



RESEARCH ARTICLE

THE ROLE OF FAMILY IN OLD AGE PARENT CARING-CHALLENGES IN THE STRUCTURE OF MODERN FAMILIES AND LEGAL SAFEGUARDS UNDER INDIAN LAW

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ARTICLE INFO

Article History:

Received 11th May, 2025

Received in revised form

24th June, 2025

Accepted 19th July, 2025

Published online 30th August, 2025

Keywords:

OROV disease, PAHO, WHO, GBS, CDC, NSAID.

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ABSTRACT

India is experiencing a significant demographic shift marked by a growing elderly population and the transformation of traditional family structures. The responsibility of caring for aging parents, once seamlessly handled within joint families, has become increasingly complex in the context of modern nuclear and urban family systems. This paper critically examines the emerging challenges in elderly care arising from the weakening of traditional familial support. It highlights the pivotal role of the family in providing emotional, financial, and social support to aging parents. Furthermore, the study delves into the legal and constitutional mechanisms designed to safeguard the rights and welfare of senior citizens, including the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, relevant provisions under the Constitution of India (Fundamental Rights, Fundamental Duties, and Directive Principles of State Policy), and property rights governed by Hindu personal laws. The paper aims to offer an integrated understanding of the socio-legal framework surrounding elderly care in contemporary India.

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Citation: Dr. Rajani Kumari, K. and Mr. Mahesh, D.K. 2025. "The Role of Family in Old Age Parent Caring-Challenges in the Structure of Modern Families and Legal Safeguards under Indian Law". *International Journal of Current Research*, 17, (08), 34316-34319.

INTRODUCTION

Changing Demographics: India is currently experiencing a rapid demographic shift, with a marked increase in the elderly population. Projections estimate that by 2025, over 150 million people in India will be aged 60 years or older. This demographic change poses significant socio-economic challenges, including issues surrounding healthcare, social security, and elder care. The growing number of elderly individuals requires urgent attention to their well-being, especially as life expectancy rises and fertility rates decline.

Changing Family Structures: Historically, the joint family system in India provided a strong support structure for elderly parents, offering them emotional and physical care. Elders were respected and supported within the family, ensuring that their needs were met. However, the rises of nuclear families, urban migration, and changing socio-economic priorities have weakened traditional family structures. Children often migrate to urban centers or abroad, leaving elderly parents behind, leading to a breakdown in familial support systems. As a result, elderly parents face isolation, neglect, and at times, abuse.

Challenges Faced by Aged Parents in the Modern Family Setup: The transition from joint to nuclear families has significantly impacted the lives of elderly parents, particularly in urban settings. Several challenges emerge in this context:

Neglect and Social Isolation: With children dispersed across different locations, elderly parents often find themselves isolated. This lack of interaction exacerbates feelings of loneliness, which can lead to depression, anxiety, and cognitive decline.

Financial Insecurity: Many elderly parents, particularly those without a stable income or pension, depend heavily on their children for financial support. In some cases, children deny their financial assistance or even take control of their parents' assets. The rising costs of healthcare and daily living expenses further exacerbate their vulnerability.

Health and Dependency Issues: With age, chronic illnesses become more prevalent, and many elderly parents require constant medical care. Without family members to assist with hospital visits, medication, and daily routines, elderly individuals often face neglect, worsening their physical and mental health.

Loss of Decision-Making Power: In many modern families, elderly parents are sidelined in crucial decisions regarding property, finances, or healthcare. This undermines their autonomy, leading to a loss of dignity and identity.

Property Disputes with Children: Property is often a contentious issue in families. Some children attempt to transfer

property rights prematurely or neglect their elderly parents after gaining control of the property, leaving them without shelter or financial support.

Emotional Abuse or Institutionalization: Emotional abuse, such as constant criticism and humiliation, is a form of mistreatment that is often overlooked. In some cases, elderly parents are institutionalized in old-age homes, not due to necessity, but as a matter of convenience, raising ethical concerns about abandonment.

Legal Framework by International Organizations

United Nations Principles for Older Persons (1991): In 1991, the United Nations General Assembly adopted the **United Nations Principles for Older Persons** to address the rights and needs of older individuals globally. The principles focus on independence, participation, care, self-fulfillment, and dignity. In India, these principles have influenced legal frameworks such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which provides a foundation for elder care. The UN principles affirm the idea that elder care is not just a familial responsibility but a human rights issue.

World Health Organization (WHO) Report on Ageing and Health (2015): The WHO's World Report on Ageing and Health calls for a paradigm shift from disease-centered care to a function-based model, emphasizing well-being, independence, and the maintenance of functional ability in older age. This perspective aligns with India's legal frameworks, including the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and highlights the need for integrated healthcare systems and age-friendly environments.

Legal Framework in India for Elderly Protection

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007:

This Act was enacted to provide a legal framework for the maintenance and welfare of elderly parents in India. Key provisions include:

- **Legal Obligation of Children:** Children have a legal obligation to maintain their elderly parents, and parents can file complaints if maintenance is not provided.
- **Maintenance Tribunals:** These tribunals expedite the resolution of disputes regarding maintenance and welfare, ensuring timely action.
- **Protection of Life and Property:** The Act empowers senior citizens to reclaim property if they are not being cared for as promised.
- **Eviction of Abusive Relatives:** In cases of abuse, the Act allows authorities to evict abusive children or relatives from the parent's residence.

Despite its potential, the Act faces challenges such as low awareness among senior citizens, emotional hesitation to take legal action against children, and inconsistent implementation across states.

National Policy on Senior Citizens, 2011: This policy aims to address the growing concerns of India's aging population. It emphasizes:

- **Social Security and Healthcare:** Ensuring that senior citizens have access to health services and social support, particularly in vulnerable conditions.
- **Promotion of Independent Living:** Encouraging senior citizens to lead independent lives by promoting income-generation and community involvement.
- **Intergenerational Bonding:** The policy advocates for the strengthening of family ties and the promotion of respect for elders through education.

Constitutional Safeguards for the Elderly

India's Constitution provides indirect protection for the elderly through several provisions:

- **Article 21 - Right to Life and Personal Liberty:** Interpreted by the Supreme Court to include the right to live with dignity, which applies directly to elderly citizens.
- **Article 14 - Equality Before Law:** Ensures that elderly citizens are entitled to equal protection under the law.
- **Directive Principles of State Policy (Article 38 & 41):** These articles guide the State to provide social security and public assistance to the elderly.

Property Rights and Elderly Parents under Hindu Law

Under Hindu law, elderly parents have full ownership and control over self-acquired property. Children have no automatic claim to this property unless the parents choose to transfer it. However, property disputes often arise, with some children seeking to claim property prematurely. Legal remedies exist, such as the Hindu Adoptions and Maintenance Act, 1956, and provisions within the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which protect the property rights of elderly parents and allow them to reclaim property if the care conditions are unmet.

Role of Family: Ethical and Social Responsibilities

While legal safeguards are essential, the true essence of elderly care lies in familial responsibility, rooted in respect, compassion, and social norms. The breakdown of traditional family structures has created a need for new approaches that emphasize multigenerational coexistence and the ethical duty to care for elderly parents.

Recommendations and Solutions: To address the multifaceted challenges faced by elderly parents in the modern family setup and to strengthen their protection and well-being, a combination of legal reforms, social initiatives, and policy interventions is necessary. These measures must work in tandem to create an environment where senior citizens are respected, cared for, and empowered.

Legal Recommendations

- **Stronger Implementation of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007:** The Act should be enforced with greater rigor to ensure timely justice and effective protection for the elderly. Government bodies must prioritize the operationalization of tribunals and increase monitoring.

- **Fast-Track Tribunals and Helplines:** Dedicated fast-track courts or tribunals should be established to expedite cases related to elder maintenance and abuse. Additionally, 24/7 helplines staffed by trained personnel can provide immediate assistance and guidance to senior citizens in distress.
- **Free Legal Aid for the Elderly:** To overcome barriers of awareness and resources, senior citizens should have access to free legal aid and counseling services. This will empower them to assert their rights without fear of financial burden.

Social Recommendations

- **Awareness Campaigns on Elderly Rights and Duties of Family Members:** Nationwide campaigns using mass media, social platforms, and grassroots organizations should educate families about their moral and legal responsibilities towards the elderly, promoting a culture of care and respect.
- **Encouraging Multigenerational Living:** Policies and social incentives that encourage joint or multigenerational family living can help restore traditional support systems and reduce isolation among the elderly.
- **Community-Based Elder Care Models:** Development of community centers and local support networks that provide social, medical, and recreational services tailored for senior citizens can reduce their dependence on nuclear families and foster social inclusion.

Policy Measures

- **Improved Pension and Healthcare Schemes:** The government should enhance pension schemes and make healthcare more accessible and affordable for senior citizens. Special focus should be placed on rural and economically disadvantaged groups.
- **Senior Citizen Homes with Dignified Living Conditions:** Where family care is unavailable or inadequate, the government and NGOs should establish well-managed old-age homes that provide comfortable, secure, and respectful environments for elderly residents.

A holistic approach combining legal reinforcement, social sensitization, and supportive policies is essential for addressing the challenges faced by elderly parents in modern India. These recommendations seek to preserve the dignity of senior citizens and promote a caring society where family and community unite to honor and care for their elders.

CONCLUSION

The family has historically served as the primary institution for elderly care in Indian society, especially within the traditional Hindu joint family system. Rooted in values of filial piety, collective responsibility, and dharma (duty), this structure placed elders at the heart of familial and community life. However, the last few decades have witnessed a profound transformation in this age-old arrangement. The rise of nuclear families, increasing urban migration, and the influence of individualistic, modern lifestyles have fragmented the cohesive, intergenerational living once typical in Hindu households.

These shifts, while not entirely negative, have significantly weakened the informal households. These shifts, while not entirely negative, have significantly weakened the informal social security net that elders relied upon for emotional, financial, and physical care. In this new reality, legal frameworks such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, constitutional protections (e.g., Articles 21, 41, and 51A), and property laws under Hindu Adoptions and Maintenance Act, 1956 are critical. They provide enforceable rights to maintenance, protection, and dignity. Yet, legal remedies alone cannot substitute for the emotional intimacy, respect, and daily care giving that only families can provide.

The changing Hindu family structure thus presents both a challenge and an opportunity. On one hand, it has led to increased elder neglect, property disputes, and isolation. On the other, it opens the door to redefining familial responsibility, not as a burden but as a shared societal and intergenerational ethic. Respect for elders, which is deeply embedded in Hindu philosophy, must be revitalized—not only through law and policy, but also through education, public awareness, and cultural discourse.

Ultimately, a sustainable and dignified model of elder care in India must bridge the gap between formal legal rights and informal social obligations. This calls for:

- Reinstating the value-based principles of Hindu tradition that honor and uphold the status of elders.
- Encouraging multigenerational coexistence within evolving family forms.
- Creating community-based support systems to fill gaps where family support is lacking.

By integrating legal enforcement with moral rejuvenation, India can ensure that its elderly citizens are not only protected under the law but are also cherished within the home. Only then can we truly uphold the constitutional and cultural **promise** of dignity, respect, and care for our aging parents.

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