



## ADEQUACY OF LAWS FOR THE CARE AND PROTECTION OF ELDERLY PEOPLE IN INDIA: CRITICAL ANALYSES

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### ABSTRACT

This research paper aims at providing an understanding of the factors leading to an increase in the miseries of elderly people. Further, it explores the existing laws for mitigating the sufferings of elderly people under international laws, constitutional laws, personal laws, criminal laws, civil laws, special laws and laws enacted exclusively for the care and protection of the elderly people in India. It also discusses the various government policies and schemes for the welfare of elderly people. When looking at crime against elderly people in India, the question arises: How far the existing laws are adequate to provide care and protection to elderly people in India. The statistical data on crime against elderly people are analysed to give suggestions and recommendations for improving the condition of elderly people in India.

#### Keywords:

Elderly people, older people, senior citizens, Legal Aid, maintenance, protection, Old age

### I. INTRODUCTION

Traditionally, India had a joint family system where elders were treated equivalent to God. They were given supreme importance and were taken care of by their children and the other family members with love and compassion. But with time, families became smaller and smaller, and more nuclear families emerged. The members of a family started getting distant from their elders. Migration, work pressure, minimum technology, and human life expectancy has increased over the past few years. This has led to a substantial increase in the country's population of old-aged people. But at the same time, these developments and advancements have adverse consequences. Rapid urbanisation, industrialisation and modernisation have led to the trend of a nuclear levels of patience and several other factors have resulted in neglect, abuse and abandonment of the elderly in India.<sup>1</sup> With the advancement in medical science and family, the tradition of care and respect for the elder is on the decline, making senior citizens more vulnerable to crimes. On top of all this, lack of cooperation from the police; lengthy, complicated and expensive judicial procedure also

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<sup>1</sup>Anuradha Thakur, 'Care of Senior Citizens and the Role of the State', *Economic And Political Weekly* 11 (2008), available

at:[http://www.epw.in/system/files/pdf/2008\\_43/17/Care\\_of\\_Senior\\_Citizens\\_and\\_the\\_Role\\_of\\_the\\_State.pdf](http://www.epw.in/system/files/pdf/2008_43/17/Care_of_Senior_Citizens_and_the_Role_of_the_State.pdf).

restrains elder people from lodging complaints against the criminal. Sometimes even senior citizens do not cooperate with the investigating agency. They do not provide details of their domestic help and tenants for verification. They want their problems redressed without any action against the wrongdoer, often their children's relative or servant. Their casual approach and fear of revenge from the accused also contribute to the rise of crime against them.

There is a need for a formal law mechanism for the protection and welfare of the elderly person. This need for safety and welfare has been recognised under both international law and domestic law, which is evident from the elaborate discussion of International and Domestic laws as under.

## **II. INTERNATIONAL LAW**

The safety and welfare of elderly people have been a matter of concern even at the international level. There are various conventions and treaties at the international level which has explicitly provided safeguards for the care and protection of elderly people. The U.N. General Assembly declared 1999 as the International Year of the older persons and October 1 as the "International Day for the older person". The U.N. General Assembly, on December 16, 1991, adopted 18 principles that are divided into five clusters. These clusters consist of independence, participation, care, self-fulfilment and dignity of the older persons. Universal Declaration of Human Rights, 1948, under Article 3, provides the right to life and security of a person. Universal Declaration of Human Rights, 1948 under Article 25(1) provides a right to an adequate standard of living for every person and his family. International Covenant on Civil and Political Rights, 1966 under Article 6(1) and 9(1) provide a right to life, liberty and security for every person. International Covenant on Economic, Social and Cultural Rights, 1966 under Article 11 provides the right to an adequate standard of living for himself and his family.

## **III. GENERAL DOMESTIC LAWS**

The domestic laws of India have various laws that recognise the need for the care and protection of elderly people in India. The supreme law of our country, i.e. the Constitution of India, has very strongly advocated promoting the welfare of elderly people who have invested the prime years of their life in the growth and development of our nation. The elderly people strongly deserve a dignified life where they are not at mercy for securing the basic necessities

of life. Similarly, other statutory laws also provide for the welfare of elderly persons, which are elaborately discussed as under-

### **Constitution Law:**

The Constitution of India equally supports the need of senior citizens for special protection. Article 41 provides for public assistance in case of old age. This provision is a part of directive principles, so it is not enforceable but fundamental in the governance of our country. So, the State is under an obligation to keep in mind the question of public assistance to elderly people while governing the country. Entry 24 in list III of schedule VII deals with the Welfare of Labour, including work conditions, provident funds, liability for workmen's compensation, invalidity and old-age pension and maternity benefits. Item 9 of the State list and Item 20, 23 and 24 of the concurrent lists relate to the old-age pension, social security, social insurance, economic and social planning. So, it shows that the protection of elderly people is a well-recognised right by the framers of the Constitution while distributing the legislative subject matters.

### **Personal Laws:**

Almost everyone recognises the moral duty to maintain parents. However, the position and extent of maintaining elderly people vary from community to community which is dealt with under their respective personal laws.

#### *Hindu Law:*

Hindu Law recognises some special rights for senior citizens. The statutory provision for maintenance of parents under Hindu personal law is contained in Section 20 of the Hindu Adoption and Maintenance Act, 1956. Under this section, both sons and daughters are equally responsible for maintaining their parents. Only those parents who are financially unable to maintain themselves from any source are entitled to seek maintenance from their children. Parents of any age can claim maintenance from children.

#### *Muslim Law:*

Under Muslim Law also, children are bound to maintain their parents. It provides that children having resources to maintain are bound to maintain their poor parents, even if parents are in a position to earn something for themselves. Even if not having resources to maintain, a son is bound to maintain his mother if the mother is poor irrespective of her capability of earning. A poor son but earning something is bound to support his father not

earning anything. According to Muslim law, both sons and daughters must maintain their parents.

The Christians and Parsis have no personal laws providing maintenance for the parents. Under these communities, parents who wish to seek maintenance have to apply under the Criminal Procedure Code provisions.

### **Criminal Law:**

The Cr.P.C 1973 is a secular law and governs persons belonging to all religions and communities. The provision for maintenance of parents was introduced in Section 125(1) of the Code of Criminal Procedure in 1973. Daughters, including married daughters, also have a duty to maintain their parents. The code imposes an obligation on children to maintain their parents only if they neglect or refuse to maintain despite having sufficient means to maintain their parents. Parents can claim maintenance from children only if they cannot maintain themselves. The age of parent is immaterial for claiming the right to maintenance.

### **Civil Law:**

Like constitutional law, Personal laws and criminal law, civil laws also provide safeguarding provisions for the protection of elderly people. The Indian Contract Act, 1872 under section 16 deals with the instances of undue influence. It is of much use for senior citizens as generally, people in a dominant position take advantage of their position and tends to enter into contract disadvantageous for elderly people. One of the essential ingredients for proving undue influence is if the other party is in a dominant position and takes advantage of the dominant position. Under such circumstances, if any contract is entered, it's a voidable contract and gives a right to the senior citizen to set aside an agreement.

Similarly, the Specific Relief Act, 1963 also under section 31, enables provision for protecting senior citizens' interests. By this provision, if a written instrument is initially valid, but becomes inefficacious by subsequent events, then under such circumstances, courts intervene to prevent injustice or hardship and will decree a delivery and cancellation of the instrument. Thus, helping out a senior citizen to recover their property from someone who is not the owner of the property.

#### IV. SPECIAL DOMESTIC LAWS

Some special laws provide additional protection to elderly people by providing a speedy remedy for violations of rights and helping in litigation by the elderly. The protection of women from the Domestic Violence Act, 2005 is another enabling Act under which senior citizens can take protection and claim compensation for the violence inflicted on them. A woman senior citizen can complain about the domestic violence inflicted upon her by the person in a domestic relationship with her. Domestic relation includes a relationship by consanguinity, marriage or through a relationship like marriage, adoption, or family members living together as a joint family.

Legal Services Authorities Act, 1987 came into force in 1995 and proved to be a golden gift for poor people. The objective of this Act is to promote equal access to justice by providing legal aid. Lack of legal awareness and high litigation charges are some of the reasons which restrain people from taking legal action against the wrongdoer. Under the rules framed under this Act, many States have made senior citizens entitled to free legal aid, including free legal counselling, waiver of court fees, and free legal representation in court.

Another factor that restrains people from filing cases against the wrongdoer is the delay in the disposal of cases. To handle this problem as far as it concerns the elderly people, the Chief Justice of India has advised all the Chief Justices of High Courts to prioritise cases involving older people and ensure expeditious disposal. Punjab and Haryana High Court Case Flow Management Rules, 2007 provides that senior citizen cases should be tried in fast-track courts, and all efforts should be made to decide such cases within six months.

The plight of elderly people in our country, despite many safeguarding provisions for elderly people under various laws discussed above, highlighted the need for an exclusive Act for the care and protection of elderly people, which led to the enactment of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

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

This Act aims to provide more effective maintenance provisions, including food, clothing, residence and medical attendance and treatment<sup>2</sup> for senior citizens and parents. The Act was unique because the whole procedure under the Act was cheap, time-saving and simple.<sup>3</sup>

### *The beneficiary of the Act:*

A parent, who cannot maintain himself from his earnings or his property, can claim maintenance from one or more of their children.<sup>4</sup> The Act defines parents broadly to include both father or mother, either biological or adoptive or step.<sup>5</sup> The point to be noted here is that parents under this Act need not be above 60 years of age. The term 'children' also has been defined broadly and covers both son or daughter or grandson or granddaughter (excluding a minor). Therefore, even grandfathers can claim maintenance from their grandson or granddaughter.<sup>6</sup>

A senior citizen who does not have children<sup>7</sup> and is above the age of 60 years<sup>8</sup>, and is unable to maintain himself from his own earnings or his property, can claim maintenance from his relative<sup>9</sup> who is his legal heir and is either in possession of his property or would inherit his property after his death.<sup>10</sup> When it comes to children, the Act is not concerned about their financial capacity to provide maintenance. But about relatives, only those relatives that have sufficient means are entitled to maintenance.<sup>11</sup>

### *Application and procedure:*

The application for maintenance can be made by the senior citizen or the parent, any person or organisation that is authorised by the above in case he is incapable, *The Tribunal itself may*

<sup>2</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s.2(B).

<sup>3</sup> Anuradha Thakur, Care Of Senior Citizens And The Role Of The State, Economic And Political Weekly 12 (2008), Available at:[http://Www.Epw.In/System/Files/Pdf/2008\\_43/17/Care\\_Of\\_Senior\\_Citizens\\_And\\_The\\_Role\\_Of\\_The\\_State.Pdf](http://Www.Epw.In/System/Files/Pdf/2008_43/17/Care_Of_Senior_Citizens_And_The_Role_Of_The_State.Pdf).

<sup>4</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s.4(1)(i).

<sup>5</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s.2(d).

<sup>6</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s.2(a).

<sup>7</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s. Section 4(1)(i).

<sup>8</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s. Section 2(h).

<sup>9</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s.4(1)(i).

<sup>10</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s. 2(g).

<sup>11</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s.4(4).

*take suomoto cognisance*.<sup>12</sup> The Tribunal, headed by the Sub Divisional Officer of a State, has to decide the maintenance claim within 90 days from the date of issuing a notice regarding the application to the children or relative.<sup>13</sup> This provision is vital as it provides a time limit for dispensation of justice, which is absent in section 125 of Cr.P.C.<sup>14</sup> The Act provides that a parent or senior citizen can claim maintenance either under this Act or under section 125 of Cr.P.C. but not under both.<sup>15</sup>

The amount of maintenance that the Tribunal can order shall be according to the prescriptions of the State Governments but cannot exceed Rs. 10, 000/- per month.<sup>16</sup> The proceedings under the Tribunal are not expensive as the Act bars the representation of parties by legal practitioners.<sup>17</sup> But a maintenance officer, who the State Government appoints, can represent a parent or senior citizen if they desire.<sup>18</sup> An interesting provision of the Act is that it provides for the process of conciliation before hearing any application of maintenance wherein the conciliation officer would try to bring about an amicable settlement of the dispute and submit his findings, and the Tribunal shall pass an order accordingly.<sup>19</sup> The intention behind such a provision is to maintain the sanctity of the family as an institution.<sup>20</sup>

#### *Establishment of Old age homes:*

The State Government has been given the discretion to establish and maintain old age homes at accessible places in a phased manner that should accommodate at least 150 indigent senior citizens.<sup>21</sup> Also, State Governments have been given the discretion to prepare a scheme for the management of old age homes, including standards to be maintained and services to be provided by such old age homes. Section 19 of the Act has been criticised as the State Government has been given the discretion to establish old age homes, and it has not been

<sup>12</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s. 5.

<sup>13</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s 5(4).

<sup>14</sup> Partha Sarathi Adhya, *The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007 Requires Serious Amendments*, 19 *Helpage India-Research & Development Journal* 40(2013), Available at: [http://www.helpageindia.org/helpageprd/index.php?option=com\\_publishing&View=Authorarticle&Itemid=10&Name=Partha%20sarathi%20adhya](http://www.helpageindia.org/helpageprd/index.php?option=com_publishing&View=Authorarticle&Itemid=10&Name=Partha%20sarathi%20adhya).

<sup>15</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s.12.

<sup>16</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s. 9.

<sup>17</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s 17.

<sup>18</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s.18.

<sup>19</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s. 6.

<sup>20</sup> Standing Committee On Social Justice And Empowerment, *The Maintenance And Welfare Of Parents And Senior Citizens Bill, 2007*, Ministry Of Social Justice And Empowerment, 28th Report, 3 (2007-08), Available at: [http://www.tiss.edu/tiss-attachements/downloads/maintenance-and-welfare-of-parents-and-senior-citizens-act-mwpsc/at\\_download/file](http://www.tiss.edu/tiss-attachements/downloads/maintenance-and-welfare-of-parents-and-senior-citizens-act-mwpsc/at_download/file).

<sup>21</sup> Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s. 19, Available at: <http://socialjustice.nic.in/oldageact.php?pageid=6>.

mandatory since the word 'may' has been used in the section and not 'shall' for the establishment of old age homes.<sup>22</sup> Further, so far Government of Delhi is concerned two old age homes have been established, one at Bindapur and the other at Lampur.<sup>23</sup>

*Medical care of senior citizens:*

The Act cast a duty on the Government to ensure that government hospitals, or hospitals funded fully or partially by the Government provides beds to all senior citizens. It also facilitate separate queues for senior citizens, treatment of chronic, terminal and degenerative diseases. It encourages research activities for chronic diseases of elders and facilities for geriatric patients in every district hospital headed by a medical officer with experience in geriatric care.<sup>24</sup>

Under the National Programme for Health care of the elderly (NPCHE), the geriatric OPD was introduced at All India Institute of Medical Sciences, New Delhi, in 2011. It would consist of a multi-disciplinary team of doctors to cover preventive, curative and rehabilitative aspects in the geriatric field.<sup>25</sup> Also, the Government of Delhi has started special clinics for senior citizens on Sundays in various Government hospitals, providing services under medicine, surgery, ENT and eye specialists, and Radiological diagnostic facilities.<sup>26</sup>

*Protection of life and property of senior citizens:*

There are many cases where a senior citizen transfers his property to his relatives. They after taking possession of their property, throw them out on the streets, leaving them all alone. To protect such activities, the Act provides that after the commencement of the Act, if a senior citizen transfers his property by way of gift or otherwise under the condition that the transferee will take care of his basic needs and if the transferee fails to do so then such a

<sup>22</sup>Partha Sarthi Adhya, The Maintenance and Welfare of Senior Citizens Act, 2007 Requires Serious Amendments, *Help Age India-Research And Development Journal*, [www.Helpageindia.Org/Helpageprd/Download.Php](http://www.Helpageindia.Org/Helpageprd/Download.Php).

<sup>23</sup>Non Statutory Institutions/Old Age Homes In Delhi, *Available at:* [Http://Delhi.Gov.In/Wps/Wcm/Connect/DOIT\\_Socialwelfare/Socialwelfare/Home/Our+Services/Social+Security+And+Old+Age+Welfare](http://Delhi.Gov.In/Wps/Wcm/Connect/DOIT_Socialwelfare/Socialwelfare/Home/Our+Services/Social+Security+And+Old+Age+Welfare)

<sup>24</sup>Section 20, Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, *Available at:* [Http://Socialjustice.Nic.In/Oldageact.Php?Pageid=6](http://Socialjustice.Nic.In/Oldageact.Php?Pageid=6).

<sup>25</sup>Press Information Bureau, GOI, Azad Dedicates AIIMS Geriatric OPD To NPCHE' *Available At:* [Http://Pib.Nic.In/Newsite/Erelease.Aspx?Relid=76405](http://Pib.Nic.In/Newsite/Erelease.Aspx?Relid=76405).

<sup>26</sup>Social Welfare Department, National Policy For Older Persons, *Available at:* [Http://Delhi.Gov.In/Wps/Wcm/Connect/Doit\\_Socialwelfare/Socialwelfare/Home/Our+Services/Social+Security+And+Old+Age+Welfare/National+Policy+On+Older+Persons](http://Delhi.Gov.In/Wps/Wcm/Connect/Doit_Socialwelfare/Socialwelfare/Home/Our+Services/Social+Security+And+Old+Age+Welfare/National+Policy+On+Older+Persons).



transfer would be deemed to be made by fraud or coercion or undue influence and declared void at the option the transferor.<sup>27</sup>

#### *Offences and Procedure for Trial:*

Any person who has the responsibility for care and protection of a senior citizen and leaves such senior citizen in any place to abandon such senior citizen then he shall be punished with imprisonment for of term of three months or with fine up to Rs 5000 or both.<sup>28</sup> Every offence under the maintenance and protection of parents and senior citizens act 2007 shall be cognisable and tried summarily by a Magistrate.<sup>29</sup>

#### **Policies and Schemes for Older Persons:**

The Government of India has provided many schemes and policies to secure the health, well-being and independence of senior citizens in our country. Schemes and policies are essential for the effective implementation of laws as it bridges the gap in the general statutory laws and the minute details of the needs of people for whom the State has enacted the laws. Some of the significant policies and schemes are discussed in detail under the following headings:

#### *National Policy for Older Persons*

In 1999, the National Policy for older persons was launched by the central Government. The aim of this Policy is to facilitate the promotion of health, safety, social security and well-being of senior citizens in India. The Policy has defined a senior citizen as above sixty years of age. This policy endeavours to encourage people to take care of their old family members. This Policy also provides for taking assistance from various NGOs to pitch in when the care and protection provided by the family members of the old person fall short. It focuses on the care and protection of elder persons who don't have family members to take care of them and are comparatively more vulnerable. This Policy has certain key areas of intervention which consists of financial security, shelter, welfare, nutrition, healthcare, education, protection of life and property etc. for securing a dignified standard of living for elderly persons of our country. The main focus of the Policy is to ensure the independent status of the elderly people because when elderly people are not dependent on anybody for their basic necessities of life, then they are not in a vulnerable position, and there are lesser chances of their being forced to

<sup>27</sup>The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s. 23.

<sup>28</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s 24.

<sup>29</sup> The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007, s.25.

live a miserable life. This Policy has introduced new schemes for the effective implementation of the objectives of this Policy. These schemes aim at building a stronger primary health care system to fulfil the health care needs of older persons, conducting training and orientation for medical and paramedical personnel to train them in the health care of the elderly, facilitating understanding of healthy ageing, promoting production and distribution of material on geriatric care, providing separate queues and keeping beds for elderly patients in hospitals.<sup>30</sup>

*National Council for Older Persons:*

The Ministry of Social Justice and Empowerment constituted a National Council for Older Persons (NCOP) to give a backbone to the National Policy on Older Persons. The main aims of the NCOP are to provide advisory to the Government on programs and policies for the elderly persons, review implementation of National Policy on Older Persons, establish a contact point at the national level for taking up the grievances of elder persons, represent the needs and demands of the elder persons to the Government, guide measures for engaging old persons and making their lives interesting, suggest measures for improving the inter-generational relationships and take up any other activity for the betterment of older persons.<sup>31</sup>

## V. CRITICAL ANALYSES OF STATISTICAL DATA

After the elaborate discussion of the laws at the international and domestic level, this segment has made an attempt to critically analyse the deterrence and prevention created by these laws to ensure the protection of elderly people from crime being committed against them. Police and courts are major stakeholders in the administration of justice. The effectiveness of any law would depend on the prompt and effective investigation by the concerned police officer and speedy disposal of cases by the court. The ineffectiveness of police investigation in criminal cases against senior citizens and the unreasonable delay in the disposal of cases by the court discourage the elderly people from filing the case or continuing with the trial of the case. So, this segment has also attempted to analyse the functioning of police investigating in the crime against senior citizens and the adjudication of cases against senior citizens by the

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<sup>30</sup>Situation Analysis Of The Elderly In India, Central Statistics Office Ministry Of Statistics & Programme Implementation, Government Of India, , Available at [Http://Mospin.nic.in/Mospin\\_New/Upload/Elderly\\_In\\_India.Pdf](http://Mospin.nic.in/Mospin_New/Upload/Elderly_In_India.Pdf)

<sup>31</sup>*Ibid*

court. The purpose of any law is to suppress the mischief for which it is enacted. The effectiveness of any law can be evaluated by analysing crime rate under the Act. If the crime rate is more, then it indicates that the Act fails to prevent the commission of the crime for which it has been enacted.

### Crime Against Senior Citizens

Total Population of senior citizens (Census of 2011)	Total crime against Senior citizens (NCRB crime report 2020)	Crime Rate (Per one lakh of the Population)
1038.5 Lakhs	24794	23.9%

NCRB crime report 2020

As per the registrar general of India actual population census 2011, the total Population of senior citizens was reported as 1038.5 Lakhs. According to the national crime report bureau report 2020, the total number of offences registered against senior citizens was 24794. The crime rate against a senior citizen is 23.9% per one lakh of the Population, which is worth consideration.

When we try to analyse the data of offences under different heads committed against senior citizens, we find that some of the offences like murder, hurt, grievous hurt, forgery, fraud and cheating, and criminal intimidation are more prominent. Data of offence under these heads are shortlisted for assessing the ground realities of the laws for the protection of senior citizens.

### Offences against Body of Senior Citizens

S.No.	Offence	Cases Reported	Crime Rate*
1	Murder	1159	1.1%
2	Hurt	6369	6.2%
3	Grievous Hurt	1138	1.1%

NCRB crime report 2020; Crime rate calculated per lakh of the Population

Old age makes elderly people weak and infirm, which puts them in a position where they can resist the force and become easy prey of offences like murder, hurt and grievous hurt. So, in the category of crimes against the human body, murder, hurt and grievous hurt are the prominent offences against senior citizens. In 2020, 1159 murder cases of senior citizens were reported, which is 1.1% per lakh population. A total no of 6369 cases was reported of simple hurt, which is 6.2 % of per lakh population. In contrast, cases of grievous hurt were comparatively lesser in no. i.e., 11381, which is 1.1 per lakh population.

### **Offences against Property of Senior Citizens & Criminal Intimidation**

<b>S.No.</b>	<b>Crime Head</b>	<b>Case Reported</b>	<b>Crime Rate</b>
1.	Theft	2872	2.8%
2.	Forgery, Cheating and Fraud	2363	2.3%
3.	Criminal Intimidation	1664	1.6%

NCRB crime report 2020; Crime rate calculated per lakh of the Population

Elderly people generally take help from other people in the maintenance of their assets and financial transactions. Science and technology have brought various services within reach of people. Still, it's difficult for the elderly people to operate these electronic gazettes and do online transactions. Hence, they generally accept the help of other people being offered to them and many times end up bearing the loss of their money and valuable securities. In the category of offences against the property, theft, forgery, cheating, and fraud are the prominent crimes. In 2020, a total number of 2872 theft cases were reported, which is 2.8 % per lakh population. The total number of forgery, cheating, and fraud cases was 2363, which is 2.3 % of the per lakh population. Due to old age, elderly people easily get intimidated and succumb to the demands of the intimidators. It is evident from the number of criminal intimidation cases registered in 2020. 1664 cases were reported for intimidating senior citizens which are 1.6% of per lakh population.

### Investigation Of Offences Against Senior Citizens

Pending cases From Previous Year	Cases Reported in 2020	Total no. of Pending Case	Total no of Cases disposed off	Chargesheet submitted in 2020 cases
16577	24794	41399	24244	18516

Source: NCRB crime report 2020

Whenever a crime is committed, the first authority which comes to mind for intervention is the police agency. The role of police in the investigation of crime is very crucial. If the investigation is not conducted effectively, then there are more probable changes of the case not being survived at the trial stage due to lack or insufficient evidence. When we look at the data of police investigation in offences against the senior citizens in the year 2020, then it shows that a total number of 41399 cases were pending for investigation out of which total no. of 16577 cases were from the previous year and a total no of 24794 cases were reported in the year 2020. On analysis of this data in the light of cases disposed off by police, we find a total no of 24244. There is a pendency of 41.4 % at the investigation stage of offences against senior citizens. Out of the 24794 cases reported in 2020, the charge sheet was submitted only in 18516 cases, which is 76.4% of the reported cases in 2020. In the total no of 4424 cases, no clue or sufficient evidence was found. Delay in completion of investigation generally leads to loss and destruction of evidence. It also discourages the complainants to keep visiting police stations again and again to know the investigation status in their case. When a complainant is an elderly person who is weak and struggling from other old age issues,, his chances of pursuing the investigation are less likely.

### Conviction versus Trial

S.No.	Crime Head	Cases sent for trial	Conviction in Cases	Acquittal in Cases
1.	Murder	1028	0	111

2.	Hurt	5925	30	5302
3.	Grievous Hurt	1110	2	69
4.	Theft	914	18	84
5.	Forgery, Cheating, Fraud	998	2	84
6.	Criminal Intimidation	1602	11	208

Source: NCRB crime report 2020

On the analyses of data of cases sent for trial in the year 2020 from offences against senior citizens, it is found that the conviction rate is meager. Out of the cases settled in 2020, there are no convictions in murder cases, 30 convictions in hurt cases, 2 convictions in grievous hurt cases, 18 convictions in theft cases, 2 convictions in forgery, cheating and fraud cases and 11 cases in criminal intimidation. In contrast, there are 111 acquittals in murder cases, 5302 acquittals in hurt cases, 69 acquittals in grievous hurt cases, 84 acquittals in theft cases, 84 acquittals in forgery, cheating and fraud cases and 208 acquittals in criminal intimidation cases. So from the analysis of the data, we can infer that as the conviction rate is so low in offences against senior citizens, it is bound to affect the faith of elderly people in the justice administration system. It will discourage the same elderly people from filing a complaint if in future their rights get violated again and other elderly people who learn the lesson from the fate of cases of other elderly people.

#### **Pendency Of Cases:**

S. No.	Crime Head	% of pendency
1	Murder	96%
2	Hurt	94.4%
3	Grievous Hurt	97.7%

4	Theft	93.7%
5	Forgery, Cheating, fraud	96.4%
6	Criminal Intimidation	90.9%
7	All Offences	95.2%

Source: NCRB crime report 2020

The data shows a considerable pendency in cases of offences against senior citizens. 96% of the murder cases are pending, 94.4% of the hurt cases are pending, 97.7% of grievous hurt cases are pending, 93.7% of the theft cases are pending, 96.4 % of the forgery, cheating and fraud cases are pending, 90.9% of criminal intimidation cases are pending. There is an overall pendency of 95.2% in all offences against senior citizens. It is a well-accepted fact that justice delayed is justice denied. From the analyses of the above-stated data of pendency of offences against senior citizens, it can be easily inferred that justice has been denied to elder people. The elder people who invested their lives in the growth and development of our nation had to return from the doors of justice delivery system with empty hands.

## VI. CONCLUSION & SUGGESTIONS

The travesty of rights that have been guaranteed to a population that now comprises over forty per cent of the total citizenry of our globe is abysmal. The principles of modern-day adulterated utilitarianism echo that a state should only spend on individuals who can render their services to the nation. Social Security Benefits are therefore seen as a benevolent gesture of a few states of the first world countries and not a compulsive international human rights obligation. According to this real smidgen, it is assumed that a particular segment of the society ceases to be productive upon having attained a certain age. Therefore the State should not spend its invaluable resources on the upkeep of such individuals. This may not be the most prominently brought out factum, which may out rightly diminish the international reputation of the modern-day welfare state, but this is undoubtedly the vital consideration while modelling policy laws.

In developing countries, the lack of a social security apparatus and the weakening of the family unit present obstacles to the provision of care for elderly family members.<sup>32</sup> Lack of a comprehensive international instrument that guarantees the Rights of the Elderly, and which, according to established International Legal principles, is accepted and endorsed by the global fraternity seems like a distant calling. It is also lamented that not much attention has ever been paid to secure these rights to the elderly to the extent that they so deserve. There is a need to develop a strong and all-encompassing Rights-based mechanism, which recognises and gives effect to the rights that are made available to the senior citizenry within the framework of the International Humanitarian Laws.

The only principle which stands as a bar in the effective implementation of these International Commitments, or their timely and effective incorporation into the municipal laws of respective countries is the principle of "Rights of Progressive Implementation" under which such treaties and international instruments are kept at par with certain norms which will be achieved at a later point of time when the process of implementation has shifted focus from more compelling needs which are to be addressed. A principle that is the equivalent of a normative policy that would only focus on a problem if the State has its resources available to address for the said purpose. This principle leads to prioritisation of problems, and as dormant as it may seem now, the problem is steadily and continuously growing, with little or no representation/ support from the international community, for a senescent fraction of our Population, who are at the last pedestal of their lives, usually are too deprived, and too helpless to echo any semblance of a claim for their rights, which are due to them.

We have ample legal provisions for safeguarding the interests of elderly people. The only need of the hour is the effective implementation of these provisions. Spreading legal awareness among senior citizens about their rights, informing them about the authorities to approach in case of violation of their rights, and encouraging them to cooperate with the police by following the security measures like sharing details of their tenants and servants with the police can help in better implementation of these provisions. There is a need for sensitisation of the police agencies about the special need of elderly people and safeguards to be followed in offences against senior citizens. Though we have provisions under various high court rules for speedy disposal of cases involving senior citizens, the data depicts that it fails to produce the desired result, so looking at the pendency of cases, special courts exclusively deal with cases involving senior citizens will provide some immediate relief. Such

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<sup>32</sup>Economic, Social And Cultural Rights Of Older Persons: General Comment 6, U.N. ESCOR, Econ., Soc., & Cultural Rts. Comm., 13th Sess., Para. 1, UN Doc. E/C.12/1995/16/Rev.1 (1995)



suggested measures will reinstate the lost faith of elderly people in the justice delivery system and deter the violators in the light of effective and prompt action in cases involving senior citizens.

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