

SENIOR CITIZENS' RIGHTS IN INDIA: A CRITICAL REVIEW ON THE PRADIPTY BHARDWAJ'S RESEARCH ON "A CRITICAL ANALYSIS OF SENIOR CITIZENS' RIGHTS IN INDIA"

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The present study critically appraises Pradipty Bhardwaj's paper titled "The rights of senior citizens in India: a critical analysis". The objective of the paper is to critically analyse the legal, social and cultural status of rights of senior citizens in India. The study analyzes the existing legal protections, the functioning of the Tribunals established under the 'Maintenance and Welfare of Parents and Senior Citizens Act, 2007' and the imbalances between the legislative intent and the on-ground reality. In a paper by Bhardwaj, the arguments presented suffer from both weaknesses and strengths. This review aims to highlight both. Besides, it adds to the burgeoning literature on geriatric justice in India.

Introduction

In this intellectual research creation of, Pradipty Bhardwaj demonstrates the Indian ethos through the Vedic injunctions, मातृ देवी भव (Matru Devo Bhava)' and 'पितृ देवी भव (Pitru Devo Bhava)' which places the parents at par with the God in the Indian culture and tradition. She contrasts the moral teachings with the contemporary socio-legal reality through the increasing neglect, economic deprivation and abuse of elderly citizens.

Socio-Economic and Cultural Dimensions of Elderly Rights

Bhardwaj situates the problem of elder abuse within a broad socio-economic and cultural matrix. The author also highlights the neglect of geriatric care in India, citing poor medical conditions and other social ignorance. The joint family system is degenerating, and nuclear households are being formed. This has resulted in an effect on generation gap and elder abuse.

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Legal and Human Rights Framework

● International Context:

Bhardwaj reviews major international human rights instruments, including the 'Universal Declaration of Human Rights (1948)', 'ICCPR', 'ICESCR', 'Vienna International Plan of Action on Ageing (1982)', 'United Nation Principles for Older Persons (1991)', and 'Madrid International Plan of Action' (2002).

● National Context

In India, protections for senior citizens come from the Constitution and laws.

- Article 21: Right to life with dignity.
- Directive Principles (Articles 41 and 46): State obligation to ensure welfare and economic security.
- Personal Laws: 'Hindu Adoption and Maintenance Act, 1956' imposes filial duties on children.
- Schemes and Policies: 'National Policy for Older Persons (1999)' and Annapurna Scheme are highlighted as welfare mechanisms.

- Introspective Analysis of the ‘Maintenance and Welfare of Parents and Senior Citizens Act, 2007’

This document critically analyses the ‘*Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. According to Bhardwaj, this act is the first comprehensive legislation on maintenance, welfare, and protection of senior citizens but has several lacunae.

- Narrow definition of “children” (excluding sons/daughters-in-law and adoptive children).
- Restrictive definition of “maintenance” limited to food, shelter, and clothing, excluding safety and dignity.
- Maintenance cap of ₹ 10,000 per month, inadequate for urban living.
- Restriction on legal representation under Section 17.
- Lack of clear mechanism for cases involving childless or property-less elders¹.

Judicial Interpretation and Activism

Bhardwaj traces judicial responses post-2007, emphasizing the role of the higher judiciary in strengthening elder rights:

- **In Ashwani Kumar v. Union of India**,
The Supreme Court of India expanded Article 21 in 2018 to include rights to health, shelter and dignified ageing².
- **The case of Sunny Paul v. NCT of Delhi in 2018** was about the right of parents to evict abusive kids³.
- **Darshna v. Govt. NCT Delhi law of (2018)**: granted eviction powers to abusive daughters-in-law⁴.

Empirical Analysis of Tribunal Functioning

Bhardwaj’s study is unique. In his empirical study of the functioning of the ‘*Maintenance Tribunal in Karnataka (South Division). Using 2015 to 2018*’ data highlights persistent problems which are as follows:

- Rising pendency of cases (from 33 in 2015 to 124 in 2018).
- Poor disposal rates and non-compliance with the 90-day limit for adjudication.

- Limited working hours (two hours per week).
- Lack of digital record-keeping and public awareness.

Findings and Recommendations

Bhardwaj proposes a series of pragmatic reforms.

- i. Remove the maintenance ceiling and link payments to financial capacity and cost of living.
- ii. Enable *suo-motu* action by tribunals in cases of evident elder abuse.
- iii. Ensure dedicated officers and reduce tribunal workload.
- iv. Enhance dispute resolution systems for settlements. Reviewer’s Analytical Opinion.

Pradipty Bhardwaj’s review article titled “*A Critical Review of the Rights of Senior Citizens in India*” captures scholarship and contextual sensitivity in tracking the evolving jurisprudence of the rights of elderly people in India. The writer does good work interdisciplinary by providing doctrinal, empirical, and theoretical critique.

Analytical Strengths of the Review of Literature

The review of literature in the paper is particularly notable for its breadth and integrative approach, encompassing both international and national frameworks. Bhardwaj adeptly situates India’s geriatric legal discourse within the global human rights architecture citing the ‘Universal Declaration of Human Rights (1948)’, ICCPR, ICESCR, the ‘Vienna International Plan of Action on Ageing’. At the national level, the literature review demonstrates a thorough understanding of constitutional protections, specifically under Articles 21, 41, and 46 and the statutory measures like *Maintenance and Welfare of Parents and Senior Citizens Act, 2007*.

Critical Observations

In some aspects, the review of literature could be bolstered despite these strengths. The concentration is generally on macro level global and national law. There is little development of regional and gendered facets. A comparative study with developing countries or South Asian jurisdictions could provide useful contextualization.

Additionally, although the paper commendably focuses its empirical work on the Karnataka Tribunal data (2015–2018), the literature review can note policies after 2018, like the 2019 Draft Maintenance Bill. Furthermore, the WHO’s Decade of Healthy Ageing (2021-2030) framework can be integrated here, which fits besides Bhardwaj’s call for institutional reform and age-sensitive governance and jurisprudence⁵. □

References

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5. R. K. Prajapati, V. K. Shukla, and Arun, *Legal Protection to the Senior Citizens: Issues, Challenges and Future* (2023), Book River.