
**PREVENTING ELDER ABUSE THROUGH LAW: A CRITICAL
ANALYSIS OF INDIA'S ELDER PROTECTION FRAMEWORK IN THE
LIGHT OF INTERNATIONAL STANDARDS**

Julimol P R,^{1*} Dr.Sanjaya Choudhury²

¹Ph.D Research Scholar, Department of Law, Bhagwant University, Ajmer, Rajasthan State,
India – 305 004.

²Professor & Ph.D Supervisor, Department of Law, Bhagwant Univeristy, Ajmer, Rajasthan
State, India – 305 004.

Article Received: 03 January 2026, Article Revised: 23 January 2026, Published on: 11 February 2026

***Corresponding Author: Julimol P R**

Ph.D Research Scholar, Department of Law, Bhagwant University, Ajmer, Rajasthan State, India – 305 004.

DOI: <https://doi-doi.org/101555/ijarp.5119>

ABSTRACT

The elder abuse has emerged as a critical yet under-recognized human rights concern in ageing societies across the world, including India. Despite constitutional guarantees of dignity, equality, and social justice, older persons continue to experience multiple forms of abuse—physical, emotional, financial, and neglect—predominantly within familial and institutional settings. This paper critically examines the effectiveness of India's elder protection framework in preventing elder abuse, with particular emphasis on the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, allied criminal laws, and welfare-oriented policy measures. The study argues that while India has adopted a welfare-centric legal approach aimed at post-abuse redressal, it lacks a comprehensive rights-based and preventive legal framework capable of addressing the structural causes and early indicators of elder abuse. Using a doctrinal and comparative legal research methodology, the paper analyses statutory provisions, constitutional mandates, judicial interpretations, and administrative mechanisms designed to safeguard elderly persons. It further evaluates operational challenges faced by maintenance tribunals, law-enforcement agencies, and social welfare institutions in effectively responding to elder abuse complaints. To situate India's legal response within the global elder law discourse, the study undertakes a comparative analysis with international standards, including the United Nations Principles for Older Persons, the Madrid International Plan of Action on Ageing, and elder abuse prevention

frameworks adopted in jurisdictions such as the United Kingdom, the United States, and the European Union. The comparative assessment reveals that international models increasingly emphasize prevention through early intervention, mandatory reporting, community-based monitoring, and integration of elder rights into mainstream human rights law—elements that remain inadequately developed in the Indian context. The paper concludes that effective prevention of elder abuse requires a paradigm shift from welfare-oriented remedial mechanisms to proactive, rights-based legal strategies. It advocates legislative and institutional reforms aimed at strengthening preventive safeguards, enhancing accountability, ensuring timely access to justice, and formally recognizing elder abuse as a distinct human rights violation within Indian law.

KEYWORDS: Elder Abuse; Elder Law; Senior Citizens’ Rights; Maintenance and Welfare of Parents and Senior Citizens Act, 2007; Abuse Prevention; Human Rights of Older Persons; Ageing and Law; Comparative Elder Law; Access to Justice; Legal Safeguards; International Standards; Welfare versus Rights-Based Approach; Social Justice; Preventive Jurisprudence; Ageing Policy; Vulnerable Populations.

INTRODUCTION

Global Ageing and the Emergence of Elder Abuse

The population ageing represents one of the most profound demographic transformations of the twenty-first century. Advances in medical science, improved public health infrastructure, and declining fertility rates have significantly increased life expectancy across both developed and developing nations. As a consequence, the proportion of elderly persons within national populations has expanded rapidly, bringing with it complex social, economic, and legal challenges.

India, traditionally perceived as a young nation, is undergoing a similar demographic transition. Official projections indicate that the population aged sixty years and above is expected to double by the middle of the twenty-first century. While increased longevity is an indicator of social progress, it simultaneously exposes older persons to heightened vulnerability, particularly in the form of abuse, neglect, exploitation, and social exclusion.

The elder abuse has thus emerged as a global social and legal concern. It is no longer viewed merely as an individual or familial issue but as a systemic problem implicating human rights, social justice, and State responsibility. The invisibility of elder abuse within private family

spaces, coupled with societal reluctance to acknowledge its prevalence, has resulted in its marginalization within legal and policy discourse.

Elder Abuse as a Human Rights and Legal Issue

The elder abuse encompasses a wide spectrum of harmful acts and omissions, including physical violence, emotional and psychological harm, financial exploitation, abandonment, and denial of basic care. Empirical studies consistently reveal that non-physical forms of abuse—such as neglect, emotional cruelty, and financial manipulation—are far more prevalent than physical violence, yet remain significantly under-reported and legally under-addressed.

From a human rights perspective, elder abuse directly violates fundamental rights to life, dignity, equality, autonomy, and freedom from violence. International human rights jurisprudence increasingly recognizes that age should not diminish the entitlement to legal protection or human dignity. However, in many legal systems, including India, elder abuse remains inadequately conceptualized as a rights violation, often treated instead as a private family matter or a welfare concern.

The legal invisibility of elder abuse is further exacerbated by cultural norms emphasizing filial duty, family privacy, and social harmony. Elderly persons, particularly those who are financially or physically dependent on caregivers, often refrain from reporting abuse due to fear of retaliation, emotional attachment to family members, and concern about social stigma. These factors collectively undermine the effectiveness of legal remedies and preventive mechanisms.

Rationale, Objectives, and Scope of the Study

The persistence of elder abuse despite existing legal provisions raises critical questions regarding the adequacy and orientation of India's elder protection framework. While the enactment of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 marked a significant legislative intervention, the continued prevalence of abuse suggests that legal responses remain largely remedial and reactive rather than preventive.

The present study is grounded in the recognition that elder abuse prevention requires more than post-abuse maintenance orders or eviction remedies. It necessitates a comprehensive legal framework that addresses structural vulnerabilities, promotes early intervention, and recognizes elderly persons as rights-holders rather than passive recipients of welfare.

Accordingly, the objectives of this paper are threefold: to critically examine the existing constitutional, statutory, and criminal law framework governing elder protection in India; to identify implementation challenges and structural gaps that undermine effective prevention of elder abuse; and to propose legal and policy reforms informed by international standards and comparative best practices.

RESEARCH METHODOLOGY

Doctrinal Legal Research

This study adopts a doctrinal legal research methodology, focusing on the analysis and interpretation of existing legal texts. Primary sources include constitutional provisions, statutory enactments—particularly the Maintenance and Welfare of Parents and Senior Citizens Act, 2007—judicial decisions, and official policy documents. The doctrinal approach facilitates a critical evaluation of the normative intent, scope, and limitations of elder protection laws in India.

Comparative Legal Method

To contextualize India's legal framework, the study employs a comparative method, examining international legal instruments and foreign jurisdictions that have developed specialized elder abuse prevention mechanisms. Comparative analysis enables identification of best practices and highlights gaps in India's preventive approach.

Sources of Data and Limitations

The secondary sources include academic literature, reports of international organizations, government publications, and empirical studies on elder abuse. While the study does not rely on primary field data, it draws upon established empirical findings to support doctrinal arguments. The absence of uniform national data on elder abuse in India remains a limitation, underscoring the need for improved reporting mechanisms.

CONCEPTUAL AND THEORETICAL FRAMEWORK OF ELDER ABUSE PREVENTION

Definitional Scope and Typologies of Elder Abuse

The elder abuse is broadly defined as any act or omission that results in harm or distress to an older person within a relationship of trust. The World Health Organization classifies elder abuse into physical abuse, emotional or psychological abuse, financial exploitation, sexual abuse, and neglect. These categories often overlap and are deeply embedded in socio-economic, cultural, and relational contexts.

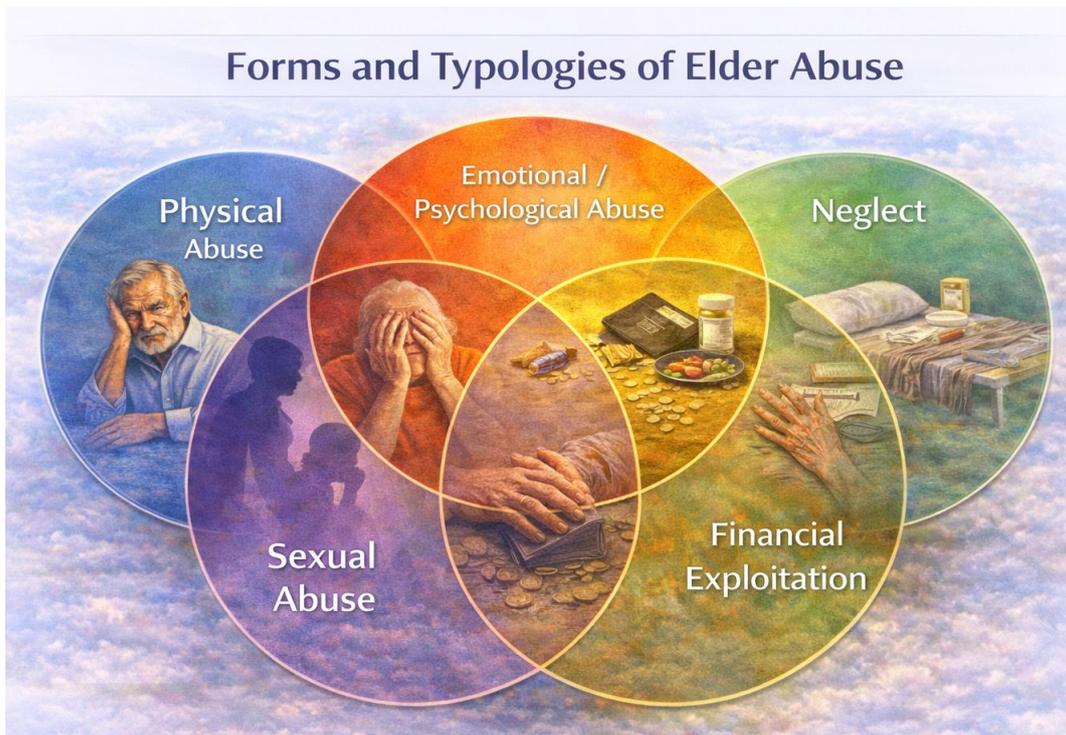


Figure 1: Forms and Typologies of Elder Abuse.

The figure 1, presents a conceptual representation of the major forms and typologies of elder abuse, illustrating physical abuse, emotional or psychological abuse, financial exploitation, neglect, and sexual abuse as interlinked and overlapping categories. The overlapping structure of the diagram emphasizes that elder abuse rarely occurs in isolation and that elderly victims are often subjected to multiple forms of abuse simultaneously. Physical abuse represents visible and direct harm, while emotional or psychological abuse reflects non-physical forms of coercion, humiliation, and mental distress. Financial exploitation and neglect occupy significant overlapping areas, indicating their frequent co-occurrence with other forms of abuse, particularly emotional abuse. Sexual abuse, though less visible and highly underreported, intersects with other forms of victimization due to the vulnerability and dependency of elderly persons.

The figure further demonstrates that emotional abuse, neglect, and financial exploitation constitute the most prevalent yet least reported forms of elder abuse. This visual emphasis highlights the limitations of existing legal frameworks that predominantly focus on physical harm while inadequately addressing non-physical forms of abuse. The diagram underscores the necessity for comprehensive legal recognition and criminal justice responses that encompass psychological, economic, and neglect-based abuses to ensure effective protection and justice for elderly victims.

Welfare Model versus Rights-Based Model

Traditionally, elder protection in many developing countries has been guided by a welfare-oriented approach. Under this model, elderly persons are viewed as dependents requiring care, assistance, and charity. Legal interventions focus on pensions, shelters, and maintenance support, with limited emphasis on autonomy or enforceable rights.

In contrast, the rights-based approach conceptualizes elder abuse as a violation of fundamental human rights. It emphasizes legal empowerment, State accountability, and access to justice. Elderly persons are recognized as rights-holders entitled to protection from violence, exploitation, and neglect, irrespective of familial relationships.

Preventive Jurisprudence and Vulnerability Theory

The preventive jurisprudence represents an evolving legal theory that prioritizes the prevention of harm rather than post-violation remedies. Applied to elder abuse, it argues that law must intervene at early stages through risk identification, monitoring, and protective safeguards.

The vulnerability theory further explains how age-related physical decline, economic dependence, social isolation, and cognitive impairments increase susceptibility to abuse. Importantly, vulnerability does not imply incapacity. Legal systems must therefore balance protection with respect for autonomy and dignity.

Table 1: Conceptual Approaches to Elder Protection.

| Sl. No. | Approach | Core Assumption | Legal Orientation | Limitations |
|----------------|--------------------------|---------------------------|-----------------------------------|------------------------------------|
| 1. | Welfare Model | Elderly as dependents | Maintenance and assistance | Reactive, lacks rights recognition |
| 2. | Rights-Based Model | Elderly as rights-holders | Dignity, autonomy, accountability | Requires institutional capacity |
| 3. | Preventive Jurisprudence | Harm can be anticipated | Early intervention and safeguards | Underdeveloped in India |

CONSTITUTIONAL AND LEGAL FOUNDATIONS OF ELDER PROTECTION IN INDIA

The protection of elderly persons in India is grounded in constitutional philosophy, even though the Constitution does not expressly enumerate “elder rights” as a separate category. The Indian constitutional framework, read holistically, reflects a normative commitment to dignity, social justice, and protection of vulnerable populations, which necessarily includes

senior citizens. Judicial interpretation has played a crucial role in extending constitutional guarantees to address age-related vulnerabilities and neglect.

The absence of an explicit constitutional provision exclusively addressing elder abuse, however, has resulted in a fragmented legal response. Protection is derived indirectly through broader guarantees of life, equality, and welfare, leaving significant scope for legislative and judicial discretion.

Constitutional Vision of Dignity and Ageing

The Article 21 of the Constitution guarantees the right to life and personal liberty, which has been expansively interpreted by the judiciary to include the right to live with dignity, autonomy, and security. Judicial pronouncements have consistently held that dignity is not extinguished by age and that the State bears a positive obligation to protect individuals from abuse, neglect, and inhuman treatment.

For elderly persons, dignity assumes heightened significance due to declining physical strength, economic dependence, and increased reliance on caregivers. Abuse, neglect, or abandonment of senior citizens directly undermines the constitutional promise of dignified existence. Yet, the absence of preventive safeguards within statutory law limits the transformative potential of the Article 21 in the context of elder abuse.

Directive Principles and State Obligations

The Directive Principles of State Policy further reinforce constitutional concern for the elderly. The Article 41 directs the State to provide public assistance in cases of old age, sickness, and disablement, subject to economic capacity. Article 46 obligates the State to protect weaker sections of society from social injustice and exploitation.

Although non-justiciable, these provisions serve as guiding principles for legislative and policy formulation. In practice, however, the translation of these constitutional ideals into enforceable rights remains limited. Welfare schemes and pension programs address economic vulnerability but do not adequately confront abuse occurring within families and institutions.

Judicial Expansion and Its Limitations

The Indian Hon'ble Courts have repeatedly emphasized the moral and legal duty of children to maintain aged parents. Judicial interventions have strengthened the implementation of maintenance obligations and, in some cases, upheld eviction of abusive relatives from senior citizens' property. These decisions reaffirm constitutional values but remain largely remedial in nature.

The judicial protection is typically triggered only after abuse or neglect has occurred. Courts are constrained by the absence of a comprehensive preventive statutory framework and

cannot independently establish monitoring, reporting, or early-intervention mechanisms. As a result, constitutional protection, while symbolically significant, operates within narrow remedial boundaries.

MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007: SCOPE AND LIMITATIONS

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 represents India's first dedicated legislative response to the neglect of elderly persons. Enacted against the backdrop of changing family structures and declining traditional support systems, the Act seeks to ensure financial security and basic welfare for senior citizens through legal enforceability of maintenance obligations.

While the Act marks an important legislative milestone, its design and implementation reflect a predominantly welfare-centric orientation, with limited emphasis on abuse prevention or elder rights as human rights.

Legislative Objectives and Scheme of the Act

The Act imposes a statutory obligation on children and specified relatives to maintain parents and senior citizens who are unable to maintain themselves. It establishes Maintenance Tribunals at the sub-divisional level to provide speedy, inexpensive, and summary adjudication of maintenance claims. The Act also authorizes State Governments to establish old-age homes and to take measures for the protection of life and property of senior citizens.

The legislative intent is clearly remedial—aimed at addressing neglect after it has occurred. The Act does not define elder abuse comprehensively, nor does it recognize abuse as an independent legal wrong. Its focus remains largely on economic support rather than holistic protection from harm.

Functioning of Maintenance Tribunals

The maintenance tribunals are envisioned as accessible forums designed to overcome procedural complexities of traditional courts. In theory, they offer swift relief to elderly persons facing neglect. In practice, however, the effectiveness of tribunals varies widely across States.

The common challenges include procedural delays, lack of trained personnel, inadequate infrastructure, and absence of uniform operating procedures. In several regions, tribunals exist only nominally, depriving senior citizens of meaningful access to justice. The absence of victim-support mechanisms, counseling services, or protective monitoring further limits their preventive potential.

Property Protection and Eviction Remedies

The judicial interpretation of the Act has expanded its scope to include eviction of abusive children or relatives from property owned by senior citizens. This remedy has provided immediate relief in several cases and has emerged as one of the strongest tools under the Act. However, eviction operates as a post-abuse response rather than a preventive safeguard. It also places elderly persons in emotionally difficult positions, forcing them to choose between personal safety and familial relationships. Without complementary support systems, eviction remedies risk social isolation and further vulnerability.



Figure 2: India's Elder Protection Framework – Welfare Orientation.

The figure 2, presents a structural overview of India's elder protection framework, highlighting the key legal and institutional components that govern the protection and welfare of elderly citizens. It depicts constitutional provisions, particularly the Directive Principles and the right to life with dignity, alongside the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, maintenance tribunals, and various welfare schemes as the core pillars of elder protection in India. The central positioning of maintenance and welfare mechanisms visually underscores their dominance within the existing framework.

The diagram further reveals that India's approach to elder protection is largely reactive and welfare-oriented, focusing primarily on economic support and post-harm relief rather than on prevention of abuse. While maintenance tribunals and welfare schemes provide essential

financial and social assistance, the framework demonstrates minimal integration of abuse-prevention strategies, mandatory reporting obligations, or mechanisms for institutional accountability. The absence of early intervention measures, community-based monitoring, and coordinated criminal justice responses highlights a significant gap in addressing elder abuse as a rights-based violation.

Overall, the figure emphasizes the need to move beyond a purely welfare-driven model toward a comprehensive elder justice framework that incorporates preventive safeguards, recognizes elder abuse as a serious legal and human rights concern, and ensures accountability through effective institutional mechanisms.

Table 2: Preventive Gaps in the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

| Sl. No. | Aspect | Existing Provision | Preventive Gap |
|----------------|----------------------|---------------------------|---|
| 1. | Legal Focus | Maintenance and welfare | Abuse prevention not explicitly addressed |
| 2. | Institutional Design | Maintenance Tribunals | No monitoring or early-intervention role |
| 3. | Reporting Mechanism | Complaint-driven | No mandatory or third-party reporting |
| 4. | Victim Support | Limited | Absence of counseling and protection services |

CRIMINAL LAW FRAMEWORK AND THE PROBLEM OF UNDER-REPORTING

In the absence of a specific statutory offence of elder abuse, victims are compelled to rely on general provisions of the Indian Penal Code relating to assault, criminal intimidation, cheating, or criminal breach of trust. While these provisions are theoretically applicable, they are ill-suited to address relational abuse occurring within families.

The high evidentiary thresholds, adversarial procedures, and the stigma associated with criminal prosecution discourage elderly persons from approaching law enforcement agencies. Police authorities often perceive elder abuse complaints as private family disputes, resulting in reluctance to register cases or pursue investigations. Consequently, criminal law functions primarily as a post-abuse punitive mechanism rather than a preventive deterrent.

INSTITUTIONAL AND ADMINISTRATIVE CHALLENGES IN ELDER ABUSE PREVENTION

Despite the existence of constitutional guarantees and statutory mechanisms, the prevention of elder abuse in India is severely constrained by institutional and administrative weaknesses.

The gap between law on paper and law in practice remains one of the most significant obstacles to effective elder protection. Institutions tasked with safeguarding senior citizens often operate with limited resources, unclear mandates, and inadequate coordination, resulting in fragmented and delayed responses to abuse.

Functioning of Maintenance Tribunals and Administrative Authorities

The maintenance tribunals were envisaged as accessible, speedy, and senior-citizen-friendly forums. However, ground-level functioning reveals serious deficiencies. In many States, tribunals are burdened with excessive caseloads and staffed by officers lacking specialized training in elder law, social work, or victim-centric adjudication. Procedural delays, adjournments, and lack of uniform procedural guidelines undermine the very objective of expeditious relief.

The administrative authorities empowered to protect the life and property of senior citizens often exercise these powers inconsistently. Complaints relating to abuse, coercion, or dispossession are frequently addressed only after prolonged delays, by which time harm has already occurred. Preventive monitoring, risk assessment, and follow-up mechanisms are virtually absent.

Role of Police and Law-Enforcement Agencies

The law-enforcement agencies play a crucial role in elder abuse prevention, yet their engagement remains minimal and largely reactive. Police personnel frequently view elder abuse as a domestic or civil dispute rather than a serious legal violation. This perception results in reluctance to register complaints, pressure on elderly victims to compromise, or referral of cases back to maintenance tribunals without adequate investigation.

The absence of standard operating procedures for handling elder abuse complaints further exacerbates the problem. Unlike offences involving women or children, elder abuse lacks specialized policing protocols, dedicated units, or sensitization programs. Consequently, elderly victims often experience secondary victimization when interacting with law-enforcement authorities.

Urban–Rural Disparities and Access Barriers

The institutional challenges are particularly pronounced in rural areas, where awareness of legal remedies is low and access to tribunals, legal aid, and social welfare offices is limited. Geographic distance, mobility constraints, and dependence on family members for transportation significantly restrict the ability of rural elderly persons to seek assistance.

The urban areas, while better resourced, face their own challenges, including social isolation, weakening of community networks, and increasing institutional abuse in care facilities. The

absence of regulatory oversight and inspection mechanisms for old-age homes and assisted living institutions further compounds vulnerability.

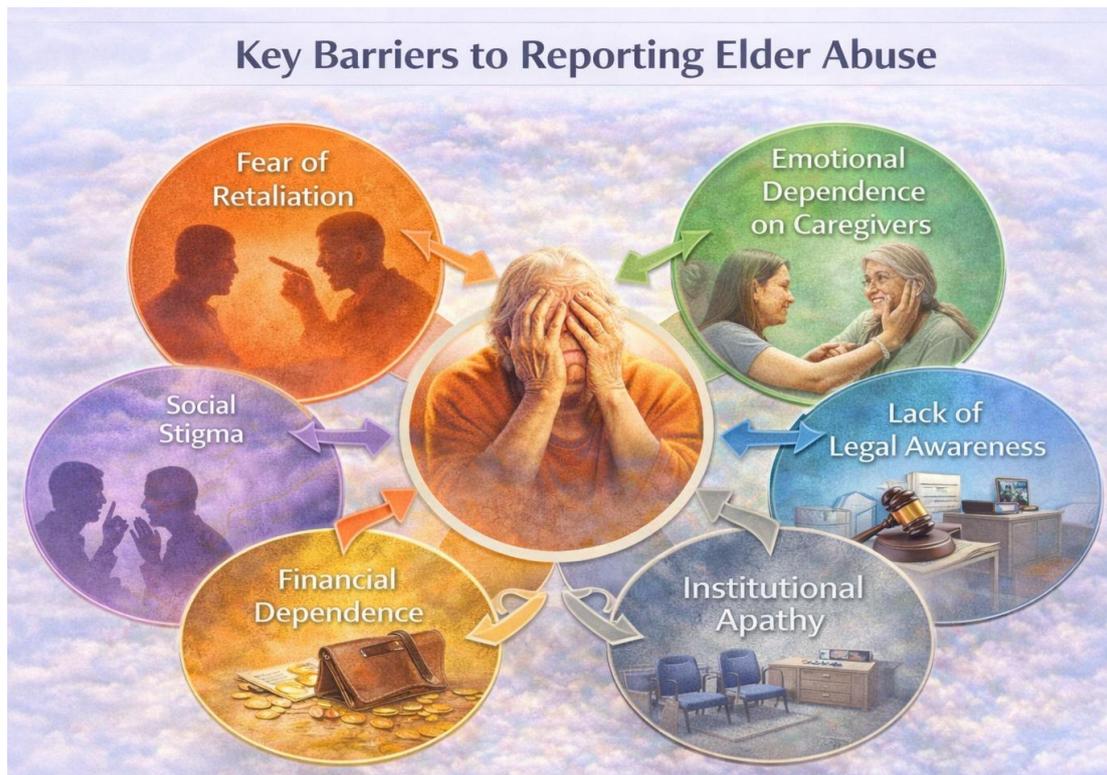


Figure 3: Barriers to Reporting Elder Abuse in India.

The figure 3 presents a multi-factor conceptual representation of the key barriers that prevent elderly persons in India from reporting abuse. The diagram illustrates fear of retaliation, emotional dependence on caregivers, lack of legal awareness, social stigma, financial dependence, and institutional apathy as interconnected factors that collectively discourage reporting. The central positioning of the elderly victim emphasizes how these barriers operate simultaneously rather than independently, reinforcing silence and vulnerability.

The figure demonstrates that under-reporting of elder abuse is not merely a matter of individual reluctance but a structural outcome shaped by social, economic, and institutional constraints. Emotional and financial dependence on caregivers often creates fear of abandonment or further harm, while social stigma discourages disclosure of abuse within families. Limited legal awareness and institutional apathy further weaken confidence in formal remedies. The visualization explains why criminal and civil justice mechanisms remain underutilized and underscores the need for holistic preventive strategies that address these barriers collectively rather than in isolation.

Table 3: Institutional Challenges and Their Impact on Elder Abuse Prevention.

| Sl. No. | Institutional Domain | Identified Challenge | Preventive Impact |
|---------|----------------------------|--------------------------------|---------------------------------|
| 1. | Maintenance Tribunals | Delays, lack of trained staff | Reduced accessibility and trust |
| 2. | Police Agencies | Treat abuse as private dispute | Weak deterrence and reporting |
| 3. | Social Welfare Departments | Fragmented coordination | Ineffective intervention |
| 4. | Rural Institutions | Limited infrastructure | Exclusion of vulnerable elderly |

JUDICIAL RESPONSE TO ELDER ABUSE IN INDIA

The judiciary has played a significant role in interpreting and enforcing elder protection laws, particularly through constitutional writs and litigation under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Courts have consistently reaffirmed the duty of children to maintain aged parents and have upheld legislative intent to protect senior citizens from neglect and exploitation.

The judicial decisions have also expanded the scope of statutory remedies by permitting eviction of abusive children or relatives from property owned by senior citizens. These rulings have provided immediate and tangible relief to victims and have strengthened the enforceability of elder protection laws.

However, judicial intervention remains predominantly remedial and case-specific. Courts intervene after abuse has already occurred, addressing individual grievances rather than systemic causes. The judiciary lacks institutional capacity to design or implement preventive frameworks such as monitoring systems, community-based intervention, or mandatory reporting mechanisms.

The access to justice further limits judicial effectiveness. Elderly litigants often face physical, financial, and procedural barriers in approaching courts. Lengthy litigation, costs, and dependence on legal representation discourage many from pursuing judicial remedies. While judicial sensitivity toward elder issues has increased, courts alone cannot compensate for legislative and administrative shortcomings.

GROUND-LEVEL REALITIES AND SOCIETAL DIMENSIONS

Beyond legal and institutional failures, elder abuse in India is deeply embedded in social and cultural realities. Changing family structures, urbanization, migration of younger generations, and increasing economic pressures have weakened traditional support systems. The erosion

of inter-generational bonds has contributed to neglect, emotional abuse, and financial exploitation of older persons.

The cultural expectations of silence, endurance, and family loyalty further inhibit elderly persons from asserting legal rights. Abuse is often normalized or minimized, particularly when it does not involve visible physical harm. These societal dimensions underscore the limitations of purely legal responses and highlight the need for community-based preventive strategies.

INTERNATIONAL LEGAL STANDARDS ON ELDER ABUSE PREVENTION

The prevention of elder abuse has increasingly been recognized within international law as a matter of human rights, social justice, and State accountability. Although no single binding global convention exclusively addresses the rights of older persons, a growing body of international instruments, soft-law standards, and policy frameworks collectively articulate principles relevant to elder protection and abuse prevention.

The evolving international discourse reflects a shift away from charitable or welfare-based perceptions of ageing toward a rights-based understanding that emphasizes dignity, autonomy, participation, and freedom from violence. This shift has significantly influenced domestic legal frameworks in several jurisdictions, particularly in relation to preventive mechanisms and institutional responsibility.

United Nations Principles for Older Persons

The United Nations Principles for Older Persons represent a foundational normative framework for elder rights. Adopted to guide national policies, these principles emphasize five core values: independence, participation, care, self-fulfillment, and dignity. Although non-binding, they establish an ethical and legal benchmark against which domestic elder protection laws may be evaluated.

The principles explicitly recognize the right of older persons to live in dignity and security, free from exploitation and abuse. Importantly, they underscore the obligation of States to create supportive legal and social environments that prevent abuse rather than merely respond to it. However, the absence of enforceability mechanisms limits their direct impact unless incorporated into domestic legislation.

Madrid International Plan of Action on Ageing

The Madrid International Plan of Action on Ageing (MIPAA) represents a significant advancement in global ageing policy. It calls upon States to integrate ageing concerns into

mainstream policy-making and to adopt legal, social, and institutional measures to prevent abuse and neglect of older persons.

The MIPAA places strong emphasis on early intervention, awareness generation, and community-based support systems. It recognizes elder abuse as a multidimensional phenomenon requiring coordinated responses involving legal institutions, healthcare systems, social services, and civil society. The Plan encourages States to develop reporting mechanisms, data collection systems, and targeted interventions for at-risk elderly populations.

Despite its progressive vision, implementation of MIPAA remains uneven across countries. In India, its principles have influenced policy rhetoric but have not been systematically translated into enforceable preventive legal mechanisms.

COMPARATIVE JURISDICTIONAL ANALYSIS OF ELDER ABUSE PREVENTION MODELS

A comparative examination of elder abuse prevention frameworks in selected jurisdictions reveals a clear trend toward proactive, rights-based, and institutionally coordinated approaches. Countries such as the United Kingdom, the United States, and member States of the European Union have developed specialized legal regimes that explicitly recognize elder abuse and prioritize prevention alongside remedial action.

United Kingdom

The United Kingdom adopts a comprehensive safeguarding framework for vulnerable adults, including older persons. Elder abuse is addressed through integrated policies combining criminal law, social care regulation, and community-based safeguarding mechanisms. Local authorities bear statutory responsibility for identifying, assessing, and responding to abuse risks through multidisciplinary teams.

The mandatory safeguarding inquiries, professional reporting obligations, and regulatory oversight of care institutions form the backbone of the UK's preventive approach. Elder abuse is treated not merely as a family issue but as a public concern warranting institutional intervention.

United States

In the United States, elder abuse prevention is governed primarily through Adult Protective Services (APS) frameworks operating at the state level. These frameworks explicitly define elder abuse, neglect, and exploitation as distinct legal categories. Mandatory reporting laws

require healthcare professionals, social workers, and financial institutions to report suspected abuse.

The APS agencies are empowered to investigate complaints, coordinate services, and initiate protective interventions. The emphasis on early detection, professional accountability, and inter-agency collaboration has significantly strengthened preventive capacity, despite variations across states.

European Union

The European Union promotes elder protection through a human rights-oriented policy framework emphasizing dignity, equality, and non-discrimination. While member States retain primary legislative competence, EU-level initiatives encourage harmonization of safeguarding standards, data collection, and institutional accountability.

The several EU countries integrate elder abuse prevention within broader violence-prevention and social protection systems, ensuring that age-based vulnerability receives comparable legal recognition to gender- or disability-based vulnerability.

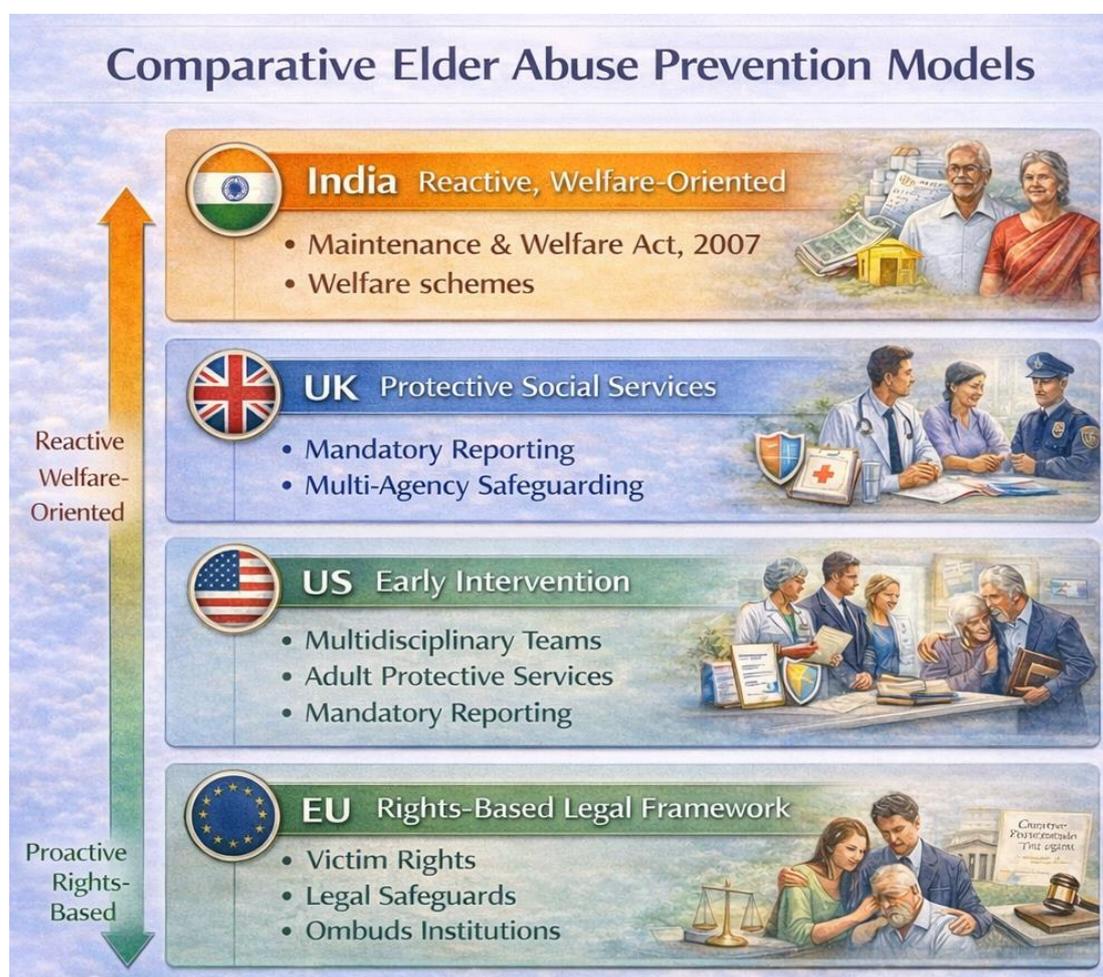


Figure 4: Comparative Elder Abuse Prevention Models

The figure 4, presents a comparative schematic of elder abuse prevention frameworks in India, the United Kingdom, the United States, and the European Union. The diagram highlights the structural differences between India’s predominantly reactive and welfare-oriented model and the more proactive, rights-based approaches adopted in advanced jurisdictions. While India’s framework emphasizes maintenance, social welfare schemes, and post-harm relief, the models in the UK, US, and EU prioritize mandatory reporting obligations, early intervention mechanisms, multidisciplinary coordination among social services and law enforcement, and explicit legal recognition of elder abuse as a rights violation. The figure visually demonstrates how international models integrate prevention, accountability, and victim protection, thereby underscoring the limitations of India’s existing approach and the need for systemic reform toward a comprehensive elder justice framework.

Table 4: Comparative Overview of Elder Abuse Prevention Frameworks.

| Sl. No. | Jurisdiction | Legal Recognition of Elder Abuse | Preventive Mechanisms | Institutional Accountability |
|---------|----------------|----------------------------------|-------------------------------|------------------------------|
| 1. | India | Indirect and fragmented | Limited, post-abuse | Weak and uneven |
| 2. | United Kingdom | Explicit safeguarding laws | Early intervention, reporting | Strong local authority role |
| 3. | United States | Explicit statutory definitions | Mandatory reporting, APS | Moderate to strong |
| 4. | European Union | Rights-based policy integration | Preventive social frameworks | Institutional oversight |

LESSONS FROM INTERNATIONAL BEST PRACTICES

The comparative analysis reveals several common elements essential to effective elder abuse prevention. First, explicit legal recognition of elder abuse as a distinct violation is critical to overcoming under-reporting and institutional inertia. Second, mandatory reporting mechanisms play a pivotal role in early detection and intervention, particularly in cases involving dependent or cognitively impaired elderly persons.

Third, institutional accountability and inter-agency coordination significantly enhance preventive effectiveness. Jurisdictions that integrate legal, social, healthcare, and community responses demonstrate greater capacity to address abuse holistically. Finally, embedding elder protection within mainstream human rights law reinforces dignity and autonomy while legitimizing State intervention in private spheres where abuse often occurs.

These lessons underscore the limitations of India's current welfare-centric approach and provide a normative foundation for reimagining elder protection through a preventive, rights-based framework.

NEED FOR A PARADIGM SHIFT: FROM WELFARE TO RIGHTS-BASED ELDER PROTECTION

The doctrinal and comparative analysis undertaken in this study reveals that India's elder protection framework is predominantly welfare-centric and remedial in orientation. While welfare measures such as maintenance, pensions, and old-age homes are indispensable, they are insufficient to address the structural and relational nature of elder abuse. Abuse often occurs within relationships of trust and dependency, where post-facto remedies fail to prevent harm or deter future violations.

A paradigm shift toward a rights-based framework is therefore imperative. Such an approach would reconceptualize elderly persons not as passive recipients of State benevolence, but as rights-holders entitled to protection, autonomy, and legal empowerment. Recognizing elder abuse as a distinct human rights violation would impose affirmative obligations on the State to prevent abuse, ensure accountability, and provide accessible remedies.

A rights-based framework also legitimizes State intervention in private spheres where abuse is frequently concealed under the guise of family autonomy. It aligns elder protection with constitutional values of dignity, equality, and social justice, and harmonizes domestic law with evolving international human rights norms.

RECOMMENDATIONS AND LEGAL REFORMS

Statutory Recognition of Elder Abuse

A critical reform required is the explicit statutory recognition of elder abuse as a distinct legal wrong. The absence of a comprehensive legal definition contributes to under-reporting, inconsistent enforcement, and institutional ambiguity. Legislation should define elder abuse broadly to include physical, emotional, psychological, financial, and neglect-based harm, particularly within relationships of trust.

Such recognition would serve a symbolic as well as functional purpose by affirming societal condemnation of abuse and providing clear guidance to enforcement agencies.

Strengthening the Maintenance and Welfare of Parents and Senior Citizens Act, 2007

The 2007 Act requires substantial reform to enhance its preventive capacity. Maintenance Tribunals should be transformed into multidisciplinary elder protection bodies empowered

not only to adjudicate maintenance claims but also to conduct risk assessments, issue protective orders, and coordinate with police and social welfare agencies.

The uniform procedural guidelines, specialized training for tribunal members, and time-bound disposal mechanisms are essential to restore confidence among elderly litigants. The Act should also incorporate victim-support services such as counseling, temporary shelter, and legal aid.

Mandatory Reporting and Early Intervention Mechanisms

The international experience demonstrates that mandatory reporting plays a crucial role in early detection of elder abuse. India should consider introducing reporting obligations for healthcare professionals, social workers, financial institutions, and care facility staff. Safeguards must be incorporated to prevent misuse while ensuring protection for good-faith reporters.

The early intervention mechanisms, including community-level monitoring and helplines integrated with rapid response systems, can significantly reduce the severity and duration of abuse.

Institutional Accountability and Inter-Agency Coordination

The effective prevention requires coordinated action among law-enforcement agencies, social welfare departments, healthcare providers, and civil society organizations. Clear allocation of responsibilities, information-sharing protocols, and joint response teams would reduce fragmentation and delay.

The regular audits, inspections of care institutions, and grievance redressal mechanisms should be institutionalized to ensure accountability. Elder protection must be mainstreamed within governance structures rather than treated as a peripheral welfare concern.

Awareness, Legal Literacy, and Community Participation

The legal reform must be accompanied by sustained awareness and legal literacy campaigns aimed at empowering elderly persons to recognize abuse and seek assistance. Community participation, including involvement of local self-governments, resident welfare associations, and non-governmental organizations, is essential for effective prevention.

The community-based approaches also help counter social isolation, rebuild inter-generational solidarity, and reduce dependence on abusive caregivers.

PREVENTIVE JURISPRUDENCE AND THE FUTURE OF ELDER LAW IN INDIA

The preventive jurisprudence offers a normative framework capable of transforming elder law in India. By prioritizing anticipation of harm, early intervention, and structural

safeguards, preventive jurisprudence shifts the focus from punishment to protection. Applied to elder abuse, it demands legal recognition of risk factors, institutional vigilance, and proactive State responsibility.

The integration of preventive principles into elder law would enable courts, tribunals, and administrative authorities to act before abuse escalates into irreversible harm. It would also enhance consistency, transparency, and legitimacy in decision-making, thereby strengthening access to justice for elderly persons.

CONCLUSION

The elder abuse poses a profound challenge to human dignity, social justice, and constitutional morality in ageing societies. In India, despite constitutional guarantees and legislative initiatives, elder abuse remains pervasive, under-reported, and inadequately addressed. The existing legal framework, anchored primarily in welfare and post-abuse remedies, lacks the preventive and rights-based orientation necessary to confront the complex realities of elder abuse.

This study has demonstrated that effective elder abuse prevention requires a fundamental reimagining of elder protection law. Comparative international experience illustrates that prevention is most effective when elder abuse is explicitly recognized as a human rights violation, supported by mandatory reporting, early intervention, institutional accountability, and community engagement.

Aligning India's elder protection framework with these principles would not only enhance legal effectiveness but also reaffirm societal commitment to dignity, autonomy, and respect for older persons. As India's elderly population continues to grow, the urgency of adopting a comprehensive, rights-based, and preventive elder law framework cannot be overstated. Ensuring justice and security for older persons is not merely a policy choice but a constitutional and moral imperative.

REFERENCES

1. HelpAge India. *Elder Abuse in India: A HelpAge India Report*. New Delhi: HelpAge India, 2018.
2. Agewell Foundation. *Elder Abuse and Neglect in India*. New Delhi: Agewell Research & Advocacy Centre, 2020.
3. Ved Kumari. *Juvenile Justice and Child Rights*. New Delhi: Oxford University Press, 2019.

4. Nair, P. S., & Lakshmi, J. "Elder Abuse in India: A Socio-Legal Analysis." *Indian Journal of Gerontology*, Vol. 32, No. 2 (2018): 145–162.
5. Desai, M. "Ageing, Law, and Social Security in India." *Journal of Social Welfare and Family Law*, Vol. 41, No. 3 (2019): 289–305.
6. Podnieks, E. "International Perspectives on Elder Abuse." *Journal of Elder Abuse & Neglect*, Vol. 28, No. 4 (2016): 221–235.
7. The Constitution of India.
8. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.
9. Protection of Women from Domestic Violence Act, 2005.
10. World Health Organization. *World Report on Ageing and Health*. Geneva: WHO, 2015.
11. United Nations Office of the High Commissioner for Human Rights. *Human Rights of Older Persons*. Geneva: OHCHR, 2020.
12. World Health Organization. *Elder Abuse Fact Sheets*.