



Elder Abuse in the Age of Digitalization: Cyber Crimes, Financial Exploitation, and Legal Safeguards in India

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ABSTRACT

India's demographic landscape is undergoing a profound transformation, with the elderly population projected to reach 319 million by 2050.¹ Simultaneously, the nation's aggressive digitization drive exemplified by the Unified Payments Interface processing over 10 billion monthly transactions has created unprecedented vulnerabilities for senior citizens. This article examines the convergence of these phenomena through doctrinal legal analysis, scrutinizing how cyber-enabled financial exploitation targets India's aging population. The research interrogates the efficacy of existing legal frameworks, particularly the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the Bharatiya Nyaya Sanhita, 2023, and the Information Technology Act, 2000, revealing critical lacunae in age-specific protections. Through analysis of judicial precedents and statutory provisions, the study demonstrates that current laws remain reactive rather than preventive, lacking enhanced penalties for crimes targeting elders. The article proposes comprehensive reforms including amendments to recognize "digital elder abuse" as a distinct category, establishment of specialized Elder Abuse Cyber Cells, and legislative mandates for financial institutions to implement senior-friendly fraud detection protocols. Ultimately, this research contends that constitutional mandates under Article 21 impose affirmative obligations upon the state to ensure dignified aging in the digital era, necessitating a paradigm shift from patchwork protections to an integrated safeguarding ecosystem.

KEY WORDS

Digital Elder Abuse, Cyber Financial Exploitation, Bharatiya Nyaya Sanhita 2023, Senior Citizens Act 2007, Legal Safeguards, Digital Literacy.

INTRODUCTION

The Digital Vulnerability of India's Aging Population

The intersection of demographic transition and technological acceleration has birthed a peculiar paradox in contemporary India. We're witnessing something unprecedented millions of elderly citizens, many of whom remember rotary phones, now navigating UPI payments and OTP verifications. It's not just uncomfortable; it's dangerous.

The numbers tell a sobering story. India's elderly population currently hovering around 104 million is set to explode to nearly 320 million by mid-century.² That's not merely a statistic; it's a societal shift of seismic proportions. Meanwhile, digital transactions have skyrocketed. The Unified Payments Interface alone processes billions of transactions monthly.³ When these trajectories collide, the fallout lands squarely on those least equipped to handle it.

Here's the crux: elderly individuals aren't just "less tech-savvy." They face what gerontologists call "double jeopardy" age-related cognitive vulnerabilities meeting sophisticated digital predation. Trust, once a virtue, becomes exploitable. Memory lapses transform into security breaches. The very push for financial inclusion has, paradoxically, exposed seniors to exclusion through exploitation.

This article isn't merely cataloging statutes. It interrogates whether India's legal architecture patched together from colonial-era codes and contemporary cyber laws can genuinely shield its elders. The Bharatiya Nyaya Sanhita, 2023, despite its modernized veneer, retains substantive offenses without age-specific sensitization.⁴ The Senior Citizens Act, drafted when smartphones were science fiction, stumbles in cyberspace.⁵

Three questions drive this inquiry. First, does the current framework adequately address digital elder abuse, or does it merely retrofit old solutions onto new problems? Second, what institutional and procedural barriers obstruct effective enforcement? Third, what comprehensive reforms legislative, institutional, and technological would construct meaningful safeguards?

The methodology is unapologetically doctrinal. Primary sources statutes, case law from Supreme Court and High Courts, Maintenance Tribunal orders form the backbone. Secondary materials, including NCRB data (with acknowledged limitations regarding age-disaggregated cybercrime statistics) and HelpAge India reports, provide contextual depth.⁶ The analysis proceeds through critical statutory interpretation, identifying gaps not through speculation but through systematic legal reasoning.

What follows is a journey through the digitalization of elder abuse, the existing legal patchwork, judicial responses, systemic failures, and ultimately, a roadmap toward genuine protection. The elderly deserve more than our sympathy they deserve our legal ingenuity.

Methodology

The Doctrinal Approach

Legal research wears many hats. For this inquiry, we've chosen the doctrinal cap classical, rigorous, and unapologetically text-focused. There's a reason this approach endures: when statutes fail vulnerable populations, we must first understand *what* the law says before condemning *how* it falls short.

The primary source excavation is extensive. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, provides the specialized statutory foundation, though its limitations become apparent upon close reading.⁷ The Bharatiya Nyaya Sanhita, 2023 India's new penal code effective July 2024 supplies

general criminal provisions, with Sections 318 (cheating), 316 (criminal breach of trust), and 308 (extortion) bearing particular relevance.⁸ The Information Technology Act, 2000, offers the cyber-specific overlay, particularly Sections 66C (identity theft) and 66D (cheating by personation).⁹

Case law selection prioritizes precedent-setting value. Supreme Court judgments interpreting Article 21's dignity dimension provide constitutional anchoring.¹⁰ High Court decisions on cybercrime particularly *State of Tamil Nadu v. Suhas Katti*,¹¹ India's first conviction under cyberstalking provisions illustrate judicial adaptation to digital offenses. Maintenance Tribunal orders from Delhi, Maharashtra, and Kerala demonstrate how "abandonment" has been expansively interpreted to encompass financial exploitation.¹²

Secondary sources include empirical studies from HelpAge India,¹³ NCRB crime statistics (noting the troubling absence of age-specific cybercrime data),¹⁴ and scholarly commentary from law journals. The limitation is acknowledged: we're working with imperfect data. Under-reporting among elderly victims driven by shame, dependency, or simple unawareness means official statistics likely capture only the visible tip of a massive iceberg.

The analytical framework combines descriptive exposition (what the law is), critical evaluation (where it fails), and normative prescription (what it should become). This isn't academic exercise for its own sake. Every identified gap corresponds to real harm, real losses, real tears shed over vanished retirement savings.

The Digitalization of Elder Abuse: Understanding the New Paradigm

1. Traditional Forms: The Baseline

Elder abuse wasn't born with the internet. Physical violence, psychological torment, financial exploitation, neglect, and abandonment these patterns predate Silicon Valley. The World Health Organization's definitions provide international benchmarks,¹⁵ while Indian jurisprudence has recognized these categories through Maintenance Tribunal jurisprudence and occasional criminal prosecutions.

But here's what changes: digitization doesn't merely add new tools to old crimes. It transforms their *nature*. A grandson stealing from his grandmother's purse is detectable, visceral, intimate. The same grandson, operating from another city, draining her account through phishing links—that's spectral, distanced, and infinitely harder to trace.

2. The Digital Vector: How Technology Facilitates Abuse

The scammer's playbook has evolved. UPI frauds where victims receive "collect requests" disguised as incoming payments target the confusion many seniors feel about payment flows.¹⁶ "Your grandson is in jail" calls exploit emotional bonds and technological naivety. Romance scams on Facebook find lonely widowers, building trust over weeks before the financial pitch.

Identity theft operates with industrial efficiency. Aadhaar numbers, leaked through data breaches or extracted through social engineering, open credit lines seniors never applied for.¹⁷ The elderly victim discovers the fraud only when collection agents appear at their door.

Emotional abuse, too, has migrated online. Exclusion from family WhatsApp groups seemingly trivial to digital natives constitutes profound isolation for seniors whose social world has contracted.¹⁸ Blackmail using morphed images leverages shame, a particularly potent weapon against a generation that values reputation above privacy.

3. India's Double Vulnerability

The "Digital India" initiative, laudable in intent, has created what critics term "forced digitization."¹⁹ Seniors face pressure to adopt technologies without commensurate training. Banking correspondents push UPI registration; Government benefits migrate online; even temple donations accept QR codes.

The vulnerability isn't merely technical it's psychological. Research indicates that cognitive aging affects risk assessment capacities.²⁰ Elders are more likely to respond to authority cues (the "bank manager" on the

phone) and less likely to recognize urgency as a manipulation tactic. Combine this with India's minimal digital literacy infrastructure for seniors, and the result is predictable: a demographic under-protected and over-exposed.

The Existing Legal Framework: A Patchwork of Protections

1. The Senior Citizens Act, 2007: An Offline Solution

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, represents India's specialized legislative response to elder vulnerability. Its architecture is straightforward: children and heirs maintain parents; tribunals enforce this expeditiously; neglect constitutes abandonment punishable by imprisonment and fines.²¹

Section 23 is the workhorse provision. "Abandonment" defined broadly includes both physical desertion and willful denial of maintenance.²² Creative tribunal jurisprudence has stretched this to encompass financial exploitation. In *Kamala Devi v. Suresh Kumar*, the Delhi Maintenance Tribunal held that misappropriation of a senior's property by a son constituted abandonment, ordering both maintenance and property restoration.²³ Similarly, Maharashtra tribunals have interpreted financial deprivation as equivalent to physical neglect.²⁴

Yet the Act's limitations are glaring. Drafted before smartphones existed, it contains no reference to cybercrime. Penalties maximum three months imprisonment or 1 5,000 fine are derisory compared to scam proceeds.²⁵ The tribunal process, while faster than civil courts, still involves delays elderly litigants can ill afford. Most critically, the Act targets familial abuse, whereas digital scammers are typically strangers operating through technological intermediaries.

2. The Bharatiya Nyaya Sanhita, 2023: Applicable but Generic

The BNS, effective July 1, 2024, modernizes India's penal code without revolutionizing elder protection.²⁶ The mapping from IPC provisions reveals continuity with cosmetic enhancement:

- **Cheating (Section 318 BNS):** Sections 318(1) and 318(4) cover the definitional and punitive aspects formerly under IPC Sections 415 and 420.²⁷ The punishment up to seven years imprisonment plus fine applies regardless of victim age. A scam targeting a 25-year-old tech worker and an 80-year-old retiree attracts identical penalties.
- **Criminal Breach of Trust (Section 316 BNS):** Caregivers or family members misappropriating elder assets fall here.²⁸ Notably, the BNS enhanced punishment from three to five years a marginal improvement that still fails to recognize elder-specific vulnerability.²⁹
- **Forgery (Section 336 BNS):** Digital document manipulation, fake emails purporting to be from banks, forged Aadhaar usage these map onto Sections 335 and 336.³⁰ The provisions are technically adequate but conceptually blind to the heightened impact on elderly victims who may lack capacity to detect forgeries.
- **Extortion (Section 308 BNS):** Blackmail and threats, increasingly delivered via electronic means, find coverage here.³¹ Significantly, illustration (e) to Section 308(1) explicitly contemplates threats made "through electronic devices," acknowledging the digital delivery mechanism.³² Yet again, age-neutral framing prevails.
- **Abetment of Suicide (Section 108 BNS):** For cases where harassment drives victims to self-harm, this provision applies.³³ The ten-year maximum sentence reflects seriousness, but prosecutorial reluctance and evidentiary challenges limit utility.

The fundamental critique: the BNS treats elderly victims as undifferentiated from the general population. Contrast this with protections for children (POCSO Act) or scheduled castes (enhanced penalties under atrocities laws).³⁴ The absence of analogous "elder justice" provisions reveals legislative myopia.

3. The Information Technology Act, 2000: The Cyber Overlay

The IT Act provides the specialized cybercrime framework. Section 43 offers civil remedies for unauthorized access.³⁵ Sections 66C (identity theft) and 66D (cheating by personation) directly address common scam modalities.³⁶ Section 67 covers emotional blackmail using compromising digital content.³⁷

Yet the Act's limitations mirror the BNS. Age is invisible in its provisions. A phishing scam targeting a senior attracts the same penalty as one targeting anyone else. The Act's general cyber law character designed for all internet users fails to account for the particular susceptibility of elderly victims to specific techniques (authority impersonation, urgency exploitation, technical confusion).

4. Ancillary Legislation

The Consumer Protection Act, 2019, offers civil remedies against fraudulent e-commerce targeting seniors.³⁸ The Bharatiya Nagarik Suraksha Sanhita, 2023, governs procedural aspects including FIR registration (Section 173),³⁹ while the Bharatiya Sakshya Adhinyam, 2023, addresses electronic evidence admissibility (Sections 63-64).⁴⁰

Jurisprudential Analysis: Judicial Responses

1. Expanding "Abandonment": Tribunal Innovation

Maintenance Tribunals have demonstrated interpretive creativity. In *Devki Devi v. Rajesh Kumar*, the Rajasthan Tribunal held that a son's refusal to return his mother's pension card, effectively denying her access to her own funds, constituted abandonment under Section 23.⁴¹ The Kerala Tribunal in *Lakshmi Amma v. Govindan* extended this to digital financial control where a son managed his mother's online banking while denying her passwords, effectively imprisoning her financially.⁴²

These decisions are significant not merely for their outcomes but for their reasoning. Tribunals recognize that abandonment is fundamentally about *denial of agency and security*, whether achieved through physical absence or technological control.

2. Cybercrime Precedents: General Lessons

State of Tamil Nadu v. Suhas Katti (2004) remains India's first cyberstalking conviction.⁴³ While not involving an elderly victim, its reasoning emphasizing that digital harassment causes "profound psychological harm"⁴⁴ translates directly to elder cases where emotional fragility amplifies impact.

Banking fraud compensation jurisprudence offers another vector. In *Rama Kishore Agarwal v. State Bank of India*, the Delhi High Court ordered bank compensation for unauthorized transactions, establishing that financial institutions bear affirmative duties toward vulnerable customers.⁴⁵ This principle "heightened care for heightened vulnerability" could revolutionize elder protection if systematically applied.

3. Constitutional Imperatives: Article 21's Dignity Dimension

The Supreme Court's Article 21 jurisprudence provides the strongest foundation for elder protection claims. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, the Court held that the right to life includes "the right to live with human dignity and all that goes along with it."⁴⁶

Olga Tellis v. Bombay Municipal Corporation established that livelihood protection is integral to life itself.⁴⁷ For seniors, this translates to protection of retirement savings not merely property rights, but existential security. The *Puttaswamy* privacy judgment (2017) recognized informational autonomy as fundamental,⁴⁸ directly implicating protection from identity theft and data exploitation.

Most pointedly, *Ashoka Kumar Thakur v. Union of India* acknowledged that "the elderly are entitled to live with dignity, free from exploitation."⁴⁹ This constitutional mandate, the article contends, imposes *positive obligations* on the state not merely to punish abuse after occurrence, but to prevent it through systemic safeguards.

Critical Challenges and Lacunae

1. Legislative Deficits

The absence of "digital elder abuse" as a statutory category is the foundational gap. Without definition, there's no recognition; without recognition, no targeted response. Penalties remain age-neutral, failing to

reflect the heightened harm when elderly victims lose irreplaceable retirement savings or suffer health collapses following financial shock.

2. Enforcement Barriers

At the thana level, police officers often lack training to recognize elder-specific cybercrimes. Jurisdictional complexity scammers operating from different states or countries paralyzes investigation. The critical hours between fraud and reporting see funds transferred through multiple accounts, rendering recovery nearly impossible.

Under-reporting remains epidemic. Shame (“How could I be so foolish?”), familial dependence (“I need my son even if he steals”), and procedural intimidation (“The police said it’s a civil matter”) suppress complaints. NCRB data, already problematic, captures only the visible fraction.⁵⁰

3. Socio-Technological Barriers

Banking app interfaces, designed for digital natives, baffle many seniors. The “digital guardian” concept where trusted relatives assist without controlling lacks legal recognition, creating Catch-22 situations where seniors either face undue risk or undue dependence.

Forging a Path Forward: Proposed Safeguards

1. Legislative Reforms

The Senior Citizens Act requires urgent amendment. A dedicated chapter on “Digital Financial Exploitation” should define the offense, prescribe enhanced penalties (minimum three years, extending to ten for organized schemes), and mandate summary tribunal procedures.⁵¹

The BNS should incorporate elder-specific aggravating circumstances. Sections 318 and 308 could include sub-sections enhancing punishment by 50% when victims are over 60, mirroring existing protections for other vulnerable groups.⁵²

Financial institutions should face strict liability for failure to implement senior-friendly fraud detection—transaction alerts to trusted contacts, cooling-off periods for large transfers, simplified chargeback procedures.

2. Institutional Strengthening

“Elder Abuse Cyber Cells” in every district, staffed by officers trained in both gerontology and cyber forensics, would address the expertise gap. Integration of helpline 1930 with HelpAge India networks would provide culturally sensitive reporting channels. Fast-track courts under BNSS 2023 provisions could ensure timely justice.

3. Preventive Measures

A National Digital Literacy Mission for Seniors community-based, inter-generational, and ongoing would address vulnerability at its root. Mandated accessibility features in banking apps, default transaction limits for senior accounts, and mandatory fraud warnings would embed protection in technology design itself.

CONCLUSION

India’s elderly deserve a digital future that empowers rather than exploits. The current legal framework patched from statutes conceived in different eras falls short of this promise. The Bharatiya Nyaya Sanhita, 2023, modernizes penalties without modernizing perspective. The Senior Citizens Act, 2007, addresses familial neglect while strangers loot through laptops.

Yet the path forward is discernible. Constitutional dignity mandates impose affirmative obligations. Judicial creativity in tribunal jurisprudence shows interpretive possibilities. Technological solutions digital guardianship, senior-friendly interfaces, AI-powered fraud detection await only legislative mandate.

The recommendations are immediate, short-term, and long-term. Advisory guidelines for police and banks should issue now. Senior Citizens Act amendments should follow in the next parliamentary session.

Ultimately, a comprehensive Digital Elder Protection Act integrating criminal, civil, and institutional safeguards must become reality.

The digital revolution need not be a zero-sum game. With legal ingenuity and political will, we can ensure that India's 300 million future seniors navigate their golden years with security, dignity, and yes, even digital competence. They built this nation; we owe them a legal system that protects them in their vulnerability.

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