

Chapter 2

Perspectives on Abuse and Neglect of the Elderly in India

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Contextualizing the Issue

Elder abuse and neglect as social, legal and public health problems have now been recognized all over the world for more than four decades, though it is only at the turn of the twenty-first century that they emerged as a serious, pervasive problem to confront and combat. Today, nearly all international conferences, academic meetings and civil society members involved with ageing issues and gerontological discourses are holding discussions and symposia on the theme, and much new research providing deeper understanding of the problem and interventional strategies are being shared at these forums. Many nations are developing tools for detection and screening, and are building resources to prevent and manage the problems. The paucity of data on the topic which was a feature of the twentieth century is being overcome. The *Journal of Elder Abuse and Neglect*, published in the USA, is becoming popular all over the world, and new scientific journals (like the UK-based *Journal of Adult Protection*, which emphasizes evidence-based practice in relation to safeguarding adults) are increasing their readership across countries. In India, too, elder abuse and neglect have caught the attention of researchers, social workers, academicians and policymakers, and in recent years there have been responses from various quarters attempting to understand the problems, prevent and manage them. Since the adoption of the United Nations' (UN) *Madrid International Plan of Action on Ageing* by the World Assembly in 2002, many UN member countries have shown a growing interest in policy response and interventions to elder abuse and neglect, even though incidence and prevalence of elder abuse varies in them. Since then, many more studies in different countries, including India, have been initiated to understand the problems and

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capture their various dimensions as the number of older people increases. It is assumed that with population ageing, occurrence of elder abuse and neglect will also rise.

In 2002, the World Health Organisation (WHO) published the Toronto Declaration, which offers the most consensual definition of elder abuse, and it has been used in a number of countries since then:

a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person. (WHO 2002)

However, this definition is still discussed and contested, and a few countries have come out with their own understandings of elder abuse and neglect. For instance in Quebec in Canada, the term ‘elder abuse and neglect’ has been replaced with ‘mistreatment of older adults’ and it includes violence and neglect. In the USA, too, ‘elder mistreatment’ as a term is often referred to in cases of elder abuse and neglect. Many studies conducted in the Indian context, typically classify elder abuse in five broad categories, and refer to actions against elders perpetrated by someone who is trusted. These categories include physical abuse, emotional or psychological abuse, financial abuse or exploitation, neglect, and sexual abuse. In many societies, especially those with a substantial ageing population, a category recognized as self-neglect (where elders are unable to provide for their own health and safety and for which no perpetrator has been identified) is also being recognized, but in India this remains an unrecognized field. A universal definition of elder abuse and neglect acceptable to a cross-section of the population is also missing and besides the above-mentioned five categories, abandonment, isolation, intimidation, fiduciary abuse, extortion, unreasonable confinement, active versus passive neglect and coercion are also identified as forms of elder abuse. More recently, intimate partner violence (i.e. domestic abuse of older women) is catching the attention of professionals and the lay public (Winterstein and Eisikovits 2014). Lack of mandatory reporting laws, which require certain individuals and professionals to report instances of abuse to an official agency or to the police also add to the lack of clarity on an acceptable, universal definition of elder abuse and neglect in the country.

In India, there has been a limited political response to this social problem even though the 1999 policy on older persons and the revised 2011 draft policy (which has still to be approved by the Cabinet) mention the concern (MoSJ&E 2011). The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 takes care of the neglect of older persons in the country. The Act has been adopted by many states and is also being implemented in some of them, but not all states have yet taken the five steps required for its implementation; namely, they must notify the Act, frame rules for the Act, appoint maintenance tribunals, appoint maintenance officers, and appoint appellate tribunals (Shankardass 2012). Further, very few older people use this legislation to seek justice for themselves and when they do, the legislation has provisions only to provide maintenance, financial help and social security. It does not pay adequate attention to social care aspects. It overlooks the need for emotional

support and love as well as at times physical care from the family. The Act also ignores the abuse and neglect of senior citizens in other than family circumstances. This Adult Protection Legislation in India, as in other countries (namely Britain, Canada and the USA) has been critically reviewed, being seen more as an ageist response to a complex problem (Shankardass 2007).

Across the country, for the last few years various non-governmental organizations (NGOs) and professional groups consisting of researchers, academicians, practitioners and advocates have come up with ways to prevent elder abuse. As in many other countries, these organizations work as small grass-roots initiatives concerned with occurrence of elder abuse in the community and finding ways to protect the safety, security and dignity of older persons. They try to provide support to victims of elder abuse but are often hindered by withdrawal of complaints by older people themselves. However, there is no major group or organization which is committed solely to handling elder abuse cases. The International Network for Prevention of Elder Abuse (INPEA) with its regional and national representatives as an advocacy organization has raised awareness on the issue in the country as well as 64 other countries. The INPEA India chapter, active since 2002, has been raising awareness among professional groups, service providers, and the lay public on the need to recognize elder abuse in society, to make it visible, and to support victims of abuse and neglect. INPEA in 2006 declared 15 June as the date on which to observe World Elder Abuse Awareness Day (WEAAD) every year. Since then, the INPEA India chapter has focused on the prevention, detection and management of elder abuse and neglect. Various programmes to prevent and manage elder abuse and neglect are organized by different groups in many parts of the country to support the INPEA initiative. For the last few years the government, under the aegis of the Ministry of Social Justice and Empowerment (the nodal agency concerned with care of older people), has used 15 June to take out advertisements in the national newspapers asserting the need for dignity and social security of older people. In 2011 the trend was set for the first time by the Delhi Government when it took out a half-page advertisement in newspapers clearly stating the announcement of the World Elder Abuse Awareness Day and its commitment to the health and well-being of all senior citizens, and promising to continue improving and expanding its services to make older people's golden years happier and dignified. Significantly, the government has announced the neglect and abandonment of senior citizens as a cognizable offence punishable with a fine of Indian Rupees 5000 or 3 month's imprisonment or both. The government now has a slogan 'A society that cares for its elderly, is a caring and loving society'. Since the inception of WEAAD, police, NGOs and other civil society members have participated in marking their concern for prevention and management of elder abuse.

Across the world it is now recognized that while efforts to address elder abuse and neglect are increasing and more resources are being invested as a societal response, the realities of rapidly growing older population, along with prevailing attendant ageism, individualism and breakdown of traditional support systems, suggests that older adults will continue to be at risk of abuse and neglect, and potentially at younger ages than in previous generations (Lachs 2010). With

feminization of ageing taking place in most countries, older women (living longer and more numerous) are more vulnerable to abuse. Especially ageing widows and frail as well as disabled older people are at greater risk of abuse and neglect, not only by family members but also by non-family members and unknown people. Initially, research on elder abuse and neglect by family members indicated care-giver stress as the cause for the problems, but later studies revealed many other characteristics of perpetrators, such as mental health and behavioural problems, drug abuse, family disputes, intimate partner abuse, etc. With regard to non-family abusers, untrained and unscrupulous care-givers, financial tricksters and exploiters, and petty criminals are recognized as people of whom older people have to be careful. At the community level, prevailing ageism is seen to devalue and exploit older people leading to their abuse in various situations and circumstances.

In India, as in other countries greater attention is being paid to abuse and neglect of older people residing in the community, either living with others or alone, and to those residing in institutions such as old-age homes or assisted-living facilities. However, there is still no emphasis on measurement scales and indexes for elder-abuse instances and episodes. Although some attention to this is being paid in some developed countries, internationally accepted, standardized measurements require further development. While families are held responsible for mistreatment and neglect, there is still hesitation in suing institutions such as old-age homes for non-compliance of their liability and obligation to take care of their older residents. However, through the Indian Contract Act 1872 and the Law of 'Torts', any mistreatment and failure in caring can result in a civil suit being filed against the management of the institution for breach in contract to care, even in the absence of a written contract, and damages can be claimed for the wrong done (Bakshi 2000a). There is a need to take seriously the provision in the Indian Penal Code under which breach of contract may attract criminal liability against old-age homes and senior-citizens housing complexes, which are fast growing in all the towns and cities of the country. However, institutions for meeting the needs of older persons have not so far been brought under legal purview in order to alleviate elder abuse.

Since the independence of the country, government care of old parents by children has been a crucial issue. For a long time, The Hindu Adoption and Maintenance Act, 1956 secured the rights of care for the parents by the children, being applicable to both, sons and daughters, married or unmarried. The law relating to Muslims and other religious groups is not codified in India but the position regarding them is substantially the same. It is contained in the Code of Criminal Procedure, 1973 (even though the provision is really of a civil nature) in Section 125 (1) (2) which recognizes the right of parents without any means to be supported by their children having sufficient means (Bakshi 2000b). Thus, there is a comprehensive statutory provision as to maintenance which is not confined to persons of any particular community. However, 'maintenance' under Section 125 of the Code of Criminal Procedure, 1973 has not been defined, which gives leeway to the 'fair' completion of the case and suitable grant of maintenance for maintaining an adequate and appropriate standard of living as per the status of the old parent. While in settlement of some disputes liberal interpretation of maintenance

has been adopted in the courts (Bakshi 2000b), it not being confined to food, clothing and shelter only, but including expenses for medical attendance also, the questions of justice and equity remain disputed even though the provision is intended to exclude destitution and vagrancy. In addition there are the issues of complex, delayed and lengthy procedures which get in the way of giving relief and combating abuse (Shankardass 2010). In the recent past, in cases of old parents being deserted by children or being ill treated, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been used as a legislative measure.

There is a need for more attention to adult protection legislation, along with advances in the creation of protocols for detection, intervention and programming. It is observed that while on the one hand awareness about legislations in place to protect the interests of older persons is low, on the other hand there are difficulties being experienced in using legal measures for relief from abuse. There is hesitation on the part of older persons to sue their family members and institutional managers for breach of contract in caring. Empowering the older persons to demand and have their needs fulfilled within the human rights framework is a challenge not only in India but also in the rest of the world. Elder abuse and neglect needs more visibility and media attention and awareness among the families and communities, and only then can they be stopped, prevented and managed.

Research Orientations

In India, there has been no national prevalence study so far to assess the magnitude of elder abuse and neglect, but there have been small-scale studies which indicate certain aspects of the problems but not the frequency and types of abuse, nor the characteristics of perpetrators. Systematic data on this would help to identify gaps in the detection of abuse and the need for various types of support systems. More precisely, the need for services, and the types of services that would be most helpful, could be ascertained in part by determining both the *incidence* of abuse—how many new cases are there over a period of time, such as a year—as well as the *prevalence* of abuse, including not only new cases but those that are still ongoing and have not been resolved. It would be helpful, but unrealistic because of the cost, to have such information available not only at the national level but also for specific states and localities. However, prevalence studies are actually crucial to solving the problem of elder abuse. A rigorous and representative prevalence study has huge implications for policy, practice, the law and further research.

UNFPA, India—as part of its programmatic exercise on ‘Building knowledge base on population ageing in India (BKPAI) in 2011’, in collaboration with the Institute of Social and Economic Change (ISEC), Bangalore, the Institute of Economic Growth, Delhi and the Tata Institute of Social Sciences (TISS), Mumbai—conducted a seven-state study which also documents the incidence of elder abuse and neglect by family and non-family members. This provided some of the first population-based data from rural and urban areas to throw light on the various

dimensions of the problem with state comparisons. Some 9852 older people aged 60 years and above were interviewed from 8960 households across states which have comparatively high proportions of older people, namely Himachal Pradesh, Kerala, Maharashtra, Odisha, Punjab, Tamil Nadu and West Bengal (UNFPA 2012).

Besides this, HelpAge India, a national-level NGO, has conducted yearly studies since 2013 which also reveal the different aspects of abuse and neglect of older people in the different states of the country. While through the various studies we are able to recognize the perpetrators of abuse and neglect and also to some extent the impact on the victims, and certain interventional strategies, there is no emphasis on standardized intervention approaches and on tools which can support these tasks. If there are adequate protocols for prevention, detection and management of elder abuse and neglect, as there are in some developed countries, it would help various stakeholders in addressing the problem. For instance, issues related to elder abuse, including research, prevention, detection and treatment are addressed in the USA at the state level, by several federal agencies, by non-profit organizations and various ad hoc coalitions dealing with specific topics, and in over 3000 counties across the 50 states (Thomas 2018, forthcoming). But, such a response in India has yet to be geared up. Not enough has been done to prevent elder abuse and neglect and to establish appropriate response services to manage the problem. It is hoped that with the forthcoming, full, national-scale, longitudinal ageing study in India (LASI)—being coordinated by the International Institute for Population Sciences in collaboration with Harvard School of Public Health and the University of Southern California, USA—aspects of elder abuse and neglect will also be scientifically highlighted with sound methodological rigor while studying health, economic, social dimensions and determinants and consequences of population ageing in the country.

Missing Links

In India there is no national strategy for the response to and prevention of elder abuse and neglect. Nor are the problems addressed from a practice-delivery stance. There are no increased efforts to improve education among professionals and service providers about what constitutes elder abuse, how to act on it and how to support at-risk older people. We need to focus attention on proactive outreach services to meet the needs of vulnerable older people—no one agency currently has a coordination role. We also need improved community awareness for older people about their rights and legal options in situations of harm or abuse to ensure they live free from violence. In general, developing a comprehensive service system to deal with victims of abuse and neglect and strengthening public policy for combating elder abuse and neglect are the needs of the hour. Pillemer et al. (2015) have identified another important challenge for improving research knowledge to prevent elder abuse and neglect and to support victims. This requires an interdisciplinary response, the importance of which has yet to gain recognition in the country. Developing sound research methodology for identifying and screening cases of

abuse and neglect by different members of the family and by non-family members is a foremost requirement. Further, theorizing the concepts requires developing theoretical orientations for conceptual clarity. In achieving a comprehensive theoretical framework, many difficulties arise from the use of varying definitions of elder abuse, variations in methodologies used to study elder abuse and neglect, and different measurement instruments.

Much research into elder abuse and neglect in India deals with the family violence model with little attention being paid to abuse in residential and institutional settings. This is a growing area of interest as the number of old-age homes, care homes and residential complexes for older people is fast increasing in the country, with no proper guidelines for the management and organization of these places. Research on elder abuse and neglect in residential settings in developed countries (namely the USA, Britain and Canada, including stay provisions in hospitals, nursing homes, residential care homes and long-stay homes) indicates that since the later part of the last century factors of quality care, health, hygiene and nutrition along with concerns related to over- and under-medication are gaining relevance (Glendenning and Kingston 1999). In India this is an emerging field requiring theoretical and empirical understanding and research tools to assess the situation. There is a need to move away from anecdotes to scientific evidence to understand resident and patient abuse of older people in institutional settings, which seems to be becoming widespread in different parts of the world including India. Increasing incidents of physical and psychological abuse, mistreatment, assault and neglect in residential settings merits concern and requires working at the policy level for an 'abuse-free environment'. We need deeper, intensive and extensive studies of elder abuse and neglect in residential as well as in domestic settings.

In many Indian states police have played an active role in preventing elder abuse and neglect, but not much has been documented. Police have intervened with families to protect and safeguard older people's right to life with dignity. Police also make regular visits to older persons' homes, especially those living alone, and interact with them in order to keep an eye on their interactions and activities. Police's contribution as an intervening agency to prevent elder abuse and neglect has been recognized in a few countries. For example, in the Canadian province of Montreal especially, police, in synergy with their partners, are required to play a crucial role in countering mistreatment of older adults (Beaulieu et al. 2018). This requires a national approach with increased collaboration between service providers, research organizations, legal services, health-care providers, and anyone involved with the care and well-being of older people within our communities.

Concluding Comments

Elder abuse all over the world is a multi-layered, multi-dimensional concept still requiring clarity of definition, tools for detection and measurement, adequate diverse interventional approaches which protect and support people in their later

years. Variations in gender, economic position and physical condition, which make different older people vulnerable and at risk of elder abuse and neglect are now recognized (Berkman et al. 2012) but much more needs to be done to prevent and combat it. There is sufficient research information to demonstrate that the study of elder abuse and neglect needs to embrace not only the family violence model, and strategies to stop it in domestic settings, but also the paramount need to better train care-givers, reduce their stress levels, and improve home and institutional conditions. This requires an inter-disciplinary response, cross-national understanding of social, legal and public-health aspects of the problems from a human-rights perspective. Older people have a right to a life of dignity, respect and esteem and this in no way can be denied to them. Rightly, the Human Rights Commission has identified that older persons have a right to have their human rights protected. Governments and civil-society agencies at both micro and macro levels have to and must develop services and have provisions to combat elder abuse and neglect.

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