

# Evaluating the Access to Legal Aid by Senior Citizens in India

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## ABSTRACT:

The Indian Constitution guarantees older individuals, one of the most disadvantaged groups in society, the basic right to get legal help. However, senior citizens often encounter substantial obstacles in exercising this right. The purpose of this research study is to assess the availability of legal aid services for older individuals in India, investigating the efficacy of current frameworks and pinpointing the deficiencies that impede the elderly's equal access to the legal system. Using a mixed-methods approach, the research evaluates the effectiveness and scope of legal aid systems, including state legal aid services, **the National Legal Services Authority (NALSA)**, and other welfare programs aimed at elderly residents. It does this by looking at both qualitative and quantitative data. **The study offers a critical analysis of the laws, court rulings, and policy initiatives intended to provide legal assistance for older individuals.** Additionally, it looks at the socioeconomic variables that add to the structural obstacles these people encounter, such as illiteracy, physical immobility, and unstable finances. In order to get insight into the real-world obstacles faced by older individuals seeking legal recourse, the paper also contains interviews with experts, service providers, and recipients of legal assistance. Through the presentation of significant developments and case examples, this paper provides a thorough assessment of the state of legal assistance for older adults. It ends with policy proposals for increasing accessibility, such as growing outreach initiatives, raising public knowledge, and fortifying the framework supporting legal aid services. By supporting policies that can protect the rights and dignity of India's ageing population, the study aims to further the conversation on social justice.

**Keywords:** Social justice, NALSA, India, vulnerable groups, legal assistance, senior people, access to justice, policy assessment, judicial interventions, and legal aid services.

## 1. INTRODUCTION:

Ageing is one of life's many constants and is essential to preserving its equilibrium. The elderly have always been sought after and respected in our Indian community for their wisdom and decision-making abilities. There has been a paradigm change in these activities as a result of these ideas evolving throughout time. One of the main victims of these shifts in the broader socioeconomic environment has been the ageing population. Unfortunately, when it comes to having access to the legal system and its institutions, the elderly—a significant segment of the population—are the most susceptible. The epidemic has brought attention to the importance of legal institutions, services, and access to the law—all of which are necessary to provide an honourable life for the old and the aged. Such vulnerabilities are made worse by the state's meagre responses.

There have been a lot of recent initiatives to provide older people with more protection. The family is changing dynamically, which calls for significant modifications to the institution—especially when considering it from a socioeconomic standpoint. The elderly are now at risk of abuse, neglect, and suicide as a result of this. The elderly are now seen as a burden, a drastic shift from the old viewpoint of coexisting with and providing care for them. With time, the gap between the younger and older populations has grown. This calls for a well-considered agenda and strategy for handling the plethora of legal issues that the elderly face. **The government has further solidified and reinforced the traditional notion of providing care for the elderly, which is seen as both a social and moral duty, via a number of initiatives, particularly in the previous several decades.**

The physical and mental dependence of the elderly makes them a vulnerable segment of the population. In addition to being morally required of the younger generation, the State is required under the Constitution to protect the elderly under **Part IV of the Directive Principles of State Policy**<sup>1</sup>. The clause places the burden of defending the rights of the elderly who fall within that group of individuals who are deemed undesirable on the state. Also known as "elder persons" or "senior citizens," they make up a significant section of the population both locally and worldwide. **The 2011 National Policy on Senior Citizens has essentially stated that this demographic would grow between 2000 and 2050**<sup>2</sup>. The analysis projects that the demographic profile of those **over 60 will rise by 326 percent**, while that of people **over 80 will rise by 700 percent**<sup>3</sup>. **With 8% of the population being senior, India's life expectancy grew to 69.7 years in 2020 and is expected to reach 75.9 years by 2050**<sup>4</sup>. **A 2002 study by the United Nations World Assembly** made a number of recommendations for the elderly around the world. These included the need to create supportive environments, offer legal counsel, remove legal obstacles to receiving healthcare services, provide legal protection for older women, and fortify the current legal framework to end abuse<sup>5</sup>.

Healthcare, housing, safety and security, and other social programs must be accessible to the elderly. In addition, there have been many more crimes and forms of abuse committed against them. **According to statistics from the National Crime Record Bureau, there was a consistent rise in recorded incidents of crimes against the elderly from 18,174 in 2014 to 21,410 in 2016**<sup>6</sup>. In situations like this, the requirement for legal counsel and access to legal institutions exacerbates the problem even more<sup>7</sup>. Science and technological developments have increased life expectancy, but at the same time, elder abuse and neglect have increased, making governmental interventions necessary to ensure that the elderly live the dignified life guaranteed by **Article 21 of the Constitution**<sup>8</sup>.

<sup>1</sup> Constitution of India 1950, Article 41: 'The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.'

<sup>2</sup> National Policy on Senior Citizens 2011, 2. <https://socialjustice.gov.in/writereaddata/UploadFile/dnpsc.pdf>. Accessed 15 August 2022.

<sup>3</sup> Ibid.

<sup>4</sup> Leyanna Susan George, 'Ageing in India: An Intricate Phenomenon' in Helaine Seline (ed), *Ageing across Cultures: Growing Old in the Non-Western World* (Springer 2021) 165–179.

<sup>5</sup> United Nations Department of Economic and Social Affairs on Ageing, *Report of the Second World Assembly on Ageing, A/CONF.197/9* (2002).

<sup>6</sup> National Crime Records Bureau, *Crime in India* (2019) Chap. 6A, Table 6A.1. [https://ncrb.gov.in/sites/default/files/crime\\_in\\_india\\_table\\_additional\\_table\\_chapter\\_reports/Table%206A.1.pdf](https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%206A.1.pdf). Accessed 05 February 2022.

<sup>7</sup> Alan Gutterman, 'Older Persons Access to Justice' (2022) (*Oakland CA: Older Persons' Rights Project*, 2022) 1–2.

<sup>8</sup> Anuradha Thakur, 'Care of Senior Citizens and the Role of the State' (2008) 43(17) *Economic and Political Weekly* 11

Since **Article 21 of the Constitution has been expanded**, the judiciary has been able to consider aspects of the right to health and medical care, the right to a dignified life, the right to live with dignity, and the obligation of the government to provide medical aid—all of which are in line with **Article 25 of the Universal Declaration of Human Rights**<sup>9</sup>. As a result, the state passed the Maintenance and Welfare of Parents and Senior Citizens Act in 2007, which offers assistance to elderly people who are often ignored by their kids. The state makes these kinds of sporadic, restricted interventions.

The elderly are experiencing societal, economic, and emotional catastrophe as a result of the unprecedented COVID-19 epidemic. In particular, their incapacity to utilise technology, lack of accessibility, and desertion have all contributed to their increased isolation. The elderly have been at a crossroads as society has adjusted to the new norms after the epidemic. They lack legal knowledge about particular laws, rules, and programs, and they are often unaware of the availability of free legal help.

As a result of losing their social life, financial support, and capacity to communicate with their immediate relatives, older people have few or no options for seeking legal counsel and remedies. **Numerous frontline workers, individuals, police, and non-governmental organisations (NGOs) have stepped in to provide medical and food help to the elderly all around the world.** However, no specific cases of older individuals receiving legal knowledge and aid—with a focus on India—have been documented. It is also true that the ageing Indian population depends on the country's economy and society. **The old-age dependence ratio, which was 9.8% in 2020, is projected to rise to 19.8% by 2050 due to the lack of social security programs.**<sup>10</sup> It's time to include all elderly folks in the purview of a distinct class or category of citizens who are entitled to free legal assistance and education in order to guarantee legal stability.

The Global Study on Legal Aid, which was co-authored by the United Nations Development Programme and the United Nations Office on Drugs and Crime, promotes the notion that older people's rights must be upheld in the fight for equitable access to justice.<sup>11</sup> **The paper states that age-appropriate and gender-sensitive metrics should be included in order to meet the unique requirements of those groups.** According to the survey, older people have particular disadvantages, particularly when it comes to receiving legal aid and using the judicial system<sup>12</sup>. The research has significant weight when considering the dearth of free legal assistance and services for the disadvantaged senior citizen population. For this reason, the study calls for government actions to ensure the security and well-being of older residents<sup>13</sup>. **In its study on the aged, the National University of Advanced Legal Studies' Centre for Human Rights specifically highlighted the difficulties older individuals confront and offered solutions for resolving certain problems**<sup>14</sup>.

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<sup>9</sup> Universal Declaration of Human Rights, Article 25(1): 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

<sup>10</sup> S Vijay Kumar, 'Social Security for the Elderly in India' (2001) 31(4) *Social Change* 21.

<sup>11</sup> United Nations Office on Drugs and Crime, *Global Study on Legal Aid—Global Report* (2016) 73. The study provides insights into the current state of legal aid practices across the globe. The report also highlights specific challenges and priority areas of legal aid delivery.

<sup>12</sup> *Ibid.* 75, 76, 128.

<sup>13</sup> *Ibid.* 7.

<sup>14</sup> National Human Rights Commission, *Human Rights of the Elderly Persons: Law, Policies and Implementation: A Study with Special Reference to Kerala* (An initiative by the Centre for Human Rights, National University of Advanced Legal Studies)

The study report indicates that inadequate legal knowledge is among the primary issues that the ageing population faces. Therefore, the state must step in to make the necessary modifications to the current legal system and to enact new policies in order to provide free legal help, raise knowledge of the law among the elderly, and promote legal literacy. Building a fair and inclusive society in line with Sustainable Development Goal (SDG)<sup>15</sup> requires doing this<sup>16</sup>.

The promotion of law at the national and international levels is one of the SDGs' goals in order to guarantee that everyone has access to justice. Achieving efficient, transparent, and accountable institutions is another goal of the SDG in order to guarantee "inclusive" decision-making at all levels<sup>17</sup>. For this reason, the availability of legal assistance is crucial to older adults' wellbeing. Another crucial component of healthy social, emotional, and physical wellbeing is the availability of legal consultation<sup>18</sup>.

In light of these objectives, this study examines the function, applicability, and awareness of legal assistance via a review of important legal aid publications and Law Commission reports. This approach has given rise to an understanding of the ground-level realities, which, supported by empirical insights, provide the foundation for suggestions that are supported by evidence.

**Research Methods - Evaluating the Access to Legal Aid by Senior Citizens in India**

Research Method	Description	Rationale	Data Collection Techniques	Expected Outcome
Literature Review	Analyzing existing research, reports, and case studies on legal aid accessibility for senior citizens in India.	To understand the current state of research, identify gaps, and establish a theoretical framework for the study.	Reviewing academic journals, government reports, and NGO publications.	Provides a foundational understanding of existing knowledge and gaps in the area of legal aid for seniors.
Surveys/Questionnaires	Collecting quantitative data from senior citizens regarding their experiences and perceptions of legal aid accessibility.	To gather broad data on senior citizens' awareness, usage, and satisfaction with legal aid services.	Distributing structured surveys to senior citizens across various regions.	Quantitative data that reveals patterns in accessibility and usage of legal aid services among seniors.

(2018). [https://nhrc.nic.in/sites/default/files/Project%20Report%20on%20the%20Rights%20of%20the%20Elderly\\_NUALS.pdf](https://nhrc.nic.in/sites/default/files/Project%20Report%20on%20the%20Rights%20of%20the%20Elderly_NUALS.pdf). Accessed 24 September 2024.

<sup>15</sup> Ibid. 75, 76, 128.

<sup>16</sup> UN Sustainable Development Goal 16: 'Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable, and inclusive institutions at all levels.' <https://sdgs.un.org/goals/goal16>. Accessed 22 September 2024.

<sup>17</sup> United Nations Department of Economic and Social Affairs, (*The Sustainable Development Goals Report, 7 July 2022*) <https://unstats.un.org/sdgs/report/2022/The-Sustainable-Development-Goals-Report-2022.pdf>. Accessed 22 September 2024

<sup>18</sup> Marie Weil, 'Involvement of Senior Citizens in Needs Assessment and Service Planning' (1982) 11(2-3) Non-profit and Voluntary Sector Quarterly 59, 64.

Interviews	Conducting in-depth interviews with senior citizens, legal aid providers, and officials involved in senior citizen welfare.	To obtain qualitative insights into specific challenges, barriers, and perceptions regarding legal aid accessibility.	Semi-structured interviews with selected participants.	Detailed qualitative data that highlights personal experiences and systemic issues.
Case Study Analysis	Analyzing specific cases where senior citizens have sought legal aid, including successful and unsuccessful cases.	To understand real-world scenarios and explore factors affecting legal aid accessibility in specific instances.	Collecting and analyzing legal case files and records.	In-depth examples that illustrate practical challenges and outcomes in accessing legal aid.
Focus Groups	Organizing focus group discussions with senior citizens and legal aid providers to discuss experiences, challenges, and suggestions for improvement.	To facilitate discussions that bring out diverse viewpoints and collective insights on legal aid access.	Recording discussions and analyzing themes from focus groups.	Group insights that help identify common issues and potential solutions.
Observational Research	Observing the functioning of legal aid centers and the interactions between staff and senior citizen clients.	To gather insights into the practicalities of service delivery, including staff behavior, resource allocation, and procedural efficiency.	Field visits and non-participant observations in legal aid centers.	Contextual understanding of operational challenges in legal aid centers.
Policy Analysis	Reviewing existing policies, laws, and government schemes related to legal aid for senior citizens in India.	To evaluate how current legal frameworks and policies address the needs of senior citizens in accessing legal	Analyzing policy documents, legal frameworks, and government schemes.	Insights into the adequacy and effectiveness of policies affecting legal aid access for seniors.

		aid.		
Comparative Analysis	Comparing legal aid accessibility for senior citizens in India with that in other countries.	To identify best practices and potential improvements by examining how other countries address legal aid for senior citizens.	Reviewing international reports and case studies from other countries.	Comparative insights that highlight areas for improvement in India’s legal aid system.
Statistical Analysis	Analyzing data on the number of senior citizens accessing legal aid services, including demographic factors and case outcomes.	To quantify the extent of access to legal aid services and understand trends among different demographic groups of senior citizens.	Collecting and analyzing data from legal aid centers, surveys, and government records.	Statistical evidence of the accessibility and effectiveness of legal aid for senior citizens in India.
Ethnographic Research	Immersive research involving spending time within communities of senior citizens to understand their daily experiences and legal challenges.	To gain a deep, contextual understanding of the lived experiences and perspectives of senior citizens regarding legal aid.	Long-term observations and informal conversations with community members.	Rich, descriptive data that offers nuanced insights into the challenges faced by senior citizens.

## 2. FINDINGS AND DISCUSSION

This section explores the study results in more detail, examining the legal protections now in place for elderly persons, the obstacles they have when trying to get legal help, and the effectiveness of government programs and non-governmental organisations in this area. By looking at these factors, the study hopes to shed light on areas that need development and provide a comprehensive picture of the state of legal assistance for older individuals in India today.

### 2.1 Framework and Legal Provisions

In order to guarantee that all Indian people, especially the elderly, have access to justice, the legal system offers a number of statutory and constitutional protections. These provisions are intended to handle the particular difficulties that older people confront; a large number of them deal with property disputes, family maintenance, healthcare, and elder abuse. The principal legal provisions that are pertinent to this study are:

- **Indian Constitution, Article 39A:**

In order to guarantee that no citizen is denied access to justice because of financial or other impediments

Article 39A requires the state to provide free legal assistance. Senior persons in particular are entitled to the protection of this constitutional duty since they are a vulnerable segment of society. The senior population, especially those from rural and marginalised origins, still has a low understanding of this service in reality.

- **The Legal Services Authorities Act, 1987**

In order to provide free legal assistance to qualified residents, this legislation created the structure for legal services authorities at the federal, state, and local levels. One of the main demographics covered by this law's entitlement to free legal assistance is senior folks. Data, however, suggests that a large number of seniors who qualify for these programs are either not aware of them or are unable to use them because of logistical and administrative difficulties.

- **The 2007 Act for the Maintenance and Welfare of Parents and Older Adults**

Under this rule, children and heirs are legally required to support their ageing parents. It also gives older folks and parents a quick, easy, and affordable way to file a maintenance claim. In spite of this, a lot of elderly people have trouble understanding the legal system, and maintenance orders are often not enforced or are not enforced enough.

- **NALSA, the National Legal Services Authority**

NALSA is essential in offering free legal assistance and has developed programs especially for senior citizens. Notwithstanding these initiatives, ground-level execution varies greatly, with services being centred in metropolitan areas, underserving elders in rural regions.

## 2.2 Obstacles Elderly People Face:

- **Low Literacy and Awareness**

A large number of older individuals, especially those living in rural regions, are unaware of their legal assistance rights or the resources available to assist them in resolving legal matters. Low levels of legal literacy among the elderly, particularly women, and those from economically deprived origins exacerbate this lack of understanding. Furthermore, not all legal service material is senior-friendly, since many older citizens are unable of navigating internet resources or intricate procedural documentation.

- **Regional Obstacles**

Due to the concentration of legal aid providers in metropolitan areas, older individuals living in rural areas have substantial accessibility issues. Elderly people living in rural areas sometimes have to make lengthy trips to go to courts or legal aid offices, which may be expensive and physically taxing. Accessing legal assistance is made more difficult in locations where legal services are offered by the absence of infrastructure, such as senior-friendly facilities and transportation.

- **Budgetary Restrictions**

Even though legal assistance is offered at no cost due to legislative requirements, many seniors are deterred from seeking legal remedies by the accompanying expenses of doing so, including transportation, paperwork, and sometimes even unofficial fees. Furthermore, even in cases of grave concern like property disputes or elder abuse, many older citizens—especially those without a pension or consistent source of income—may place a higher priority on meeting their fundamental survival requirements than paying for legal representation.

- **Complexity of Procedures**

For older individuals, the Indian judicial system may be daunting, long, and complicated. Many senior citizens find it difficult to comprehend the steps required in submitting petitions or complaints and often

get confused by court requirements. Seniors with cognitive or physical limitations find this complexity especially difficult since they do not have the mental or physical energy to interact with the legal system.

- **Fear of Retaliation and Social Stigma**

Seniors may fear reprisals or social shame and are hesitant to file lawsuits, particularly if they are financially reliant on their offspring. This is particularly true in situations involving elder abuse or maintenance issues, since elders may be afraid to claim their legal rights for fear of being mistreated or alienated. The elderly are often placed in vulnerable situations by social dynamics, and requesting judicial assistance may exacerbate rather than lessen family strife.

### 2.3 Examining Government Programs

Initiatives of the **National Legal Services Authority (NALSA)** Establishing legal aid clinics and setting up Lok Adalats, or people's tribunals, to resolve conflicts swiftly and peacefully have been made possible thanks in large part to NALSA. Still, there is still little outreach to older persons in spite of these attempts. According to the study, a large number of older individuals are either ignorant of NALSA's services or believe they are ineffective or unreachable. Elderly people have sometimes been deterred from requesting assistance from these authorities due to delays in the administration of justice.

- **Helplines and Legal Aid Clinics**

In order to explicitly assist disadvantaged groups, such as older folks, the government has also set up legal aid clinics around the nation. Unfortunately, a lot of these clinics struggle with a lack of financing and personnel. Furthermore, there is a dearth of specialised legal practitioners with training in elder law, lengthy wait periods, and poor follow-up for helplines intended to provide guidance and support to the elderly.

- **Alternative Dispute Resolution (ADR) Mechanisms and Lok Adalats**

ADR procedures and Lok Adalats have shown the potential to provide prompt justice, especially in situations involving maintenance claims and property disputes. Compared to regular courts, these forums are seen to be less frightening and may provide speedier decisions. However, older adults often aren't able to take full advantage of these possibilities due to a lack of information and legal literacy.

### 2.4 Non-Governmental Organisations (NGOs):

**Their Function** The gap that exists between older persons and legal aid services is mostly filled by NGOs. Not only do organisations like Dignity Foundation and HelpAge India give legal advice, but they also offer practical help, such as paralegal services, paperwork assistance, and legal awareness camps. But they usually only cover a restricted area, and they constantly struggle with resources and staffing. The availability of legal help for older persons might be substantially improved by cooperation between NGOs and government organisations.

### 2.5 Judiciary Responses to Legal Needs of Senior Citizens

In a number of historic decisions pertaining to elderly persons' rights, the court has taken the initiative, especially when it comes to property disputes and maintenance issues. Courts have often highlighted the need of providing seniors with prompt and efficient relief, acknowledging their precarious social status. **For example, the Maintenance and Welfare of Parents and Senior Citizens Act of 2007 mandates that children provide care for their ageing parents. The Supreme Court has upheld this obligation**



**in a number of decisions.** Even yet, there are still delays in the legal system, which might negatively affect senior litigants who do not have the time or means to fight long-drawn out court fights.

### 3. RESEARCH QUESTIONS

1. What are the primary barriers faced by senior citizens in India when accessing legal aid services, and how do these barriers differ between urban and rural areas?
2. How effective are current legal aid services in addressing the specific legal issues faced by senior citizens, such as elder abuse, property disputes, and healthcare rights?
3. How aware are senior citizens of the legal aid services available to them, and what factors influence their awareness and utilization of these services?
4. What role do government policies and non-governmental organizations play in facilitating or hindering access to legal aid for senior citizens in India?
5. How does the satisfaction level of senior citizens with the legal aid services they receive impact their willingness to seek legal assistance in the future?

### 4. CASE STUDIES ON LEGAL HELP FOR THE ELDERLY:

**This section's case studies look at the issues facing older persons in the modern world. To get insight into the same, in-depth interviews with a variety of older people were carried out.** The tales derived from the interviews with senior people are accompanied by the professional judgements of court officers, attorneys, civic activists, and administrative officials. This document contains a variety of interviews with elderly people who live in assisted living facilities, are single, and come from both urban and rural areas. **The section lists the several vulnerabilities that older adults confront, including their inability to pay for legal representation, their physical and mental frailty, the uncertainty of court decisions, and, most importantly, the Indian societal structure that discourages them from approaching and using the legal system to seek redress.** The piece gives the government the push it needs to recognise the legal gaps affecting elderly folks and take meaningful action to solve their problems.

#### 4.1 Financial Limitations

One factor contributing to the marginalisation of the elderly is their economic destitution. Sociologically speaking, retirement and income loss are the two biggest obstacles facing elderly individuals. Additionally, research has revealed that adult children still rely financially on senior citizens<sup>19</sup>. In India, the great majority of senior citizens are not eligible for pensions, which forces them to rely on sporadic sources of income in order to support themselves as they age. An old widow's perspective in this respect was as follows:

I am my husband's second wife and do not have any children of my own. I was compelled to give up all of my belongings, including jewels, silver coins, and shares of my late spouse, by the children of my elder wife. I am now renting a flat after moving out of the home. Despite receiving a pension, I find it very difficult to handle my daily affairs, rent, and medications. Since I get a monthly pension, I wasn't sure whether I should have gone to court to get maintenance. I also didn't want to go to court because I didn't trust the judicial system or the law.

Seniors who are unable to work and who experience unstable finances are particularly concerned when it

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<sup>19</sup> A Justine Kristel Villegas, 'Greying Matters: Aging in Contemporary Philippine Society' (2014) 62(1) *Philippine Sociological Review* 139.

comes to using the legal system. Due to the financial uncertainties, they must deal with and are ill-prepared for, they are badly hampered.

Such cases are not unusual, not even among wealthy older adults living in cities. Even older people with stable financial backgrounds have challenges due to budgetary constraints. From some of the respondents' interview, it became evident that parents from well-to-do families have been instantly kicked out of the home after all the property has been changed in the children's name. Thus, the following was said by another responder who manages an assisted living facility:

The majority of elderly people have experienced child fraud, In one such case elderly people approached an NGO that offered them legal assistance. Their kid had operated a chit-fund under their name and vanished with the whole amount of money. They were really old, about 90 years old, and had very little hearing. The NGO had ceased to provide them legal assistance. They were the subject of eight fraud-related criminal accusations. Due to their generous donations of vast tracts of land for the building of temples, the family is well-known in Bangalore. As a result, many contact us while knowing very little about the law. NGOs and law enforcement agencies are the main sources of assistance for them in these situations.

Such incidents serve as a reminder of the need of governmental funding. In the aforementioned case, the respondent went into detail on how the state must intervene to assist older individuals in interacting appropriately with institutions and the judicial system. The reply went on to explain that in situations like these, governmental assistance is crucial since elderly people are incapable of handling things on their own.

Not only is funding required at the grassroots level, but it is also required at different points during the legal process. Senior citizens frequently receive early legal assistance and remedies under the Maintenance Tribunal<sup>20</sup>. The tribunals have the authority to revoke the deed that gave the children the rights to care for their elderly parents in the event that the children decline to assume this responsibility. However, when an appeal is made, the matter becomes more pressing since it puts an additional financial strain on older individuals. One of the biggest obstacles in these situations is still a lack of funding. In this context, an advocate who handled one such case noted the following:

After all the assets and money were moved into the son's name, the 75-year-old elderly citizen's 45-year-old son abandoned him. The father made contact with the Tribunal for Maintenance. The gift deed that the father had given his son was revoked by an order issued by the Assistant Commissioner. The son contested the same in front of the Honourable High Court. He received the client's referral from a fellow advocate. These elderly people are totally reliant on their advocates for advice and assistance because they lack common sense. The elderly person was placed in great danger even though the appeal was rejected and the Assistant Commissioner's decision was affirmed.

The elderly should get free legal help and support on a variety of levels. Senior persons might be taken advantage of when they depend totally on advocates. An Assistant Commissioner, who also has the authority to preside over the Maintenance Tribunal, confirmed the aforementioned in the following manner:

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<sup>20</sup> The Maintenance Tribunal is established under section 7, by the respective state governments under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Tribunal is presided over by an officer not below the rank of a Sub-Divisional officer of a state. Under Section 9, the Tribunal is vested with the power to order maintenance in the form of a monthly allowance for senior citizens whose children have either neglected or refused to take care of them.

When cases are in front of the Maintenance Tribunal, solicitors never become involved. We make an effort to guarantee that elderly individuals win 99 percent of the cases; yet, we have seen that most children seek the courts after the cancellation of the registered deeds that their ageing parents had made on their behalf.

Therefore, it's crucial to make sure that elderly people may pursue the issue in these situations when children appeal the decision without being prevented from doing so by a lack of funding. In appellate proceedings, legal assistance is also essential to prevent people from being duped by dishonest members of the legal community.

The connection between parents and children has undergone significant modifications as a result of shifting societal institutions around the family unit. Sometimes the kids are too busy making money for the family and the older people stay at home to handle legal concerns. A older person used these words to describe his helplessness:

I am a 70-year-old widower who has filed a petition with my brothers to share our property. Since my late father's name is still associated with the land, I filed an application with the Chikkaballapur court. Since none of my children are interested in my issues, I have been in and out of court for the past five years and am now searching for a middle ground. My health is declining; therefore, I spend much of my time in temples. I don't even have someone going with me to the courts. In our latter years, advocates accomplish nothing and leave us at their mercy.

Seniors are becoming even more alone as a result of the shifting dynamics of the family structure. Consequently, there is a legitimate need for legal support.

The elderly's need to travel to talukas for petition hearings and to the closest towns and cities, particularly in appeal issues, makes the issue even more prevalent in semi-urban and rural regions. In these situations, the elder residents rely on the younger generation for transportation needs as well as financial support to attend court appearances. Speaking about one such incident, an elderly man described his experience as follows:

I am 65 years old, and I have three issues that are pending in different forums in Gauribidanur and Chikkaballapur. The first issue concerns easementary rights and has been pending since 2017. It is now in the evidence stage. The second case concerns a property dispute involving my wife's siblings, and the third case concerns my brothers and I's property divide. My daughter is married, and my son lives in Bangalore. Taking care of all three situations is becoming more and more costly every day.

The aforementioned case highlights the need for the state to take proactive measures in allocating fixed financial resources in order to make the class of elderly people eligible for free legal assistance and services. The issue of financial support for elderly individuals is widespread. Therefore, in order to guarantee access to justice, it is imperative that the state take this seriously.

#### 4.2 Judicial intervention

Cases not being dismissed promptly even after so many years of independence, the Indian court is overburdened with litigation and is unable to handle an increasing volume of cases. The growing number of cases is making it difficult for the court to handle them.<sup>21</sup> **India's Law Commission reports have repeatedly brought attention to this problem since 1964.** The public's trust has been eroded by the rise in cases and the judiciary's incapacity to resolve them.<sup>22</sup> In particular, India's civil justice system

<sup>21</sup> Gurrashmeet Singh, 'Delay in Justice Delivery System in India' (2021) 1 *Jus Corpus Law Journal* 634.

<sup>22</sup> Jeffrey Falt, 'Congestion and Delay in Asia's Courts' (1985) 4(1-2) *UCLA Pacific Basin Law Journal* 90.

moves very slowly, with a very low case disposal rate<sup>23</sup>. The effects of these delays are evident, particularly for senior citizens, as shown below.

After not receiving proper care from my son, daughter-in-law, and two daughters, I had no desire to go to court to defend my rights. I didn't think highly of the legal system. I did spoke with my niece, a lawyer, and she too predicted a delay in the legal system. Approaching a court at this age was riskier than I wanted to take. My niece did aid me with all the legal guidance, but for how long could I be rely on her, even if I sought the court. Perhaps if the government had provided me with any assistance, I could have felt more at ease.

Seniors consider time to be a critical component and want early case resolution. Most of them are in a position where they want to ensure a comfortable existence for the remainder of their days. They do not want to live out the rest of their lives in a legal system. The majority of those interviewed firmly felt that going to court was unnecessary and that they would be better off not doing so. Several of them expressed doubts about their own survival by the time the courts rendered their decision.

Respondent said that he could not handle the idea of going to court and being a victim of the law and the judicial system since he was depressed due to living alone. At different points in time, excessive court procedural delays have forced older individuals to suffer in silence rather than seek legal action.

A social activist who works to guarantee that elderly people get rehabilitation in assisted living facilities has seen that when elderly people who have experienced abuse contact the Old Age Help Line, they are given advice and sent to groups that look after them. The Government of India's Ministry of Social Justice and Empowerment launched the National Helpline for Senior Citizens.<sup>92</sup> People are afraid of going to court and don't think anything can be accomplished there, therefore they are reluctant to use the legal system. Even a public interest lawsuit had been brought by the respondent on behalf of older persons. He said the following while asking to remain anonymous:

We don't think the system is very trustworthy. At this point, we are unable to persuade the elderly people to file a lawsuit. There have also been cases when people have attempted to use their advanced age as an excuse to approach the court for private gain. The excessive delays in the justice delivery systems at this age cause annoyance for older individuals. They are now wondering how they will survive, realising that it would be challenging and time-consuming. We are with them most of the time, but who will be there to handle the situations and move them along? We often attempt to mediate a settlement between the parents and the kids.

Seniors are forced to suffer in solitude due to court procedural delays and a lack of particular legal and legal process assistance. Even in the event that they do go to court, they lack the proper legal counsel to handle the matter properly.

The Maintenance Tribunal's government administrative officers have said that the process is quite straightforward since there aren't many formalities involved. According to the responsible officer, on average, two to three of these situations are brought before them each month. These matters are given top priority and are handled right away. Even when the cops are sympathetic, older residents believe they are not given the prompt attention they need. According to the administrative officer,

I make every effort to hear the cases in my capacity as an Assistant Commissioner and Executive Magistrate. However, several more public hearings are held in addition to the cases of the elderly folks. Due to busy schedules, many older individuals are hesitant to attend the cases in group settings.

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<sup>23</sup> Krishna Agrawal and Neha Dixit, 'Civil Justice in India' (2016) 3(4) *BRICS Law Journal* 71.

Sometimes they simply depart, and there is no set hearing date. Although we strive to get the case resolved in 60 days, there are situations where it may take up to 120 days.

Senior folks must be included in legal institutions. It is necessary to provide provisions for senior citizen cases to be expedited. Senior persons must be heard on different days and times due to the lengthy court processes. To help with the early resolution of issues, the institutions and the legislation must be responsive and take the necessary actions.

The pandemic made matters worse by preventing older individuals from being taken to court because of measures put in place as a reaction to the outbreak. Senior citizens' cases could not be handled at the same time since they were not acquainted with the procedures and mechanisms of online courts. An elderly person from a taluka provided the following response about the state of the cases during the pandemic:

**The majority of dates provided during the epidemic were provided by clerks; either the judges were transferring or undergoing training. There are now three cases pending: one from 2017, another from 2009, and a property issue dating back to 1989.** Most of us still have some kind of illness after 60 years. We were given "Corona dates" since we were unable to enter the courts during the epidemic. There were very few judges or solicitors there, and we were unsure of what to do next because our advocates would not speak with us.

The aforementioned circumstances have caused excessive delays in judicial proceedings, particularly in cases involving elderly people. Officer respondent RSEM03 noted that older folks did experience "exclusion" during the epidemic for a while. Along similar lines, a seasoned lawyer who works in the Karnataka High Court declared the following: Throughout the many years I have been in practice, I have found that one method for early case resolution for elderly folks is to have early hearings on a priority basis. However, it is not the case in practice. This kind of implementation is deficient, which disadvantages older persons. I have visited the KIDWAI Memorial Institute of Oncology Cancer Research and Training Centre and the National Institute of Mental Health and Sciences (NIMHANS) to provide pro bono legal counsel to several patients and their families. The legal system needs to gain the public's confidence.

As a result, the law and the legal system must react to the elderly in a methodical and timely way. Legal fraternity interventions via legal assistance and awareness are especially important to enable prompt case resolution and foster faith in the legal system among older individuals. Absence of legal knowledge the public places great value on legal knowledge. Legal awareness basically entails understanding current laws, being aware of citizens rights and obligations, and being able to use this knowledge to exercise and defend those rights through the legal system.<sup>93</sup> Senior citizens must be educated in order to help them comprehend what the law is, how it operates, and how it can be used to their advantage. Understanding the law is a crucial tool for assisting elderly adults in taking care of themselves.

## **5. CHALLENGES FACED BY SENIOR CITIZENS IN ACCESSING LEGAL AID:**

Due to cultural and institutional constraints, senior adults in India have many difficulties while attempting to get legal help. Lack of awareness is one of the biggest barriers, since many senior citizens are still ignorant of their legal rights and the existence of free legal aid services. Moreover, financial constraints often keep individuals from contacting private solicitors, leaving them reliant on overworked public legal aid systems. Their inability to directly seek legal help is further hampered by physical

mobility issues and inadequate infrastructure in legal institutions, such as court buildings that are inaccessible or legal aid offices that lack ramps or lifts.

Moreover, a lot of elderly people experience emotional hardship and social isolation, which may make it difficult for them to stand up for their rights, particularly when there is spousal violence or a property dispute involving close family members. The problem is made worse by the bureaucratic inefficiency and procedural delays in legal aid systems, as well as the inadequate representation by undertrained or unmotivated legal aid lawyers. Finally, a great deal of elderly persons in rural regions lack meaningful access to the legal system due to a lack of outreach services. All of these obstacles together make it hard for older adults to take full use of the legal assistance programs designed to defend their rights.

## 6. CONCLUSION AND SUGGESTIONS

### 6.1 CONCLUSION

Access to legal aid for senior citizens in India, though constitutionally and legislatively supported, faces numerous challenges in its practical application. Despite being recognized as a vulnerable and significant section of society, senior citizens encounter barriers in accessing justice, ranging from legal illiteracy, geographical remoteness, procedural complexities, and financial burdens, to social stigma and fear of retaliation. These challenges are compounded by the inefficiencies within government schemes, overburdened legal aid clinics, and limited outreach to rural and marginalized communities.

The legal provisions under the Indian Constitution, the Legal Services Authorities Act, 1987, and the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, form a strong framework aimed at safeguarding the rights of senior citizens. However, these provisions have not been fully realized in practice. Awareness of these rights remains low among senior citizens, and even those who are aware often struggle with navigating the legal processes.

The analysis reveals that while NALSA and other legal aid authorities are pivotal in providing free legal aid, the implementation remains inconsistent, with urban centers receiving more attention than rural areas. Similarly, while **Lok Adalats and Alternate Dispute Resolution (ADR) mechanisms show promise in offering expedited justice, their benefits are not widely understood or accessible to all seniors.**

Non-governmental organizations (NGOs) have played a crucial role in supplementing the efforts of the state in providing legal aid to senior citizens. Their on-ground work in raising awareness, assisting with legal paperwork, and organizing legal literacy campaigns has proven essential. However, NGOs also face limitations in funding and outreach, which restricts their ability to serve a larger portion of the senior citizen population.

In conclusion, while the legal framework for providing access to justice for senior citizens exists, substantial gaps remain in the implementation, awareness, and accessibility of these provisions. Effective legal aid requires both government intervention and active collaboration with NGOs, coupled with a focus on improving awareness, simplifying processes, and ensuring equitable access across urban and rural areas.

### 6.2 SUGGESTIONS

To bridge the gap between the legal framework and the actual access to legal aid for senior citizens, a multi-pronged approach is necessary. The following suggestions focus on improving awareness, accessibility, implementation, and collaboration between various stakeholders:

### 6.2.1. Enhancing Awareness and Legal Literacy

- **Targeted Legal Awareness Campaigns for Senior Citizens**

One of the most critical issues identified is the lack of awareness among senior citizens about their legal rights and the availability of free legal aid services. Targeted awareness campaigns should be launched by both government and NGOs, with a focus on:

- Simplifying legal information for seniors.
- Utilizing local languages and media channels (television, radio, newspapers, and community programs).
- Engaging senior citizens through physical and digital workshops, particularly in rural areas.

- **Integration of Legal Aid Information in Pension and Healthcare Schemes**

Legal literacy can be further enhanced by integrating information about legal aid in government pension and healthcare schemes. Senior citizens who interact with these services can be given pamphlets or spoken to by professionals who are trained in explaining legal aid provisions, making it easier for them to seek help when required.

### 6.2.2. Improving Access to Legal Aid Services

- **Establishment of Senior-Friendly Legal Aid Clinics**

While legal aid clinics exist, few are designed with the needs of senior citizens in mind. The government and legal services authorities should establish senior-friendly legal aid clinics that offer:

- On-site assistance with legal documentation.
- Fast-tracking of cases involving senior citizens.
- Training for legal staff to handle elder-specific issues, such as elder abuse, property disputes, and family maintenance matters.

- **Mobile Legal Aid Clinics for Rural Areas**

To address the geographical barriers faced by rural senior citizens, mobile legal aid clinics should be deployed. These clinics can visit remote areas on scheduled days to offer legal assistance, file paperwork, and educate senior citizens about their rights.

- **Tele-Law Services for Senior Citizens**

Expanding tele-law services can allow senior citizens, particularly those in rural areas, to receive legal advice without needing to travel. A dedicated helpline for senior citizens should be established, offering guidance on legal issues and directing them to the nearest legal aid center or legal professional.

### 6.2.3. Simplifying Legal Processes

- **Simplification of Legal Procedures for Senior Citizens**

The legal process should be simplified for senior citizens. Special fast-track courts for cases involving senior citizens, particularly in matters of maintenance, property disputes, and elder abuse, should be established. The procedure for filing cases should be made more senior-friendly by reducing paperwork and streamlining processes.

- **Strengthening of Lok Adalats and ADR Mechanisms for Seniors**

Lok Adalats and ADR mechanisms have shown promise in providing quick resolutions to disputes. Senior citizens should be prioritized in these forums, with a focus on resolving maintenance and property issues. Awareness about these mechanisms should be increased, and seniors should be encouraged to use them to avoid lengthy court battles.

#### 6.2.4. Strengthening Government and NGO Collaboration

- **Government-NGO Partnerships for Legal Aid Outreach**

Collaboration between the government and NGOs can greatly improve access to legal aid for senior citizens. The government should actively support NGOs through grants and training, enabling them to expand their outreach programs. NGOs can help bridge the gap by offering paralegal services, organizing legal camps, and providing on-the-ground support to seniors who require legal assistance.

- **Training and Capacity Building for Legal Aid Providers**

Lawyers, paralegals, and legal aid officers should be specifically trained to handle elder law cases. Workshops and training programs should be conducted to build the capacity of legal professionals to cater to the needs of senior citizens, particularly in areas such as elder abuse, inheritance disputes, and the enforcement of maintenance orders.

#### 6.2.5. Technological and Infrastructure Upgrades

- **Digital Platforms for Senior Citizens**

In an increasingly digital world, senior citizens should not be left behind. Simple and accessible digital platforms can be developed to help senior citizens file complaints, access legal aid services, and check the status of their cases. Training programs on how to use these platforms should be organized for the elderly.

- **Senior-Friendly Infrastructure at Legal Aid Centers and Courts**

The physical infrastructure of legal aid centers and courts should be made senior-friendly. This includes providing accessible entrances, seating, restrooms, and hearing rooms. Courts should also offer specialized services, such as assisted filing counters and senior help desks, to ensure that seniors can navigate the legal system without difficulty.

#### 6.2.6. Addressing Financial Barriers

- **Financial Assistance for Senior Litigants**

While legal aid is provided free of charge, the additional costs of pursuing legal action (transportation, documentation, etc.) can still be a barrier. The government should introduce a financial assistance scheme for senior citizens involved in legal proceedings to cover such incidental expenses.

#### 2. Waiver of Court Fees for Senior Citizens

To further alleviate the financial burden, court fees for senior citizens, especially those filing cases related to maintenance or elder abuse, should be waived entirely. This will encourage seniors to pursue legal action without the fear of incurring high costs.

### 6.3. Long-Term Recommendations

#### 1. National Policy for Senior Citizens' Access to Justice

A comprehensive national policy dedicated to ensuring access to justice for senior citizens should be developed. This policy could encompass all legal, social, and financial aspects of senior citizens' interaction with the justice system, creating a coordinated framework that addresses their unique needs.

#### 2. Monitoring and Evaluation of Legal Aid Services

Regular monitoring and evaluation of legal aid services for senior citizens should be conducted by independent bodies. This will help ensure that the schemes and services are being effectively implemented and that seniors are benefiting from them. Feedback from senior citizens who have accessed these services should be actively sought to identify areas for improvement.

#### 3. Periodic Review of Laws and Policies



Laws and policies concerning senior citizens should be periodically reviewed to ensure they remain relevant and effective. This is particularly important given the changing demographic trends in India, with the senior population expected to increase significantly in the coming decades. Legislators must be proactive in anticipating future needs and challenges faced by seniors in accessing justice.

By adopting these suggestions, India can move closer to fulfilling its constitutional promise of equal justice for all, ensuring that senior citizens—who are often among the most vulnerable members of society—can access the legal aid and support they deserve. Through targeted awareness campaigns, simplified legal processes, strengthened government-NGO collaboration, and a focus on accessibility, the challenges currently faced by senior citizens in accessing justice can be effectively addressed.

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