Health Organization, *The Toronto Declaration on the Global Prevention of Elder Abuse* (2002).

⁴ Lori A. Stiegel, *Elder Abuse Prevention*, 11 ELDER L.J. 1 (2003).

⁵ Id.

⁶ Mark S. Lachs & Karl A. Pillemer, *Elder Abuse*, 373 NEW ENG. J. MED. 1947 (2015).

⁷ Universal Declaration of Human Rights arts. 1, 3, G.A. Res. 217 (III) A (Dec. 10, 1948).

Nevertheless, emerging socio-economic changes such as urbanization, industrialization, migration and impact of globalization have seriously affected such traditional structures.⁸ The breakdown of joint families to nuclear families has facilitated the weakening of intergenerational relationships and consequently the ability of families to offer sufficient care and support to the aged.

This paradigm shift has been accompanied by the changing attitudes towards ageing and dependency. With a growing individualistic and economically motivated society, the elderly are viewed as a fiscal and emotional liability, and the added issues of increasing healthcare expenses, decreasing social security, and more women working only adds to the stress experienced by the caregivers, which may lead to neglect or abuse.⁹

As a result, several seniors are left or forced to attend institutions in old age homes or assisted living centers. Such institutions might cover the fundamental physical needs but most of the time they do not meet the emotional and psychological needs.¹⁰

The reasons why the residents feel lonely, alienated, and deprived of identity are constant. This is where the paradox of institutional care lies, despite the fact that it is a safe and well-organized environment, in many cases, it does not have the homeliness and emotional support that the family setting can offer. In other cases, abuse and neglect have been witnessed in the institutional environment and this brings into question the regulation and responsibility. Emotional or psychological abuse is a type of elder abuse that is the most widespread, but less apparent. It involves verbal abuse, threats, intimidation, humiliation, and social isolation, among others, and, unlike physical abuse, there are no visible signs of psychological abuse, and it is hard to detect and establish.¹¹

Nevertheless, its influence may be equally, even more, disastrous. The fact that emotional abuse can cause serious mental health problems, such as depression, cognitive impairments, and suicidal thoughts, is due to prolonged exposure to emotional abuse.¹² Systemic issues in

⁸ A.B. Dey et al., Ageing in India: Situational Analysis and Planning for the Future, 26 J. ASS'N PHYSICIANS INDIA 27 (2012).

⁹ HelpAge India, Elder Abuse in India Report (2022).

¹⁰ Id.

¹¹ Pamela B. Teaster et al., The 2004 Survey of State Adult Protective Services, NAT'L CTR. ON ELDER ABUSE (2006).

¹² Mala Kapur Shankardass, Elder Abuse in India: Emerging Trends and Issues, 45 INDIAN J. SOC. WORK 319 (2004).

research and reporting further complicate the problem of elder abuse.

According to Mala Kapur Shankardass, there is a lack of credible data, conceptual confusion and little interest has been given by the academics to the field, which leads to underreporting caused by social stigma, fear of retaliation, emotional reliance on the abuser, and ignorance about legal means of redress.¹³

Legally, India has made some steps to solve the problem, the key one being the adoption of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.¹⁴ The act has made it a legal requirement that children and heirs should maintain the senior citizens and it has introduced tribunals to allow quick redressal of grievances. But the Act is mainly welfare-based and it fails to criminalize all types of abuse of the elderly, especially emotional and psychological abuse. This legal loophole highlights the necessity of a stronger and more detailed legal framework. The *salus populi suprema lex esto*--the welfare of the people is the supreme law--has not been well achieved in the Indian context.

To protect the elderly effectively, legislative reform is not sufficient, but the active intervention of the state, effective enforcement mechanisms, and raising awareness among the population. In comparison, other jurisdictions such as the United States have passed specific laws such as the Elder Justice Act, which entails the federal coordination, funding protective services, or severe penalties on perpetrators of elder abuse, among others.¹⁵

Likewise, other countries such as the United Kingdom and Canada have established systems of social services, health care providers, and law enforcement agencies to detect and tackle cases of elder abuse. To sum up, the problem of elder abuse is very complicated and rooted in the ground that requires a multidimensional approach.¹⁶ India needs to go beyond a welfare state and embrace a rights-based model whereby any kind of mistreatment of the elderly is criminalized.

The reinforcement of institutional mechanisms, expansion of data collection, community awareness, and intergenerational solidarity are crucial measures to tackle this predicament. The

¹³ Id.

¹⁴ The Maintenance and Welfare of Parents and Senior Citizens Act, No. 56 of 2007, INDIA CODE (2007).

¹⁵ Elder Justice Act, 42 U.S.C. §§ 1397j–1397m (2010).

¹⁶ See generally U.K. Care Act 2014; Canadian Criminal Code, R.S.C. 1985, c. C-46.

dignity, security and well-being of the elderly population can be effectively preserved only as a result of a concerted effort.

2. DEFINITION OF OLD AGE /ELDERLY-

There is no specific criterion for defining old age/elderly, as each country uses different parameters to determine the concept of old age. The definition of ageing varies over time and is modified accordingly.

United Nations defines older people as those aged 60 or above.¹⁷

Older Persons Act, 2006- ‘Older person’ means a male who has attained 65 years of age, or an elderly woman of 60 years of age or older.¹⁸

A person aged 60 or older is considered elderly under the **Maintenance and Welfare of Senior Citizens Act.**¹⁹

3. CAUSES OF ELDER ABUSE-

Social-cultural factors that contribute to Elder Abuse in India.

There is no single cause of elder abuse in India but a combination of socio-cultural, economic, legal and psychological factors. These reasons are dynamic in the sense that they have changed with the changes in the larger structures in Indian society. Some of the most important contributing factors are as follows:

- Breakup of Joint Family System.

The decline of the traditional joint family system is one of the most noticeable causes of the increase in the number of cases of elder abuse. The joint family structure was historically a source of emotional, financial, and social security to the elderly members of the household, which guaranteed their inclusion in the family. Nonetheless, the mushrooming of nuclear families has been brought about by rapid urbanization, industrialization as well as migration. In these environments, the elderly are viewed as a liability because they are a dependent group that has health care needs and whose contribution to the economy is seen as insignificant. There is also the problem of intergenerational conflict, value differences and lifestyle incompatible, which make

¹⁷ According to World Population Ageing 2019, United Nations, Department of Economic and Social Affairs Population Division, New York, 2019

¹⁸ Section 1 of the Older Persons Act (Act No.13 of 2006). Republic of South Africa

¹⁹ 12 Section 2(h) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007

tensions in a household even worse. Consequently, older people can feel neglected, they can be excluded in making decisions and even abused directly.²⁰

- Policy and legal deficiencies.

The other serious aspect is the inefficiency of the law and policy system that regulates the protection of elderly citizens. Even though the legislation like the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been passed in India, it is not implemented effectively and consistently. There are a number of drawbacks of the current legal framework. It mainly concentrates on the process of maintenance and neglect without fully exploring other types of abuse especially emotional, psychological and financial exploitation. In addition, it does not contain tough punitive measures that would serve as good deterrents. Also, the law fails to deal with matters of institutional care, geriatric healthcare as well as social security systems appropriately. The action is also undermined by the delays of court cases, ignorance of enforcement bodies and bureaucracies. As a result, the justice system does not tend to offer efficient and immediate solutions to elderly abuse victims.²¹

- Poor Empowerment and Awareness.

A major percentage of the elderly population in India is not informed about their rights and welfare schemes and easily accessible remedies. This ignorance restricts them in their search of protection or redress. Although elderly people may know their rights, they tend to be unwilling to report abuse because of the fear of being punished, emotional bond to family members, social stigma, and reliance on the abuser. Besides, the elderly are especially susceptible to manipulation, coercion, and intimidation by the caregiver or family members. As the financial systems rapidly become more digitized, they are more vulnerable to cybercrimes, including identity theft, phishing, and UPI fraud. They are not well acquainted with technology hence are easy targets to exploit their vulnerability.²²

- Economic Dependence Elderly abuse is caused by economic vulnerability.

In India, many elderly people do not have a regular income because of poor pension schemes, lack of savings, or unofficial work history. This economic reliance of family

²⁰ A.B. Dey et al., Ageing in India: Situational Analysis and Planning for the Future, 26 J. ASS'N PHYSICIANS INDIA 27 (2012).

²¹ The Maintenance and Welfare of Parents and Senior Citizens Act, No. 56 of 2007, INDIA CODE (2007); HelpAge India, Elder Abuse in India Report (2022).

²² HelpAge India, Elder Abuse in India Report (2022); Reserve Bank of India, Report on Trend and Progress of Banking in India (2021).

members tends to cause an imbalance of power and make them vulnerable to exploitation and neglect. Many cases exist where the elderly are pressured into giving property, signing legal paperwork under duress or giving up their financial resources. They are even denied access to their own money or pension in certain circumstances resulting in financial insecurity and emotional distress. Economic dependence therefore not only makes people more vulnerable but it also renders the elderly incapable of escaping abusive circumstances.²³

- **Social Isolation in the Older Adults.**

Another important factor that has a significant role in elder abuse is social isolation. As family structures evolve and workloads become more and more demanding, younger members of the family tend to have little time to spend with the older members. This causes lack of social interaction and emotional care. Especially at risk are elderly people living alone or with small social circles. Isolation and loneliness may cause depression, anxiety and other mental disorders. In this situation, any petty squabbles in the family could turn into abuse. Moreover, family members may experience stresses related to caregiving, which may lead to frustration and aggression which in turn may be expressed towards the elderly dependents due to financial strain, lack of support, or even psychological strain.²⁴

International Age Discrimination Laws.

The safeguarding of older adults has become a growing area of concern as a crucial human right concern on the global arena. Even though an exclusive worldwide convention is specifically focused on elder rights, there are numerous international instruments that effectively create a framework of protecting the dignity, security, and well-being of older individuals.

The document that is used as the basis of this is the Universal Declaration of Human Rights (UDHR). It ensures the right to life, liberty and security of every individual under Article 3. To be more particular, Article 25 acknowledges the right to appropriate standard of living, which encompasses food, clothes, shelter, health care and social services needed. It also offers security in cases of unemployment, sickness, disability, widowhood and old age.²⁵ The UDHR

²³ Mark S. Lachs & Karl A. Pillemer, Elder Abuse, 373 NEW ENG. J. MED. 1947 (2015).

²⁴ Pamela B. Teaster et al., The 2004 Survey of State Adult Protective Services, NAT'L CTR. ON ELDER ABUSE (2006).

²⁵ Universal Declaration of Human Rights arts. 3, 25, G.A. Res. 217 (III) A (Dec. 10, 1948).

does not mention elderly persons as a particular group, but its provisions indirectly address the rights of elderly people, providing a normative framework of their protection.

On these foundations, the United Nations Principles of Older Persons (1991) defines five main groups of rights: independence, participation, care, self-fulfillment and dignity. These principles underscore the fact that older individuals must have food that is sufficient, shelter, medical services and social support and be in a position to contribute meaningfully in society. Notably, they emphasize the need to protect against physical, mental, and financial abuse, thus realizing elder abuse as a profound breach of human rights.²⁶

On the binding international covenants, the International Covenant on Economic, Social and Cultural Rights (ICESCR) is important. Although it does not specifically address the issue of elderly people, its stipulations on the right to social security (Article 9), the right to adequate standard of living (Article 11), the right to the maximum attainable standard of physical and mental health (Article 12) are specifically pertinent to ageing populations.²⁷ These rights are crucial to the provision of elderly people to live dignified lives free of neglect and deprivation. Likewise, in Article 7, the International Covenant on Civil and Political Rights (ICCPR) also includes protection against torture and inhuman, cruel, or degrading treatment.²⁸ This is particularly important in the field of elder abuse where often the elderly are exposed to physical and psychological abuse in the form of neglect, abandonment, and even sexual abuse. The covenant supports the duty of states to make all individuals irrespective of their age, be safeguarded against such abuses.

Besides international systems, domestic laws which specifically focus on elder abuse have been embraced in a number of countries. As an example, China has passed the law on protection of the rights and interests of the aged, which is often known as Filial Piety Law. This law has created a legal responsibility on children to care, attend and visit their aged parents who are 60 years old and above.²⁹ It displays the cultural importance of filial piety that is deeply rooted in the Chinese society in which neglect, abandonment, and emotional support are viewed as abuses.

The severity of elderly abuse is depicted by the real-life events, which are appalling or distressing to listen to, like when the elderly are left alone or treated unkindly by their own kin. These cases show the inadequacy of laws and their implementation, the necessity of more

²⁶ G.A. Res. 46/91, United Nations Principles for Older Persons (Dec. 16, 1991).

²⁷ International Covenant on Economic, Social and Cultural Rights arts. 9, 11, 12, Dec. 16, 1966, 993 U.N.T.S. 3.

²⁸ International Covenant on Civil and Political Rights art. 7, Dec. 16, 1966, 999 U.N.T.S. 171.

²⁹ Law on the Protection of the Rights and Interests of the Elderly (2012 Amendment) (China).

effective monitoring systems and social consciousness.

Indian Laws on the protection of the elderly

Elder abuse is an emerging issue in India, and many cases of neglect, violence, and even homicide are reported. Although legal provisions exist, the effectiveness of the same is usually curtailed due to the existence of gaps in enforcement and the socio-cultural factors.

One of the oldest legal remedies is contained in Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly in Section 125 of the Code of Criminal Procedure). This is a legal obligation on the individuals to take care of their parents in case of failure to take care of themselves. It cuts across all religions and adoptive parents are not left out.³⁰

In the landmark case of Vijaya Manohar Arbat v. Kashirao Rajaram Sawai, the Supreme Court decided that, both the married and the unmarried daughters have equal liability to support their parents.³¹ This ruling was crucial in broadening the notion of responsibility beyond sons and solidifying gender equality in family duties.

In history before the enactment of laws, the right of old age people, especially widows to maintenance was applied in the interpretation of the law by judges. The right to maintenance of an aged widow was recognized in Narayanrao Ramachandra Pant v. Ramabai and this was the precursor to the eventual statutory recognition.³²

This was codified by the Hindu Adoptions and Maintenance Act, 1956 in Section 20 which required that children had the legal responsibility to take care of their old or helpless parents in the event that the parents could not take care of themselves.³³ This provision is a reflection of the moral and legal obligation within the Indian society, to look after elderly family members.

The best act in this area is the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The purpose of this Act is to offer a simple, fast and cheap process of claiming maintenance. It also gives the state governments the authority to build old age homes and provision of healthcare facilities to the elderly.³⁴

In Jharkhand Senior Citizen Advocates Service Sansthan v. State of Jharkhand, the court ordered the state to provide old-age homes in all the districts and proper medical facilities to

³⁰ Bharatiya Nagarik Suraksha Sanhita, 2023, § 144 (India).

³¹ Vijaya Manohar Arbat v. Kashirao Rajaram Sawai, (1997) 7 S.C.C. 441 (India).

³² Narayanrao Ramchandra Pant v. Ramabai, (1886) I.L.R. 10 Bom. 80 (India).

³³ Hindu Adoptions and Maintenance Act, No. 78 of 1956, § 20, INDIA CODE (1956).

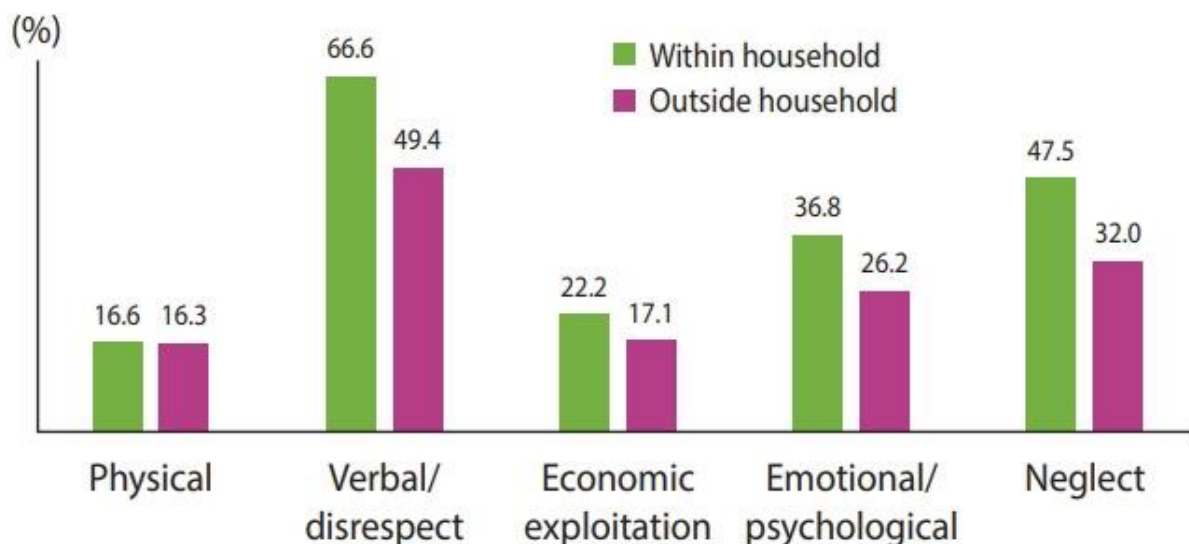
³⁴ Maintenance and Welfare of Parents and Senior Citizens Act, No. 56 of 2007, INDIA CODE (2007).

the old people.³⁵ This decision strengthened the role of the state in protecting the well-being of the elderly.

4. ANALYSIS OF DATA OF ELDER ABUSE IN INDIA-

A critical examination of both historical and contemporary data reveals a steady and alarming rise in incidents of elder abuse in India. The available statistics not only indicate an increase in reported cases but also highlight the persistent issue of underreporting, which obscures the true magnitude of the problem. This underreporting can largely be attributed to the absence of a comprehensive criminal framework, lack of effective grievance redressal mechanisms, and socio-cultural inhibitions that discourage elderly victims from seeking legal recourse.

One of the key sources of empirical data is the Elders Helpline (toll-free number 1090), jointly operated by the Bengaluru City Police and Nightingales Medical Trust. Data collected between 2022 and 2025 indicates that approximately 70% of elder abuse complaints were registered against family members.³⁶ This statistic is particularly significant as it underscores the fact that abuse is predominantly intra-familial, occurring within relationships of trust and dependency rather than from external actors.



Nature and Prevalence of Abuse

The statistics also show verbal abuse and disrespect as the most common types of abuse of the elderly. About 66.6 percent of older adults stated that they had been verbally abused at home

³⁵ Jharkhand Senior Citizen Advocates Serv. Sansthan v. State of Jharkhand, W.P. (PIL) No. 3983 of 2015 (Jharkhand H.C.).

³⁶ Nightingales Med. Tr. & Bengaluru City Police, Elders Helpline Data (2022–2025).

and 49.4 percent said that they had been abused outside the home. Denial of basic care and emotional support (neglect) was also shown in 47.5 percent of domestic and 32 percent of non-household environments. In 36.8 percent of cases in the house and 26.2 percent out of the house, emotional or psychological abuse was reported, usually consisting of humiliation, intimidation, and isolation. Even though physical abuse seems to have relatively lower reported cases (approximately 5.2% in general and 3% in households), the effect is devastating and most of the time underreported because of fear and stigma.³⁷ Such statistics indicate that the physical violence does not predominate, and thus the non-physical abuse is much harder to notice and to tackle, which is why more types of abuse should be given a legal definition.

Result of National-Level Research

During the World Elder Abuse Awareness Day, HelpAge India published its 2024 report, *Aging in India: Exploring Preparedness and Response to Care Challenges*. The research study found out that 7 percent of the elderly people had experienced unceasing abuse with another 5 percent not answering implying conceivable or unrecognized abuse.³⁸

The family members were also identified to be the main perpetrators in the report with 42% of the abuse being perpetrated by sons and 28% of the abuse being perpetrated by daughters-in-law. This supports the previous conclusion that elder abuse has a lot of basis in domestic environments and family interactions.

Health and Economic Vulnerability

Economic dependency is an important aspect of elder abuse. The figures show that 73 percent of the elderly victims earned less than ₹1,00,000 annually and were financially dependent on their family members.³⁹ This interdependence tends to lead to financial abuse, intimidation, and abandonment because the elderly do not have the means to demand their independence or to find external assistance.

The issue is further aggravated by health vulnerability. About 94% of victims who were aged indicated experiencing non-communicable diseases (NCDs) or other medical conditions. This gives a high dependency rate on the caregivers making them a risk of neglect and abuse. The overlap of ill health and economic instability therefore forms a vicious circle of vulnerability that is hard to get out of.

³⁷ HelpAge India, *Elder Abuse in India Report* (2022).

³⁸ HelpAge India, *Aging in India: Exploring Preparedness & Response to Care Challenges* (2024).

³⁹ Id.

Rural-Urban Disparities

The statistics also indicate that the elderly abuse is prevalent in rural locations (50.7%), then in urban locations (38.6%).⁴⁰ The reason behind this disparity can also be due to the lack of awareness, unavailability of legal solutions, less institutional assistance, and socio-economic deprivation in rural areas.

According to a regional survey carried out in the city of Mangaluru, 47 percent of the elderly people were abused which indicates the severity of the problem locally.⁴¹ In a similar manner, a study carried out at AJ Institute of Medical Sciences and Research Centre in the years 2019-2020 affirmed that elder maltreatment is widespread in both rural and urban settings.

State-level and Household-Level insights

The article Bridge the Gap: Understanding Elder Needs, which was carried out at India International Centre, gives additional information about the household levels of abuse. The survey carried out on 200 older adults and 100 in-home caregivers revealed that 35 percent of the older adults were abused by their sons, and 21 percent by their daughters-in-law. Also, 2 percent said they were abused by caregivers or domestic workers.⁴²

There were also notable regional differences in the study with the highest rates of abuse being 2.5 in Chandigarh and the lowest rates of 23 in Dehradun. Worryingly, 46% of the respondents did not know about any legal remedies, which shows that there is a critical lack of awareness and access to justice.

Crime Data and Trends

As per the statistics provided by the National Crime Records Bureau (NCRB), 126 crimes were reported on the elderly, in the metropolitan areas, in 2023, which is an increasing pattern of crimes reported.⁴³

In Kochi, in 2023, 74.5% of reported offenses were against elderly victims, whereas in Kozhikode, the number of cases has risen in 2023 (93 cases), with a rate of charge-sheeting standing at 85.7. These numbers show not only a rise in reporting, but also the enhanced enforcement in some areas, but also reveal the rising magnitude of the issue.

⁴⁰ Id.

⁴¹ HelpAge India, Elder Abuse Survey (2018).

⁴² HelpAge India, Bridge the Gap: Understanding Elder Needs (2023).

⁴³ Nat'l Crime Recs. Bureau, Crime in India (2023).

Dimensions of Elder Abuse: Gendered

The women are the most affected by the problem of elder abuse as emphasized in the Women & Aging: Invisible or Empowered. According to the report, one out of four women aged 65 and older experienced physical abuse, one out of four emotional abuse, one out of three financial exploitation, and one out of three neglects, and 4% of women aged 65 and older have experienced sexual abuse.⁴⁴

The statistics are also indicative of greater socio-economic inequalities: Fifty four percent of the older women are illiterate.

43% are widows

75% have no savings

66% own no assets

These aspects lead to increased financial vulnerability and reliance, and older women are especially susceptible to abuse.

Moreover, 47% of older women also said that they had been disrespected by someone and the attackers were their sons, daughters-in-law (27%), daughters (10%), grandchildren (7%), sons-in-law (6%), and caregivers (6%). This brings out the interplay between gender, age and social hierarchy, which increases the vulnerability of older women.

5. PREVAILING CASES OF ELDER ABUSE ON SENIOR CITIZENTS

I. Introduction

The issue of elder abuse has become a serious socio-legal issue in India not only because of the traditional family system being corrupted, but also because of the growing commodification of property and financial resources. Although the culture of Indian society has traditionally based their focus on filial piety and respect of elderly, modern realities present the opposite picture, with elderly individuals being frequently subjected to neglect, exploitation and violence in their own families. This has become a worrying trend that has drawn the attention of courts in India especially when there is an overlap between property disputes and family relationships.

It has also been noted by the judiciary that some of the legal mechanisms, particularly those touching on matrimonial and property disputes are misused to dispossess the elderly, thus making them even more vulnerable. Here, the question of courts, statutory bodies and the civil society organizations will play a pivotal role in protecting the dignity and rights of older

⁴⁴ HelpAge India, Women & Aging: Invisible or Empowered? (2023).

citizens.

II. Court Awareness of Elder Abuse and Property Exploitation.

An interesting example of judicial intervention is the case tried by Additional District Judge Kamini Lau in Delhi. In the case, Shanti Devi who was an elderly woman was coerced and harassed by her son and daughter-in-law over an extended period of time. This conflict has occurred when she declined to bequeath her self-acquired property to her son. Although she had initially allowed her son to live in the house but there was a change in the relationship of the family into the relationship of exploitation and abuse.

The evidence presented in the case showed that the son and his wife had falsely signed the signature of Shanti Devi in order to illegally acquire property documents. After evaluating the evidence, the court did not see any validity in the arguments that the son was making and decided in favor of the mother. It ordered the son to pay back her and maintained her right to a peaceful possession of her property. Significantly, the court made a powerful comment that there would be no tolerance of any kind of misconduct towards the elderly and that such misconduct would be subject to rigorous judicial scrutiny.

Two important principles are highlighted in this case:

First, the absolute right of a senior citizen to self-acquired property; and Second, the readiness of courts to judge decisively when it comes to intra-family abuse.

III. Patterns of Abuse and Empirical Evidence.

Empirical research indicates that elderly abuse is neither a solitary nor some incidental issue but it is a structural issue. According to a survey carried out by HelpAge India, it is noted that some 51 percent of the cases of elder abuse are a result of property and financial asset disputes, which turns relationships among family members into transactional ones.

Moreover, a separate study of the same organization discovered that 7 percent of the older adults surveyed said that they were abused, and half of them said that it was their sons who abused them the most, with only a quarter indicating that their daughters did the same. ³ These figures are quite shocking because they refute the idea that abuse is an external factor and instead show that it is an inseparable part of the family.

IV. Case Studies of Long-term Abuse extremes.

A. Sexual and Physical Abuse by Property Controversies.

In a shocking event, a man by the name Rajesh claimed that his elder brother had

sexually exploited their 89 year old mother and asked her to will her sons to share their inheritance. Although the elderly woman had a three crores house, she was finally dispossessed and thrown out of her home.

These instances reveal how gender, age, and economic vulnerability are intertwined, with women of advanced age being especially vulnerable to abuse because of their reliance and marginalization in society.

B. Unlawful Detention and Duress.

Another example was the case of an 84-year-old woman that was supposedly locked up in her own house by her children. Such confinement was to compel her to surrender property rights. The youngest among the sons who had reported the issue to HelpAge India, had claimed that their siblings physically abused their mother to gain ownership rights.

This case underscores the fact that elder abuse may escalate into illegal detention and custodial violence, a matter that is of serious concern in both criminal law and human rights jurisprudence.

C. Fraud and Land Grabbing.

Another example of how vulnerable the elderly are to institutionalized exploitation is a case in Dehradun. Neelam Misal is an 80 year old woman who found out that the six-bigha piece of land she had inherited as an ancestral land was subdivided and sold fraudulently by a land mafia with forged documents. She filed an FIR when she noticed that construction had been done on her land and a case was registered against 27 accused individuals.

The case is especially important because it shows that elderly abuse is not limited to domestic environments but also spreads to organized crime, in situations where elderly people live in a foreign country or do not have direct physical access to their property.

V. Institutional and Human Rights Interventions.

Haryana Human Rights Commission has been also involved in cases of abandonment and neglect. In one instance, an old couple, Arjan Dev Aggarwal and his wife, went to authorities requesting to get protection against their son and his family. They were left without basic needs, such as food and medical care, even when they had some serious medical conditions.

The Commission acknowledged that such treatment was a severity violation of human rights and that it is impermissible to compel older people to reside in fear and deprivation within their own premises.

In the same case, a 85-year old woman, Gurdeep Kaur, who was confined in a dark room by her family in Ludhiana was rescued and her family regarded her as being inauspicious. The role of the State Women Commission in intervening in such cases highlights the issue of institutions in eliminating such cases.

VI. The Civil Society Organization role.

Civil society organizations are an important element in the documentation, reporting, and response to elder abuse. Organizations like Blissful Old Age Home Foundation take in and assist the abandoned elderly people. They have a history of having many cases of senior citizens being denied emotional and financial care and being viewed by their families as burdens.

A 70-year-old former nurse was such a case, who was left in an old-age home by her son and daughter-in-law. They failed to respond to their repeated calls and financial aid was not offered, despite the fact that they had contact with them several times.

Also, there are shelters like Ma-Dham that are specifically for women, which illustrates the gendered aspect of elder abuse. Most elderly women are reluctant to report abuse because of social stigma, fear of retaliation, and attachment towards their families.¹⁰

VII. Legal Framework/Trends in the Judiciary

Indian courts have also become more proactive in dealing with the issue of elder abuse especially in the name of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The need to have a liberal interpretation of the Act to guarantee the welfare and dignity of senior citizens has been highlighted by the courts.

This decision supports the concept that the right of residence of children comes after the welfare of the older citizen in *Kamalkant Mishra v. Additional Collector*, where the Supreme Court affirmed the eviction of children on the property of the elderly, who do not meet the burden of taking care of their parents.

Equally, in the case of *Shakuntla Devi v. State*, the Court supported eviction process and ordered authorities to immediately register complaints and settle issues of senior citizens.¹² The case points to the necessity of prompt administrative intervention and responsibility.

VIII. Critical Analysis

The above cases show that some common patterns are present:

The major causes of abuse are property and financial issues.

The main culprits are family members especially children. Gender is compounded with dependency that exposes elderly women to greater vulnerabilities. There are legal solutions that are not well used because there is no knowledge or accessibility.

Although the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 forms a sound legal framework, there is still inconsistency in its enforcement. Inadequate enforcement is still hampered by delays in adjudication, a lack of awareness, and social stigma.

6. LIMITATIONS-

The growing number of incidents of elder abuse prima facie suggests that the practical implications of laws are inadequate. Although the legislature has passed statutory laws to ensure safeguards for senior citizens under the "Maintenance and Welfare of Parents and Senior Citizens Act", 2007, and the latest amendment bills, the rules are yet to be effectively implemented. This act grants financial assistance to the victims but fails to provide emotional security to the elderly citizens, which in turn leaves them completely shattered. In addition to granting civil remedies, we need to genuinely address the criminal violence and activities meted out against senior citizens.

With reference to the above data, the paper critically examines the ineffectiveness of the institutions and authorities in reporting elder abuse. There is a lack of formal data on reporting incidents of adult abuse. Additionally, the paper highlights the grey area in Indian society, where senior citizens are often unaware of their rights and fail to invoke appropriate recourse. This paper undermines the authority of the organs of the government in respect of handling these serious offences, as the change in data reveals continuous trends of an increase in elder abuse. The absence of mandatory reporting of ill-treatment faced by senior citizens is due to an ineffective dispute-resolution mechanism.

The intricate procedures of the tribunals and police authorities delay the investigation. This paper concludes that elders are often overlooked, mainly by their own caregivers. To maintain their reputation and integrity in society, senior citizens often ignore mistreatment and injuries and therefore refrain from complaining about the incidents. Due to the disintegration of family values, family members often exploit them to gain pecuniary benefits. They make the elderly feel alienated due to their loss of independence and privacy.

This study raises a vital question regarding the inclusion of amendments to provide relief to

senior citizens. The amendment bill has yet to be implemented, despite its existence. Lack of institutional accountability is another reason for the increase in crime rates against senior citizens. In some districts, nodal officers are yet to be appointed. Some of the old-age shelters/nursing homes have become a platform for the humiliation of elders due to the lack of criminal liabilities.

There is a flaw in the new criminal law, as BNS does not categorize elder abuse as a specific crime. The rights of Elderly women under the Indian laws governing women's rights are not protected. Thus, Criminalising Elder abuse is a SINE QUA NON; thus, criminalizing elder abuse is essential, which is often overlooked by the legislature.

7. FEATURES OF AMENDMENT BILL,2019-NEED FOR AN HOUR-

It is pertinent to enquire why the legislature has not yet passed the 2019 amendment bill. Also, there is no mention of formal reasons for the bill's lapse. Through this study, the researcher has observed the essential features of the amendment act, which will help to provide security and a dignified life to the elderly.

The legislature has renamed the primary heading of **Chapter 3** in accordance with the amended law, and due diligence is now essential while establishing multi-service day care facilities.

Section 19 mandates the Government or any organization to establish Care Homes to provide necessary amenities, like residential facilities, and a Multi-Purpose Center for Senior Citizens. By requiring the registration of these homes, the Government will be able to maintain proper records. As a result, these homes will be under scrutiny.

Another notable feature of the amendment bill is **section 20A**, which states that the Government or an organization is responsible for providing home care services to senior citizens who face difficulties due to physical or mental illness, with the help of trained and certified attendants.

The lawmakers inserted a new **section 21A** to protect the property of the elderly. It is the duty of the State Government to prepare and implement an action plan and to take all relevant measures for the welfare of senior citizens, including protecting their lives and resources. States must conduct periodic reviews to ensure the welfare of older people and to address their

genuine issues.

Section 24 of the amendment bill is the most significant feature as it tries to criminalize elder abuse and safeguard the human rights of the elderly against gross violations. The specific offense of abuse is inserted, which criminalizes abuse and wilful neglect. The provision states: The law shall punish anyone who is in charge of maintaining an elderly person and willfully neglects or exploits a senior citizen with imprisonment and fine both.

Thus, it is essential to critically evaluate the utility of the amendment act in curbing the exploitation of the aged, and the Government must take effective measures to pass this bill. The bill highlights the urgent steps needed to ensure safety and security for these innocent people.

8. SUGGESTIONS AND CONCLUSION-

- It is vital to include specific offences and provide a broad interpretation of offences, such as elder abuse, within the framework of criminal laws.
- Amendments should be made in family laws to curb the practices of elder abuse and to avoid malicious and false accusations against senior citizens.
- Conducting family counselling sessions to address the conflicts among the family members genuinely and to resolve disputes so that they can genuinely discuss their socio-economic problems and address the differences among themselves.
- It is crucial to educate and inform senior citizens about their rights and the protections to which they are entitled. Additionally, individual organisations and the government must organize various programs and meetups to provide senior citizen with a platform to raise their voices against exploitation.
- There should be constant intervention in the old age shelter/nursing care by the police authority or any designated authority.
- Policy makers are required to adopt various policies that impart training to organisations to ensure a dignified life for elderly citizens.
- State Intervention is utmost required to establish an effective dispute resolution mechanism and implement the amended laws.
- The Indian legislature must incorporate international standards to protect the human rights of this vulnerable group.

- The proper mechanism for reporting harassment must be used.
- Criminalising elder abuse is a crucial step to safeguard the elderly.
- Specific focus should be given to the countries that criminalise elder abuse, like China, to form stringent policies.

Thus, it is important to implement the reforms mentioned above to safeguard the interests of older people. Despite having numerous international and national protections, our elderly folks still do not feel protected and feel alienated within their own households. It is imperative to adopt the stringent policies and to criminalise elder abuse. The laws of China can be taken as an example. The paper argues that immediate state intervention is necessary to address their grievances. To sum up, it is important to consider the practical implications of statutory laws to eradicate crime against the elderly. India should adopt the universal standard of laws for elder care. India should adopt the universal standard of laws for elder care. The parliament must negotiate and pass the bill, as the bill's paramount objective is the well-being of the elderly.

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