

Judicial Approach to Elder Persons' Rights in India: A Study

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Abstract: The protection of elder persons' rights has become a critical subject in India's socio-legal landscape due to rapid demographic ageing, changing family structures, and increasing vulnerabilities faced by older adults. While legislative frameworks such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 attempt to address some of these concerns, the judiciary has emerged as a significant actor in enlarging the scope of elder rights through progressive interpretation of constitutional guarantees and statutory mandates. This paper examines the judicial approach to elder persons' rights in India, tracing landmark judgments, thematic trends, doctrinal evolutions, and the judiciary's role in filling policy gaps. It argues that Indian courts have consistently upheld dignity, protection, welfare, and social security for the elderly, but challenges remain in enforcement, administrative efficiency, and the actual realization of rights on the ground.

Introduction - India is undergoing a demographic transition marked by an unprecedented rise in its elderly population. According to Census projections, the number of persons aged 60 and above will reach nearly 194 million by 2031 and may cross 300 million by 2050. This demographic shift has brought new challenges related to elder neglect, financial insecurity, health vulnerabilities, abuse, and social exclusion. As traditional family-based support weakens, the legal system has become a crucial mechanism for safeguarding elder rights.

While the Constitution of India embeds broad human rights guarantees, the judiciary has played a transformative role in interpreting these provisions to protect older persons. Indian courts have expanded constitutional rights such as equality (Article 14), life with dignity (Article 21), and protection from exploitation (Articles 23–24) to address the needs of senior citizens. Judicial interventions have compelled governments to operationalize welfare schemes, uphold maintenance rights, and protect elders from abuse and abandonment.

This research paper critically examines how Indian courts have shaped elder rights jurisprudence, the principles they have invoked, and the systemic challenges that persist.

Constitutional Foundations of Judicial Protection: Although the Constitution of India does not expressly identify older persons as a distinct category deserving special protection, several of its provisions provide a strong foundation for judicial intervention in safeguarding their rights. Over the years, Indian courts have relied on these constitutional guarantees to expand the ambit of elder

persons' rights, interpreting them in a liberal and humane manner. This constitutional framework has enabled the judiciary to respond to the growing vulnerabilities of the elderly and to uphold their dignity, security, and welfare.

Article 21: The Right to Life with Dignity: Article 21, which guarantees the right to life and personal liberty, has been central to the judicial protection of older persons. Courts have consistently held that the concept of life under Article 21 goes far beyond mere physical survival. It encompasses the right to live with dignity, and for senior citizens, this dignity includes secure shelter, accessible and adequate healthcare, physical safety, emotional and social well-being, and freedom from neglect, abuse, and exploitation. This expansive interpretation has allowed the judiciary to recognize the multifaceted needs of the elderly and to compel the State to take affirmative steps to uphold their quality of life.

Article 14: Equality and Non-discrimination: Article 14, which guarantees equality before the law and equal protection of the laws, has also played a pivotal role in strengthening elder rights. Indian courts have invoked this provision to address discriminatory practices and arbitrary state actions affecting senior citizens. Whether it is the unjust denial of pensions, reluctance to enforce maintenance rights, or unequal treatment in access to welfare schemes, the judiciary has used Article 14 to ensure that elders are not subjected to unfair or unreasonable discrimination. Thus, the principle of equality has become an important safeguard against administrative apathy and structural vulnerability.

Directive Principles of State Policy: While the Directive Principles of State Policy (DPSPs) are not enforceable in courts, they significantly influence judicial thinking. Articles 41, 46, and 47 collectively create a moral and policy-based framework that guides judicial interpretation in matters relating to older persons.

- **Article 41** obligates the State to provide public assistance in cases of old age.
- **Article 46** protects weaker and vulnerable sections of society from exploitation.
- **Article 47** directs the State to improve public health and living standards.

Courts often refer to these provisions to reinforce rights-based interpretations of statutory and constitutional protections for senior citizens. In doing so, the judiciary transforms the DPSPs into tools that shape governance and welfare policymaking for the elderly.

Judicial Interpretation of Statutory Rights

A significant development in India's elder rights regime was the enactment of the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007**. This legislation laid down a comprehensive framework for the care, protection, and maintenance of older persons. The judiciary has played a crucial role in ensuring its effective implementation and in expanding its practical scope.

Courts have repeatedly intervened to ensure that **Maintenance Tribunals** function efficiently and dispose of cases involving elderly claimants without delay. Judicial directions have strengthened the enforcement of maintenance orders, protected seniors from property-related exploitation, and ensured that caregivers—whether children, relatives, or institutions—fulfil their legal obligations. Through various judgments, courts have clarified ambiguities, rectified administrative lapses, and adopted interpretations that prioritize the welfare, dignity, and security of older persons.

In this way, judicial engagement with the MWPSA has reinforced the principle that caring for the elderly is not merely a moral duty but a legally enforceable responsibility grounded in the constitutional vision of dignity and social justice.

Landmark Judgments and Their Contribution to Elder Rights Jurisprudence

Dattatraya Moreshwar v. State of Bombay (1952)

One of the early decisions where the Supreme Court recognized that **dignity is an intrinsic component of the right to life**. Although not specifically about elders, this judgment laid the foundation for later cases involving elderly dignity and welfare.

Parmanand Katara v. Union of India (1989)

The Court held that every person, including senior citizens, has the right to emergency medical care. This judgment has informed later decisions on geriatric healthcare and state responsibility.

Gaurav Nagpal v. Sumedha Nagpal (2009)

In discussing welfare in family matters, the Court emphasized that the well-being of elderly parents is a matter of paramount consideration. This line of reasoning has been applied in maintenance disputes involving older persons.

Ashwani Kumar v. Union of India (2018)

A major turning point in elder rights jurisprudence.

Key directives:

1. All states must establish **old-age homes** in every district.
2. Governments must provide **geriatric care**, ensure equitable access to healthcare, and strengthen the **National Programme for the Health Care of the Elderly (NPHCE)**.
3. States were asked to implement the MWPSA Act effectively.
4. The Court emphasized that **senior citizens have a right to live with dignity**, drawing from Article 21 and international standards.

This case set a national framework for elder rights, compelling states to institutionalize welfare norms.

Paramjit Kumar Saroya v. Union of India (2014)

The Punjab and Haryana High Court held that **the right to maintenance under the MWPSA Act is a statutory right** that supersedes the Code of Civil Procedure. The Court emphasized a **speedy, informal, and accessible** mechanism for older persons, recognizing their limited mobility and resources.

Sunny Paul v. State (2017, Delhi High Court)

The Court held that elders have a right to evict abusive children or relatives from their property and enjoy a peaceful life. This judgment has been influential in protecting elders from domestic abuse and coercion.

Justice Sunanda Bhandare Foundation v. Union of India (2017)

The Supreme Court reiterated the state's obligation to develop welfare infrastructure for the elderly, including shelters and caregiving services, affirming that socio-economic rights of elders are constitutionally linked to dignity.

Dr. Ashwani Kumar (Review & Subsequent Orders)

The Court continued monitoring compliance with earlier directives, ensuring that:

- maintenance tribunals function effectively,
- NGOs and civil society assist in elder welfare,
- state governments report progress on policies for senior citizens.

Thematic Analysis of the Judicial Approach Rights-Based Interpretation

The Indian judiciary has consistently adopted a rights-based perspective in matters concerning older persons, treating their welfare not as an act of charity but as a legally enforceable entitlement. Judicial reasoning increasingly reflects the understanding that dignity, equality, and autonomy form the cornerstone of elder rights. Courts

emphasize that protecting older persons is not merely a humanitarian responsibility but a constitutional mandate that the State must honour through concrete policies, effective implementation, and institutional support.

Expanded Understanding of "Maintenance": The courts have also played a significant role in broadening the definition of "maintenance" for senior citizens. Rather than restricting it to basic financial support, judicial decisions interpret maintenance to include a wider range of entitlements such as access to appropriate healthcare, safe and secure living conditions, emotional support, and connection to social and community networks. This holistic conception resonates with contemporary geriatric care standards and reflects the judiciary's recognition that ageing individuals require comprehensive support systems to live with dignity.

Protection from Abuse and Exploitation: Another prominent theme in judicial decisions is the protection of older persons from abuse, neglect, and exploitation. Courts have upheld the right of senior citizens to evict abusive or harassing relatives, safeguarded them from coercion in matters concerning property and inheritance, and mandated protective measures against physical, emotional, and financial abuse. Many judgments characterize elder abuse as a serious human rights violation, thereby reinforcing the moral and legal imperative to shield older persons from ill-treatment.

Judicial Oversight of Executive Responsibility: Judicial intervention has often extended to monitoring the functioning of executive authorities responsible for implementing elder welfare programs. Through continuous oversight, courts have pressed governments to operationalize statutory mandates and welfare schemes more effectively. The directives issued in the *Ashwani Kumar* case exemplify this proactive approach, where the judiciary sought to ensure that old-age homes, healthcare services, and maintenance mechanisms were genuinely functional. Such interventions signal an attempt to bridge systemic gaps and promote institutional reform.

Use of International Norms: Even in the absence of a dedicated international convention on elder rights, Indian courts frequently draw upon global frameworks to guide their interpretation of domestic law. References to the UN Principles for Older Persons (1991), the Madrid International Plan of Action on Ageing (2002), and WHO recommendations provide normative support and comparative context. By integrating these international standards into Indian jurisprudence, courts strengthen the conceptual foundation of elder rights and align India's legal approach with global best practices.

Gaps and Challenges Despite Judicial Activism

Weak Enforcement Mechanisms: Despite progressive judicial directives, enforcement remains a major challenge. Bureaucratic delays, inadequate resource allocation, and weak monitoring mechanisms often prevent court orders

from translating into substantive improvements in the lives of older persons. As a result, judicially recognized rights frequently remain under-implemented.

Inadequate Tribunal Infrastructure: The infrastructure and functioning of Maintenance Tribunals, which serve as crucial forums for elderly protection, are often insufficient. Many tribunals face chronic staff shortages, procedural delays, and logistical limitations, especially in rural areas. These gaps undermine the accessibility and effectiveness of the adjudicatory system designed for senior citizens.

Limited Legal Awareness: Another persistent barrier is the lack of awareness among older persons regarding their rights and available legal remedies. Many elders are unable to seek legal assistance due to illiteracy, mobility constraints, financial limitations, or social isolation. The absence of outreach and counselling mechanisms further restricts the exercise of their rights.

Fragmented Legal Framework: India's legislative landscape concerning elder rights remains fragmented and incomplete. There is no comprehensive Elder Rights Act that consolidates and explicitly articulates all protections owed to older persons. Moreover, the absence of statutory recognition of age-based discrimination or guaranteed access to healthcare and palliative care leaves significant gaps in the existing legal framework.

Socio-Cultural Barriers: Deep-rooted socio-cultural attitudes often inhibit the enforcement of elder rights. Abuse or abandonment of older persons is frequently hidden due to stigma, family honour, or community pressures. These social dynamics discourage reporting and create an environment in which elder mistreatment persists undetected.

Judicial Recommendations and Future Directions

Indian courts have repeatedly underscored the need for structural reforms and comprehensive legal protection for senior citizens. Judicial recommendations often call for:

- (i) **A comprehensive national legislation** that clearly articulates enforceable rights for older persons.
- (ii) **Strengthened social security systems**, including universal and adequate pensions.
- (iii) **Robust geriatric healthcare infrastructure**, with facilities available in every district.
- (iv) **Preventive and protective mechanisms** to address elder abuse at the community, institutional, and familial levels.
- (v) **Digital and accessible grievance-redressal systems**, benefiting elders with mobility or health limitations.
- (vi) **Expansion of shelters, day-care centres, and rehabilitation services** to support vulnerable senior citizens.
- (vii) **Incorporation of international ageing norms** into Indian law to provide a modern and rights-oriented framework.

These judicial recommendations collectively highlight that safeguarding the rights of older persons requires more

than piecemeal welfare measures; it entails a rights-driven, constitutionally grounded, and institutionally robust system capable of addressing the complex realities of ageing.

Conclusion: The Indian judiciary has played a pivotal role in developing a robust rights-based framework for the elderly. Through progressive interpretation of constitutional guarantees and active enforcement of statutory rights, courts have expanded the legal protections available to senior citizens. Landmark cases such as *Ashwani Kumar* have catalyzed national policy reform and strengthened state obligations toward elder welfare.

Despite significant jurisprudential advances, challenges persist in enforcement, tribunal functioning, healthcare access, and awareness. A holistic approach—combining judicial activism, legislative reform, administrative efficiency, and community support—is essential to ensure that older persons in India can live with dignity, autonomy, and security. The judiciary has laid the foundation; sustained policy action must now build upon it.

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