

# International Conventions on Elder Persons' Rights and India: A Descriptive and Analytical Study

Mr. Ankit Khare\* Dr. Rajat Kumar Satpathy\*\*

\*Research Scholar, Maharaja Chhatrasal Bundelkhand University, Chhatarpur (M.P.) INDIA

\*\* Principal, Pt. Motilal Nehru Law College, Chhatarpur (M.P.) INDIA

**Abstract:** The rights of older persons have become a pressing global concern due to unprecedented demographic shifts, increasing longevity, and the challenges created by social, economic, and technological transitions. While the international community has adopted several soft-law frameworks such as the Madrid International Plan of Action on Ageing (MIPAA), it is yet to finalize a legally binding international convention specifically dedicated to the rights of older persons. India, with one of the world's largest ageing populations, continues to rely on constitutional protections, statutory mechanisms, and welfare schemes to safeguard elder rights. This paper provides an in-depth descriptive and analytical examination of international developments in elder rights and critically assesses India's alignment with these standards. It also highlights the gaps, challenges, and future directions for establishing a comprehensive rights-based approach for ageing populations in India.

**Introduction** - The world is witnessing a demographic revolution marked by a rapid increase in the proportion of older persons. According to the United Nations, the global population of individuals aged 60 years and above is projected to double from 1 billion in 2020 to 2.1 billion by 2050. This shift raises critical questions about social protection, health care, dignity, autonomy, and the integration of older adults in socio-economic processes. In India, the challenge is even more complex. With over 149 million elderly persons (Census projections), India is expected to become home to the world's largest ageing population by 2050. Despite various legal and policy frameworks, the elderly continue to face neglect, economic insecurity, health vulnerabilities, abuse, and social alienation.

The absence of a binding international convention on elder rights has created a normative gap. This paper aims to explore international developments regarding elder rights, analyse India's position concerning these frameworks, and propose policy-level recommendations for strengthening the rights regime for older persons in the country.

## International Frameworks and Conventions on Elder Rights

**Early International Efforts:** The protection of elder persons' rights in the international human rights system evolved slowly and indirectly. Foundational documents such as the Universal Declaration of Human Rights (1948) and covenants like the ICCPR and ICESCR guaranteed dignity, equality, social security, and freedom from discrimination. Although these instruments did not explicitly address

ageing, they established broad entitlements that older persons could claim—such as the right to life and liberty, adequate living standards, healthcare, and non-discrimination. However, these guarantees lacked the specific focus needed to address the unique vulnerabilities and age-related concerns of older persons.

**Vienna International Plan of Action on Ageing (1982):** A major step towards acknowledging ageing issues came with the Vienna International Plan of Action on Ageing, adopted in 1982. It emphasized the need for integrating older persons into society, ensuring their economic and income security, improving healthcare access, and protecting them from discrimination. Although visionary, the Vienna Plan served only as guidance and created no binding obligations on governments.

**United Nations Principles for Older Persons (1991):** In 1991, the UN General Assembly adopted the United Nations Principles for Older Persons, outlining 18 principles under five broad themes—Independence, Participation, Care, Self-fulfilment, and Dignity. These principles encouraged states to adopt elder-friendly laws and policies, but like previous frameworks, they carried no legal enforceability and remained aspirational in nature.

**Madrid International Plan of Action on Ageing (MIPAA), 2002:** The Madrid Plan of 2002 is the most comprehensive international policy framework on ageing. It calls for the full participation of older persons in society, promotes their health and independence, and aims to create social environments that uphold dignity and well-being. Implementation under MIPAA is voluntary, with periodic

review cycles. While influential in shaping global discourse, MIPAA does not impose binding legal obligations or accountability measures on states.

**Movement for a UN Convention on the Rights of Older Persons:** Growing recognition of gaps in existing human rights instruments led to increasing advocacy for a dedicated UN convention. Since 2010, the Open-Ended Working Group on Ageing (OEWSGA) has deliberated on the need for a legally binding framework. Key gaps include the absence of explicit prohibition of age discrimination, lack of defined rights regarding elder abuse, palliative care, and long-term care, and weak accountability mechanisms. Many countries, especially in Latin America, strongly support a global convention, though international consensus is still evolving.

**Regional Conventions:** A significant development occurred in 2015 when the Organization of American States adopted the Inter-American Convention on Protecting the Human Rights of Older Persons—the world's first binding treaty dedicated entirely to elder rights. It recognizes rights to autonomy, long-term care, health, dignity, freedom from violence, and accessibility. The success of this regional instrument strengthens global calls for a similar UN-level treaty.

**Analytical Gap Assessment:** Despite notable progress, international protections for older persons remain fragmented and largely non-binding. The absence of a comprehensive global convention continues to restrict effective monitoring, enforcement, and uniform standards for safeguarding elder rights worldwide.

### **Elder Rights in India: Constitutional, Legal, and Policy Framework**

**Constitutional Provisions:** Although the Constitution of India does not expressly mention elder rights, several provisions offer indirect yet significant protection. The Directive Principles require the State to provide public assistance in cases of old age (Article 41), protect weaker sections (Article 46), and promote health and nutrition (Article 47). Fundamental Rights guarantee equality before law (Article 14), the right to life with dignity (Article 21), and protection from exploitation (Articles 23–24). Courts have expansively interpreted Article 21 to include the right to live with dignity, health, and shelter—elements crucial for elder well-being.

**Maintenance and Welfare of Parents and Senior Citizens Act, 2007:** This Act is India's most direct legal framework for elder protection. It obligates children and heirs to maintain parents and provides for monthly maintenance, protection of life and property, and the establishment of old-age homes. It also criminalizes abandonment. While powerful in principle, its implementation varies across states.

**National Policy on Older Persons (1999) and National Policy for Senior Citizens (2011):** These policy documents aim to strengthen income security, expand healthcare

support, encourage NGO participation, promote community-based care, and foster active ageing. Despite their comprehensive scope, actual implementation remains inconsistent across regions.

**Social Security Schemes:** India operates several central schemes to support elderly welfare, including the Pradhan Mantri Vaya Vandana Yojana, Indira Gandhi National Old Age Pension Scheme, Ayushman Bharat, Senior Citizens Savings Scheme, and Annapurna Scheme. Although valuable, many programs face challenges such as limited coverage, administrative bottlenecks, and inadequate funding.

**Judicial Activism:** The judiciary has played an important role in advancing elder rights. In *Dattatraya Moreshwar (1952)*, the Supreme Court affirmed dignity as an integral part of life. In *Ashwani Kumar v. Union of India (2018)*, the Court directed governments to ensure the welfare of senior citizens, including functional old-age homes and adequate healthcare. Judicial interventions often fill gaps left by policy and administrative deficiencies.

**India's Alignment with International Standards: A Critical Analysis**

**Compliance with UN Principles and MIPAA:** India's policy and legal structures reflect many commitments present in international soft-law frameworks, including the UN Principles and MIPAA. India regularly participates in review processes and has created national strategies for senior citizens. However, there is a significant gap between policy commitments and on-ground implementation.

**Gaps in India's Legal Structure Compared to International Norms:** Despite progress, India's elder rights framework lacks several elements expected under international standards:

1. **Absence of a rights-based law:** India lacks explicit statutory recognition of elder rights, anti-ageism laws, and comprehensive safeguards against abuse.
2. **Weak enforcement mechanisms:** Maintenance Tribunals often face delays, capacity shortages, and limited accessibility.
3. **Healthcare gaps:** India falls short of international standards in geriatric care, palliative care, and long-term institutional support.
4. **Inadequate universal social security:** Pension amounts remain insufficient for a dignified life.
5. **Weak evidence-based planning:** Lack of updated, comprehensive data hampers effective policy formulation.

**India's Position on a Global Convention:** India supports enhancing protection for older persons but has not taken an assertive position in favour of a binding global convention. Concerns over financial implications, administrative burden, and implementation feasibility influence its cautious stance. Nevertheless, India stands to benefit significantly from a global normative framework given its rapidly ageing population.

**Challenges in Protecting Elder Rights in India**

**Socio-Economic Challenges:** Older persons often face poverty, economic dependency, limited earning opportunities, and inadequate pension coverage.

**Social Challenges:** Changes in family structure, migration of youth, increasing elder abuse, and social isolation weaken traditional protection mechanisms.

**Healthcare Challenges:** Geriatric services are limited, healthcare is expensive, and insurance coverage for older persons remains inadequate.

**Legal and Administrative Failures:** Slow tribunal processes, weak implementation of laws and policies, and low public awareness hinder effective elder protection.

These challenges collectively slow India's progress in meeting international standards.

Need for a Binding International Convention and Its Relevance to India

A comprehensive global convention would strengthen elder rights in several ways:

1. **Normative clarity:** It would define key issues such as elder abuse, long-term care, autonomy, and social protection.
2. **Accountability:** Monitoring and reporting mechanisms would improve state compliance.
3. **Domestic legal reform:** India would be encouraged to adopt anti-ageism laws, expand social security, and develop geriatric services.
4. **Global cooperation:** A convention would foster international collaboration in research, capacity building, and technology-based elder care.

Given India's rapidly ageing demographic, such a convention would serve as a timely and essential instrument.

#### Suggestions and Policy Recommendations

1. **Enact a comprehensive Elder Rights Act** recognizing non-discrimination, healthcare rights, social security, long-term care, and protection from abuse.
2. **Strengthen Maintenance Tribunals** through digitization, staffing increases, and time-bound adjudication.
3. **Create a National Elder Abuse Prevention Programme** aligned with WHO guidelines.
4. **Expand social security** through universal minimum pensions and affordable healthcare.
5. **Develop geriatric healthcare infrastructure** in all districts and improve mobile health services.
6. **Promote technology-based solutions** such as helplines, digital monitoring, and smart ageing devices.
7. **Support the formation of a global UN convention**, positioning India as a leader among developing countries.

**Conclusion:** Older persons represent wisdom, experience, and cultural continuity. Yet, they remain one of the most vulnerable and neglected groups both internationally and

in India. While international frameworks such as the Vienna Plan, UN Principles, and MIPAA offer important normative guidance, the absence of a binding global convention continues to limit the effectiveness of elder rights protection. India has made significant progress through its constitutional principles, legislation like the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and various welfare schemes. However, gaps persist in execution, legal recognition of elder rights, healthcare infrastructure, and social security coverage.

A binding international convention would not only strengthen global accountability but also help India reform and reinforce its domestic structures. As India moves toward becoming an aged nation, the recognition of elder rights is not merely a welfare obligation but a constitutional, moral, and developmental necessity. Ensuring dignity, care, and security for older persons is essential for building a humane, inclusive, and just society.

#### References: –

1. Census of India. Population Projections for India and States (2011–2036). Office of the Registrar General of India, 2019.
2. Ashwani Kumar v. Union of India, (2018) 13 SCC 98.
3. Dattatraya Moreshwar v. State of Bombay, AIR 1952 SC 181.
4. HelpAge India. State of Elderly in India Report. HelpAge India Publications, 2023.
5. United Nations Population Fund (UNFPA). Caring for Our Elders: Early Responses – India Ageing Report. UNFPA India, 2017.
6. International Labour Organization (ILO). Social Protection for Older Persons: Policy Trends and Statistics. ILO, 2014.
7. Beard, John R., et al., editors. Global Ageing: Perspectives and Policies. Oxford University Press, 2012.
8. Kumar, Sanjay, and Priya Desai. "Ageing in India: A Socio-Legal Perspective." Journal of Social Welfare and Human Rights, vol. 6, no. 1, 2018, pp. 45–60.
9. Banik, Pallavi. "Rights of Older Persons: International Human Rights Framework." Indian Journal of Gerontology, vol. 32, no. 2, 2018, pp. 210–225.
10. Rajput, Meena. "Elder Abuse in India: Legal and Policy Gaps." Law Review of India, vol. 12, no. 4, 2021, pp. 112–130.
11. UN Human Rights Council. Normative Standards and Obligations on the Human Rights of Older Persons. UNHRC, 2012.
12. World Bank. Silver Opportunity: Building Integrated Services for Older Persons in South Asia. World Bank Report, 2022.

\*\*\*\*\*