International Journal for Multidisciplinary Research (IJFMR)
E-ISSN: 2582-2160 ● Website: www.ijfmr.com ● Email: editor@ijfmr.com

From Welfare to Rights: A Critical Analysis of the Keralam Senior Citizens (Care and Protection of Rights) Bill, 2026, and Its Implications for Elderly Justice in India

Ms. Julimol P R

Ph.D. Research Scholar, LAW, Bhagwant University

ABSTRACT

The protection of elderly citizens has become an important concern in India in the context of demographic ageing, changing family structures, migration, economic insecurity and the incidence of abuse, neglect and exploitation. Traditionally, Indian legal protection has concentrated on maintenance obligations and welfare assistance. A rights-based approach, however, recognises older persons as individuals entitled to dignity, autonomy, participation, healthcare, security and social inclusion. The Keralam Senior Citizens (Care and Protection of Rights) Bill, 2026 represents a significant legislative initiative in this evolving discourse. Passed by the Kerala Legislative Assembly on 26 October 2026, the Bill proposes a broader framework for care, protection and independence.

This paper critically examines the Bill's objectives, proposed rights and institutional mechanisms, with particular reference to the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. It considers dignity, independence, participation, affordable care, digital inclusion, legal aid, protection against abuse and financial exploitation, regulation of care institutions, caregiver certification and advance medical directives. The study also analyses the constitutional foundations of elderly protection under Articles 14, 21, 38, 39 and 41 of the Constitution of India.

Adopting a doctrinal and socio-legal methodology, the paper evaluates whether the proposed framework marks a meaningful shift from welfare to rights. It identifies challenges concerning implementation, institutional accountability, financial sustainability, legislative overlap and personal autonomy. It argues that older persons should not be treated merely as recipients of maintenance, but as rights-bearing individuals. The Bill's potential contribution to elderly justice will depend on clear legal duties, adequate resources, accessible remedies and accountable institutions.

Keywords: Elderly rights; senior citizens; Kerala Bill, 2026; dignity; autonomy; elder abuse; social justice; constitutional protection; ageing and human rights.

1. INTRODUCTION

Ageing is a natural stage of human life, but the social, economic, physical and psychological challenges associated with old age have become increasingly significant in India. Longer life expectancy, changing family structures, migration of younger generations and urbanisation have altered traditional arrangements for family-based care. Many older persons face financial insecurity, inadequate healthcare,

loneliness, neglect, abandonment, property-related exploitation and barriers to institutional support. These difficulties may be particularly acute for elderly women, widows, persons with disabilities and people without independent income.

India has historically relied on family relationships and community support for the maintenance of older persons. The law now recognises that family responsibility, although important, cannot alone address every instance of neglect or exploitation. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 provides a statutory mechanism for maintenance and welfare. Yet the contemporary debate increasingly asks whether elderly protection should extend beyond maintenance to encompass autonomy, participation, access to services and enforceable safeguards.

The Keralam Senior Citizens (Care and Protection of Rights) Bill, 2026 provides a state-level legislative example for examining this transition. According to the material considered in this paper, the Bill was introduced in the Kerala Legislative Assembly on 13 October 2026 and passed on 26 October 2026. It proposes rights recognition, regulation of care institutions, caregiver certification, protection mechanisms and safeguards against abuse and exploitation. Its significance lies in the breadth of issues it seeks to address.

1.1 Statement of the Problem

The existing framework provides important maintenance and welfare remedies, but does not comprehensively address every dimension of elderly care and protection. Gaps in institutional care, caregiver training, awareness, digital access and protection from financial abuse may leave older persons vulnerable. The central problem is whether a welfare-oriented framework is sufficient or whether a broader rights-based model is required to protect dignity, autonomy, independence and social inclusion.

1.2 Objectives and Research Questions

The study examines the evolution of elderly protection law; analyses the constitutional foundations and principal proposals of the Kerala Bill; compares it with the 2007 Central Act; evaluates safeguards against abuse and exploitation; and identifies implementation and constitutional concerns. It asks whether Indian law has moved adequately from welfare to rights, how the Kerala proposal differs from the Central Act, and whether the initiative can inform legal reform in other States.

2. HYPOTHESIS AND RESEARCH METHODOLOGY

2.1 Hypothesis

The study proceeds on the hypothesis that India's elderly protection framework remains substantially welfare-oriented and does not fully address the rights, autonomy and independence of senior citizens. The Keralam Senior Citizens (Care and Protection of Rights) Bill, 2026 proposes a broader rights-based approach that may strengthen elderly justice, provided its constitutional validity, institutional accountability and implementation are secured.

2.2 Research Methodology

The paper adopts doctrinal and socio-legal research methods. The doctrinal component examines constitutional provisions, legislation, judicial decisions and international human rights instruments. The socio-legal component considers practical issues relating to family care, institutional protection, financial exploitation, digital exclusion and access to healthcare. The study relies on secondary sources, including the Constitution of India, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the Kerala Bill, judicial decisions, government and institutional materials, academic writing and international instruments.

The analysis is descriptive and critical. It evaluates the legal design and likely implementation concerns of the proposed framework. It does not claim to establish empirical findings through household surveys or field interviews. Any specific clause-level interpretation should be checked against the final authenticated text of the Bill and any subsequent amendments, rules or assent notification before publication.

3. CONSTITUTIONAL FRAMEWORK

3.1 Article 14: Equality

Article 14 guarantees equality before the law and equal protection of the laws. Older persons may experience particular disadvantages arising from declining earning capacity, health limitations and economic dependency. Reasonable age-sensitive measures may advance substantive equality when the classification is constitutionally justified and the measure has a rational connection with its objective.

3.2 Article 21: Life and Dignity

Article 21 protects life and personal liberty. Its interpretation extends beyond mere physical survival to conditions consistent with human dignity. For older persons, dignity may require freedom from abuse, access to healthcare, adequate shelter and nutrition, respect for personal decisions, privacy and opportunities for participation. A rights-based law should protect older persons without assuming that age itself removes decision-making capacity.

4. CONSTITUTIONAL AND STATUTORY FOUNDATIONS

4.1 Directive Principles

Article 38 directs the State to promote a social order informed by social, economic and political justice. Article 39 contains principles concerning livelihood and the distribution of resources for the common good. Article 41 expressly refers to public assistance in cases of old age, sickness and other circumstances of undeserved want, subject to the State's economic capacity and development. Article 46 is also relevant where elderly persons belong to economically and socially disadvantaged sections. These Directive Principles guide policy and legislation, although they are not independently enforceable in the same manner as fundamental rights.

4.2 Maintenance and Welfare of Parents and Senior Citizens Act, 2007

The 2007 Act is a central statutory measure intended to provide more effective provisions for the maintenance and welfare of parents and senior citizens. Section 4 recognises the right to claim maintenance; Section 5 concerns applications; Section 7 provides for Maintenance Tribunals; and Section 9 concerns maintenance orders. Section 19 addresses old-age homes, Section 20 medical support, Section 23 certain property transfers and Section 24 abandonment. The Act therefore provides important remedies, including protection against specified forms of exploitation and abandonment.

The Act's principal structure centres on maintenance obligations and welfare mechanisms. It does not comprehensively regulate every contemporary dimension of elderly care, such as professional caregiver certification, digital inclusion and the full range of residential and home-care services. This distinction provides the basis for comparing the Central Act with the proposed Kerala framework.

4.3 Other Legal Remedies

The maintenance remedy formerly contained in Section 125 of the Code of Criminal Procedure, 1973 is now reflected in Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023. It provides a further legal route for eligible parents unable to maintain themselves. These provisions operate alongside the 2007

Act and should be considered as part of the wider legal framework rather than as substitutes for a comprehensive system of elderly rights.

5. THE KERALAM SENIOR CITIZENS BILL, 2026

The Bill proposes a broader framework for the care and protection of persons aged 60 years and above. The guiding principles identified in the material include dignity and respect, the best interests of senior citizens, ageing in place and home-based care, safety and social care, independence, and participation in decision-making. These principles move the discussion beyond maintenance and recognise older persons as individuals whose preferences and choices matter.

5.1 Dignity, Independence and Participation

Dignity requires respect for an older person's identity, preferences and decisions. Independence includes the ability to make choices about personal life, care and participation in society. The proposal's emphasis on income-generating opportunities also challenges the assumption that retirement necessarily means complete economic dependency. Older persons may continue to contribute through their knowledge, skills and experience.

5.2 Best Interests and Autonomy

The best-interests principle can guide decisions where protection is required, but it must not become a justification for overriding the wishes of an older person merely because that person is considered vulnerable. A rights-based framework should give due weight to the individual's views, preferences, capacity and informed choices. Protection and autonomy must be treated as complementary principles.

5.3 Specific Areas of Protection

The Bill's reported areas of focus include priority shelter for vulnerable elderly women; access to affordable care; age-friendly public spaces; digital inclusion and safety; legal aid; and access to dignity-preserving products such as mobility aids, hearing aids and spectacles. These proposals recognise that elderly justice concerns practical access to services as well as formal legal rights.

The proposed emphasis on home-based care and ageing in place may help preserve family and community connections. However, home-based care must be supported by trained caregivers and appropriate services. Institutional care must also remain available for older persons who need or prefer it.

6. INSTITUTIONAL PROTECTION AND CARE REGULATION

6.1 Protection Units and Forums

The Bill proposes State and District Senior Citizen Protection Units and district-level forums. The proposed district mechanisms are intended to receive or investigate complaints, inspect care centres, address abuse and neglect, maintain records and assist with rehabilitation. The designation of police nodal officers is intended to improve responses to complaints involving abuse, abandonment and exploitation.

The effectiveness of these bodies will depend on clear allocation of functions, adequate staffing and funding, trained officers, accessible complaint procedures, time-bound investigations, transparent reporting and independent monitoring. Overlapping responsibilities or inadequate resources could weaken implementation.

6.2 Registration of Care Institutions

The Bill proposes registration and regulation of different categories of elderly-care institutions, includi

ng residential homes, retirement homes, assisted-living facilities, day-care and respite-care centres, hospices and home-care agencies. Registration should be accompanied by standards for accommodation, food, sanitation, medical support, safety, staffing and grievance redressal. Regular inspection is necessary because registration alone cannot guarantee quality care.

6.3 Caregiver Training and Rights

The proposed Keralam Geriatric Care Certification Framework seeks to provide a unified curriculum, verification and refresher training. Professional care requires specialised skills and ethical standards. The proposal also recognises that caregivers require fair wages, safe working conditions and protection against harassment and exploitation. Elderly protection cannot rest on an inadequately trained or exploited workforce.

Regulation should be proportionate. Compliance requirements must protect residents without making affordable care inaccessible, particularly for smaller providers and community-based services.

7. ABUSE, DIGITAL SAFETY, HEALTHCARE AND AUTONOMY

7.1 Abuse and Financial Exploitation

Elder abuse may be physical, psychological, financial or institutional. It may include neglect, abandonment, coercive property transfers, unauthorised withdrawals and deprivation of healthcare. The Bill proposes reporting obligations for specified professionals and care centres, protection mechanisms and penalties for specified offences. The source material describes a reporting timeline of 48 hours in specified circumstances and reported penalties of imprisonment up to three years and fines up to ₹50,000 for certain offences. These details should be verified against the authenticated Bill text before citation.

Mandatory reporting can identify abuse that victims may be unable or unwilling to report. It should nevertheless include confidentiality, protection against retaliation and procedures that respect the older person's wishes and autonomy. Property safeguards must distinguish coercion, fraud and undue influence from genuine voluntary transactions.

7.2 Digital Inclusion and Cyber Protection

Older persons may face phishing, impersonation, fraudulent banking calls, fake investment schemes and digital payment fraud. The proposal refers to specialised cyber protection mechanisms and improved coordination for reporting and responding to fraud. Digital literacy, accessible reporting, banking awareness and privacy safeguards are also necessary. Essential public services should retain non-digital access so that technology does not become a barrier.

7.3 Healthcare and Social Security

The Bill's reported healthcare proposals include geriatric outpatient services, periodic clinics, regional geriatric centres, mobile medical services, respite care and support for older persons with conditions such as dementia and Parkinson's disease. Physical healthcare should be accompanied by mental-health and community support. Financial security, pension arrangements and affordable treatment remain essential to dignified ageing.

7.4 Living Wills and Personal Autonomy

The proposed living-will provisions raise important questions about advance medical directives, informed consent and end-of-life dignity. In Common Cause v. Union of India, (2018) 5 SCC 1, the Supreme Court recognised advance medical directives within Article 21 and prescribed safeguards, later modified in 2023. Any Kerala procedure must be consistent with the binding judicial framework. The

older person's voluntary and informed decision must remain central; relatives or institutions should not use the process to exert pressure.

8. COMPARATIVE AND CONSTITUTIONAL ANALYSIS

8.1 Central Act and Kerala Bill

The 2007 Central Act principally provides maintenance and welfare remedies, including tribunals, old-age homes, medical support and specific protection concerning property transfers and abandonment. The Kerala Bill proposes a wider framework addressing rights, care regulation, caregiver training, digital inclusion, legal aid, geriatric healthcare and institutional protection units. The Central Act should not be described as providing no protection against abuse: Sections 23 and 24 already address specified forms of exploitation and abandonment. The proposed Bill's distinctive contribution is its attempt to develop a more extensive regulatory and rights-oriented framework.

8.2 Judicial Approach

In D.S. Nakara v. Union of India, (1983) 1 SCC 305, the Supreme Court considered pension as an important social welfare measure. In Common Cause v. Union of India, (2018) 5 SCC 1, the Court recognised advance medical directives and the right to die with dignity subject to safeguards. Ashwani Kumar v. Union of India, (2019) 2 SCC 636, concerned implementation of welfare measures for older persons. Paschim Banga Khet Mazdoor Samity v. State of West Bengal, (1996) 4 SCC 37, recognised the constitutional importance of access to medical treatment. These decisions provide relevant principles concerning pension, dignity, healthcare and implementation.

8.3 Legislative Competence and Repugnancy

Articles 245 and 246 and the Seventh Schedule govern the distribution of legislative powers. The relevant subject matter may engage different legislative entries. Where a State law conflicts with Parliamentary legislation on a Concurrent List subject, Article 254 becomes relevant. Section 3 of the 2007 Central Act also contains an overriding provision. The Kerala Bill's relationship with the Central Act therefore requires careful clause-by-clause analysis. Reservation for the President's consideration under Article 254(2) may be relevant where the constitutional conditions are met. Forum for People's Collective Efforts v. State of West Bengal, (2021) 8 SCC 599, provides principles relevant to repugnancy.

The Bill's status must be accurately described. The source document records that it was passed by the Kerala Legislative Assembly on 26 October 2026 and reports that, as of 4 November 2026, it was awaiting the Governor's decision. Its subsequent assent and commencement status should be verified from official records before publication.

9. INTERNATIONAL PERSPECTIVE, FINDINGS AND RECOMMENDATIONS

9.1 International Human Rights Perspective

The Universal Declaration of Human Rights, 1948 recognises equality and dignity and refers to social security and an adequate standard of living, including security in old age. Articles 9 and 12 of the International Covenant on Economic, Social and Cultural Rights concern social security and health. The United Nations Principles for Older Persons, 1991 identify independence, participation, care, self-fulfilment and dignity. The Madrid International Plan of Action on Ageing, 2002 promotes participation, health and well-being, and supportive environments. These instruments provide policy and interpretive guidance for domestic elderly protection.

9.2 Major Findings

The study finds that Indian elderly protection has developed substantially through maintenance and welfare legislation, but important gaps remain in comprehensive care regulation and rights recognition. The Kerala Bill proposes a wider approach centred on dignity, independence and participation. Its proposed care-centre regulation, caregiver certification, reporting mechanisms, digital protection and geriatric services address significant areas of concern. At the same time, the living-will provisions, property safeguards, institutional powers and overlap with central legislation require careful legal scrutiny. Effective implementation will depend on resources, trained personnel, coordination and accessible remedies.

9.3 Recommendations

First, recognised rights should be linked to clear duties, remedies and accountability. Second, protection units should receive adequate resources and have clearly defined responsibilities. Third, care institutions should meet enforceable standards and undergo regular inspection. Fourth, the autonomy, privacy and informed consent of older persons must be respected. Fifth, advance medical directives should comply with the Supreme Court's safeguards. Sixth, financial and property protection should address fraud and coercion without restricting voluntary decisions. Seventh, geriatric healthcare, mental-health services and digital literacy should be strengthened. Eighth, elderly women and persons in rural or disadvantaged communities should receive accessible support. Finally, the State should ensure constitutional harmonisation with central legislation.

10. CONCLUSION AND REFERENCES

10.1 Conclusion

The protection of elderly citizens is an essential responsibility of a society committed to constitutional values, social justice and human dignity. Ageing should not be treated merely as physical decline or economic dependency. Older persons retain rights, aspirations, experience and the capacity to participate in society. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 provides important maintenance and welfare mechanisms, but changing social conditions require a broader approach.

The Keralam Senior Citizens (Care and Protection of Rights) Bill, 2026 seeks to expand the framework through proposed recognition of dignity, independence, participation, affordable care, digital inclusion, legal aid and protection against abuse. Its institutional and regulatory proposals may strengthen elderly justice if supported by adequate resources and effective accountability. Its constitutional relationship with central legislation and its provisions concerning advance medical directives and personal autonomy require careful examination.

The transition from welfare to rights does not mean abandoning welfare assistance. It means ensuring that assistance is accompanied by autonomy, participation, enforceable protection and respect for individual choice. The success of elderly protection should be measured by whether older persons can live without fear of neglect, abuse, exploitation and discrimination. A rights-based society must protect dignity at every stage of life.

References and Bibliography

1. Constitution of India, 1950, Articles 14, 21, 38, 39, 41, 46, 245, 246 and 254.
2. Maintenance and Welfare of Parents and Senior Citizens Act, 2007.
3. Bharatiya Nagarik Suraksha Sanhita, 2023; Bharatiya Nyaya Sanhita, 2023.

4. Keralam Senior Citizens (Care and Protection of Rights) Bill, 2026.
5. Kerala State Senior Citizens Commission Act, 2025.
6. D.S. Nakara v. Union of India, (1983) 1 SCC 305.
7. Paschim Banga Khet Mazdoor Samity v. State of West Bengal, (1996) 4 SCC 37.
8. Common Cause v. Union of India, (2018) 5 SCC 1.
9. Ashwani Kumar v. Union of India, (2019) 2 SCC 636.
10. Forum for People's Collective Efforts v. State of West Bengal, (2021) 8 SCC 599.
11. Universal Declaration of Human Rights, 1948; International Covenant on Economic, Social and Cultural Rights, 1966.
12. United Nations Principles for Older Persons, 1991; Madrid International Plan of Action on Ageing, 2002; World Health Organization, Decade of Healthy Ageing: 2021–2030.