

Assessment of the Financial Capacity in Elderly: Approach and Challenges in Indian Scenario

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ABSTRACT

The elderly population, with those individuals above the age of 60 years, is increasing exponentially, attributable to higher life expectancy as a result of improved health care, socioeconomic level, and quality of life. As they grow older (>80 years), it becomes difficult to manage their basic needs and daily living. A report on Decade of Healthy Ageing estimates that 14% of people aged 60 years and above cannot meet their basic daily needs which include the ability to manage finances. Some elderly people depend on others to manage finances because of their inability to make decisions resulting in conflicts and communication problems between siblings and other members of the family and lodging of civil lawsuits in India's joint family unit. So, decision-making is an important area to assess in the elderly people, given its clinical, legal, and ethical aspects. Courts of law can refer to older persons for assessing their capacity to manage finances, though there are no structured clinical procedures to assess

it in India. This article evaluates existing methods around the world, discusses the challenges associated with the assessment, and provides clinicians with guidance on assessing financial capacity from an Indian perspective.

Keywords: Mental competence, assessments, elderly, India

The elderly population, with those above the age of 60 years, is increasing exponentially, attributable to higher life expectancy as a result of improved health care, socioeconomic level, and quality of life. In 2020, the global population of older persons was more than one billion people, which is around 13.5% of the world's population. It is expected to reach 2.1 billion by 2050.¹ There are 138 million people over the age of 60 now, which is projected to increase to 194 million by 2031.² A Decade of Healthy Ageing as determined by the World Health Assembly, August 2020, is between 2021

and 2030. The baseline report of a Decade of Healthy Ageing estimates that 14% of people aged 60 years and above are unable to meet their basic daily needs.³ This is referred to as the functional ability, which constitutes three elements: the ability to get dressed, take medication, and manage money. As they grow older (>80 years), it becomes very difficult to manage their basic needs and daily living. In a study done in Belagavi, 8.6% of an urban elderly population showed cognitive impairment.⁴ This percentage is likely to increase for those over 70 or 80 years of age. But many of these people would not have had their cognitive assessment or seek consultation when they start to have cognitive difficulties. Only affordable concerned relatives would seek consultation with the specialists. In their 2003 article, Griffith and colleagues mentioned that people with mild cognitive impairment (amnestic type) had impaired discrete financial

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HOW TO CITE THIS ARTICLE: Chithra NK., Harbishettar V, Gowda GS., Srinivasa P, Gowda M. Assessment of the Financial Capacity in Elderly: Approach and Challenges in Indian Scenario. *Indian J Psychol Med.* 2021;43(5S):19S–24S.

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Submitted: 18 Jun. 2021
Accepted: 19 Jul. 2021
Published Online: 6 Oct. 2021



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ACCESS THIS ARTICLE ONLINE
Website: journals.sagepub.com/home/szj
DOI: 10.1177/02537176211038024

deficits.⁵ In addition, the elderly population has health issues ranging from depression to multiple medical comorbidities.⁶ The functional disability and health care burden result in increased functional dependency on the caregivers and lead to burden and burnout.^{7,8} The burnout, burden among caregivers, and functional dependency further make the elderly more vulnerable to depression, abandonment, verbal abuse, and neglect.⁸ According to a recent systematic review and meta-analysis on senior abuse, 15.7% are abused, with 11.6% experiencing psychological, 6.8% financial, 4.2% neglect, and 2.6% physical abuse.⁹ Given the psychosocial issues faced by them, questions arise regarding their capacity to make decisions. These concerns include financial management, making contracts, giving consent to medical treatment, self-care, and the need for guardianship.¹⁰ Decision-making is an important area to assess in the elderly, given its clinical, legal, and ethical aspects. Conflicts and communication problems between siblings and other family members could lead to conflicting views putting clinicians on the spot and amenable to scrutiny if they go with conflicting views, which legal experts best answer. The absence of capacity to make certain decisions has implications on future care planning, highlighting the importance of the assessment of the decision-making capacity. Therefore, clinicians get referrals to assess the capacity to make financial transactions, donative capacity, and testamentary capacity. However, in India, there are no structured procedures to assess financial capacity. So, this article evaluates existing methods around the world, discusses the challenges associated with assessments, and provides clinicians with guidance on how to assess financial capacity from an Indian perspective.

Financial and Testamentary Capacity

Before we assess financial and testamentary capacity, it is important to know the definitions of a few terminologies that are often used in this context. The first set of terminologies include capacity and competency. There is a fine line between the two, and both remain distinct concepts. Capacity is

defined as a functional determination that an individual can decide within a given situation.¹¹ It is specific to the task and situation. On the other hand, competence refers to carrying out the activities required to put decisions into action. So, competence includes the capacity to make a decision and execute planned activities based on the decision. Competence is a legal construct, and it is used in legal proceedings.¹¹

The other two concepts to be differentiated are testamentary capacity and financial capacity. Testamentary capacity is used to assess the capacity to make a valid will.¹² Indian Succession Act, 1925 assumes that anyone is competent to get into a contract but must be of legal age, sound mind, and willing to do so has a testamentary capacity.¹³ The Banks vs. Goodfellow criteria¹⁴ can be used to assess an individual's testamentary capacity. It comprises the following items: (a) understanding the nature of the act of making a will and its consequences; (b) understanding the extent of one's assets; (c) understanding and appreciating the claims of those who may expect to benefit from the will, both those to be included and those to be excluded; (d) recognizing the impact of the distribution of the estate's assets; and (e) the testator is free of any mental illness or delusions that might influence asset disposition.

In contrast to testamentary capacity, financial capacity is the ability to satisfactorily manage one's financial affairs consistent with personal self-interest and values.^{15,16} It involves the basic ability to perform and judge financial matters,¹⁵ hence bearing contractual capacity, donative capacity, and testamentary capacity.¹⁷ Factors like education, occupation, or socioeconomic status can influence the financial capacity of an individual.¹⁷ It is also sensitive to neurological, psychological, and physical disorders that impact cognitive processes (see **Table 1**).¹⁵

Approach to Assessment of Financial Capacity

An individual's current financial functioning has to be assessed based on the individual's current environmental demands and their premorbid financial experience and abilities. Griffith and

colleagues have created a financial capacity tool based on the clinical model. This tool was used in their empirical investigations. There are three levels to the clinical model^{5,18}: (a) general domains of financial activity, each of which is clinically relevant to community-dwelling older adults' independent functioning; (b) specific financial abilities or tasks, each of which is relevant to a specific domain of financial activity; and (c) overall financial capacity, which reflects a global estimate of capacity based on overall domain and task-level performance. According to a newly upgraded version, the model has nine domains, 18 tasks, and two global levels.^{5,16,19-21} This model has been the basis for financial capacity instrument development, including the Financial Capacity Instrument (FCI).¹⁸ Eighteen core skills encompass nine categories of financial ability, ranging from simple tasks like naming coins and currency notes to more sophisticated duties like making and explaining investment decisions.⁵ It has been listed out in **Table 2**. Even though it comprehensively assesses the various financial aspects that individuals encounter in their day-to-day lives, it fails to capture recent technological advancements in the banking sector regarding using bank applications, sharing, and securely entering One Time Password (OTP). So, in addition, clinicians can explore the impact of technology on financial capacity in the elderly.

Three different approaches have been explained by Marson et al. to assess financial capacity clinically.^{16,18} These approaches are (a) patient and informant-based, (b) direct assessment of financial skills using performance-based instruments, and (c) clinical interview approach. Individual and caregivers (informant) based reports of everyday financial functioning in community settings can be gathered through a written questionnaire or rating forms. These assessments must be made in private rooms in the hospitals in the absence of other caregivers/family members. This makes the individual more comfortable, and the factor of undue influence, if present, is eliminated.¹⁹ There is, however, no gold standard technique for assessing financial capacity.²² As per the integrative review, FCI has been mostly

TABLE 1.

Difference Between Financial Capacity and Testamentary Capacity

Financial Capacity	Testamentary Capacity
Ability to make a decision on financial issues based on capacity and execute planned activities based on the decision	Ability to decide the distribution of the assets of the estate, and others, with which he/she makes a valid will as per law
Ability to decide overall financial issues based on capacity <ul style="list-style-type: none"> • Performance skills related to financial issues to understand the execution of the planned decision 	Understanding the act of making a will and its consequences <ul style="list-style-type: none"> • Understanding the extent of one's assets • Understanding and appreciating the claims of those who may expect to benefit from the will, both those to be included and those to be excluded • Recognizing the impact of the distribution of the estate's assets • The testator is free of any mental illness or delusions that might influence asset disposition

TABLE 2.

Clinical Conceptual Model of Financial Capacity Instrument: 9 Domains, 18 Tasks, 2 Global Scores^{5,18}

Domain/Task		Description	Difficulty
Domain 1		Basic Monetary Skills	
Task 1a	Naming coins/currency	Identify specific coins and currency	Simple
Task 1b	Coin/currency relationships	Indicate relative monetary values of coins/currency	Simple
Task 1c	Counting coins/currency	Accurately count groups of coins and currency	Simple
Domain 2		Financial Conceptual Knowledge	
Task 2a	Define financial concepts	Define a variety of financial concepts	Complex
Task 2b	Apply financial concepts	Practical application or computation using concepts	Complex
Domain 3		Cash Transactions	
Task 3a	Three item grocery purchase	Enter into simulated one item transaction; verify the change	Simple
Task 3b	Three item grocery purchase	Enter into simulated three item transaction; verify the change	Complex
Task 3c	Change/vending machine	Obtain change for vending machine use; verify the change	Complex
Task 3d	Tipping	Understand tipping convention; calculate/identify tips	Complex
Domain 4		Checkbook Management	
Task 4a	Understand checkbook	Identify and explain parts of the check and check register	Simple
Task 4b	Use checkbook/register	Enter into a simulated transaction; pay by check	Complex
Domain 5		Bank Statement Management	
Task 5a	Understand bank statement	Identify and explain parts of a bank statement	Complex
Task 5b	Use bank statement	Identify specific transactions on the bank statement	Complex
Domain 6		Financial Judgment	
Task 6a	Detect mail fraud risk	Detect and explain risks in mail fraud solicitation	Simple
Task 6b	Detect telephone fraud risk	Detect and explain risks in telephone fraud solicitation	Simple
Domain 7		Bill Payment	
Task 7a	Understand bills	Explain the meaning and purpose of bills	Simple
Task 7b	Prioritize bills	Identify bills that need immediate attention	Simple
Task 7c	Prepare bills for mailing	Prepare simulated bills, checks, envelopes for mailing	Complex
Domain 8		Knowledge of Assets or Estate	
Task 8a		Indicate/verify asset ownership, estate arrangements	Simple
Domain 9		Investment decision-making	
Task 9a		Understand investment options/returns; make decisions	Complex

Note: Global 1. Domains 1–7: Overall performance across domains 1–7 and tasks; Global 2. Domains 1–7 + 9: Overall performance across domains 1–7 + 9 and task.

used in the studies²³ and assesses the objective financial skills. Another tool is the Semi-Structured Clinical Interview for Financial Capacity (SCIFC),¹⁶ and it

gives more categorical findings of the capacity than quantitative assessments.²² SCIFC has been used in mild cognitive impairment and Alzheimer's disease

research and can be useful in giving reports for legal purposes as it gives categorical findings. In India, a combination of all these approaches and

tools can be helpful at different levels of education, occupation, socioeconomic status, and culture.

Premorbid Financial Experience and Abilities

As mentioned earlier, it is important to assess the patients' premorbid functioning of financial experience and abilities as it is different for different individuals and it depends on the education, occupation, and socioeconomic background. Premorbid functioning indicates their baseline abilities and experience in handling finances. A person without any formal education may not be able to do some of the basic financial transactions in the bank or manage his checkbook. They may have to take help from their friends or others, making this person vulnerable to exploitation at any point in time. Persons with higher educational qualifications may be quite familiar with handling their finances using internet banking and online payment modes. So, understanding the premorbid financial experience is important to assess the same rather than applying complex assessments on such individuals. Also, it reveals his knowledge of financial management and his ability to comprehend it, as well as his cognitive abilities' decline following the illness (Marson et al., 2016). It sets the stage for us to move forward. This can assist us in making an accurate assessment rather than overestimating or underestimating someone's abilities. Another important consideration is that the clinician may need to obtain information about the financial assets and will from a close family member in advance.

Assessment of Conditions Leading to Diminished Financial Capacity

Dementia, cognitive deficits as a result of a stroke, brain injury, or other acquired brain impairments, delirium, amnesic disorders, aphasia, psychosis, and severe mental illness have an impact on a person's financial capacity.^{4,24} A recent meta-analysis on assessing the financial decision-making of persons with neurocognitive and degenerative disorders showed consistently worse

performance on performance-based tests when compared to healthy controls. The performance was linked to cognitive deterioration, particularly in working memory, processing speed, and numeracy.²⁵ So, it is important to do a thorough psychiatric examination that includes past and present psychiatric history, and present mental state examination findings, including mood, affect, the presence of delusions and hallucinations.¹⁰ The presence of any of these conditions does not necessarily imply that the patient has diminished capacity.²⁵ It is dependent on the impact of cognitive decline on financial capacity and how delusions and hallucinations influence asset disposition or financial capacity. For example, suppose a patient in mania believes that he is god and wants to help people and spends a lot of money giving away to multiple people. In that case, it indicates a lack of financial capacity impaired by the illness at the time. However, capacity is dynamic, and he may regain once mania reaches remission if a patient with depression can understand how to make simple financial transactions even during the episode but might underestimate his/her financial capacity. Though the patient may lack motivation and energy because of depression, a formal assessment report of financial capacity may indicate otherwise. So, because the fluctuating nature of mental illness influences financial capacity decisions, the timing of assessment and financial decisions is also important from a legal standpoint.

Clinical Warning signs of Diminished Financial Capacity²⁶

Normal healthy aging can be associated with dullness in cognitive abilities in a few, which can manifest as minor changes in a financial capacity. So, it is good to assess those subtle changes in the day-to-day activities. However, age alone is not a criterion for requesting an assessment, which may appear discriminatory to the elderly individual. This requires an informant-based evaluation and some evidence of impairment in cognitive or of daily life activities that indicate clinical warning signs of a decrease in a financial capacity. The following are the warning signs.

1. Memory lapses: There may be an increase in memory lapses, resulting in mistakes and the inability to pay bills, even paying the same one many times recently.
2. Disorganization: At home, there is an increase in misplacing of financial and other papers, resulting in failures such as missed deadlines.
3. Decline in checkbook management skills: Deterioration in a person's ability to use a checkbook and check register to carry out everyday transactions.
4. Arithmetic mistakes: Calculating change and tipping at restaurants are examples of common mathematical abilities where there may be mistakes.
5. Conceptual confusion: Confusion and a general lack of understanding of basic financial words and ideas such as will and annuity.
6. Impaired judgment: Investing in high-risk or Ponzi schemes.

Coercion/Undue Influence

It is also necessary to determine whether a recent change in the will/transaction was made and examine the rationale for the same. If the individual is unable to explain their reasoning, it raises concerns about undue influence. Corroboration from many sources is particularly crucial at this stage because it may provide hints as to the root of the problem and the variables that are causing undue influence. It is crucial to emphasize that a clinician/mental health professional can identify the physical, medical, and social characteristics that predispose the elderly to undue influence rather than determining undue influence, which legal specialists best do. It is important to maintain professional boundaries while giving opinions regarding the same.¹⁰ In addition, Section 16 of the Indian Contract Act, 1872 defines "undue influence": when the parties' relationships are such that one of them has authority/control/influence/leverage over the other's will and exploits that authority to gain an unfair advantage over the other.²⁷ There has been widespread agreement throughout the years that there are common indices of undue influence that may be used to support judgments regarding whether it has a role in forming a will.^{10,28} The following are some of them¹⁰: (a) physical, emotional, or environmental

circumstances that predispose the testator to undue influence; (b) a confidential relationship between the testator and the influencer; (c) the testator's relative isolation, which allows the influencer to control access to information and distort the facts; (d) the influencer was actively involved in obtaining the will; (e) the presence of provisions in the will that are inconsistent with the testator's previously or subsequently expressed wishes; and (f) the influencer reaped disproportionate benefits from the shift in the will.

Challenges in Assessing the Financial Capacity in Elderly: Indian Scenario

India is known for its joint family system and collective family decision, though the nuclear family system is becoming more common in recent years. Persons who cannot do banking or other financial transactions rely on their children to do transactions, sometimes, the closest

relative. This leads to dependency and thus may lead to financial exploitation by undue influence. There are instances where children have reported that their father had given loans to someone but do not remember now. It would be better if the family members recognize these issues early and find an alternative to help the elderly handle their finances. There is a need to create public awareness about the common issues and reduce the chances of exploitation. In addition, socioculture also influences the decision. In many parts of semi-urban/rural areas of India, the senior-most male in the family is called the head of the family who decides all the financial transactions, and other relatives follow the same. Occasionally, a few transaction works get delegated to other family members. But when such head of the family starts to lose the capacity to manage finances or even decide to delegate, the family members also experience difficulties as convincing the head of the family may be a difficult task.

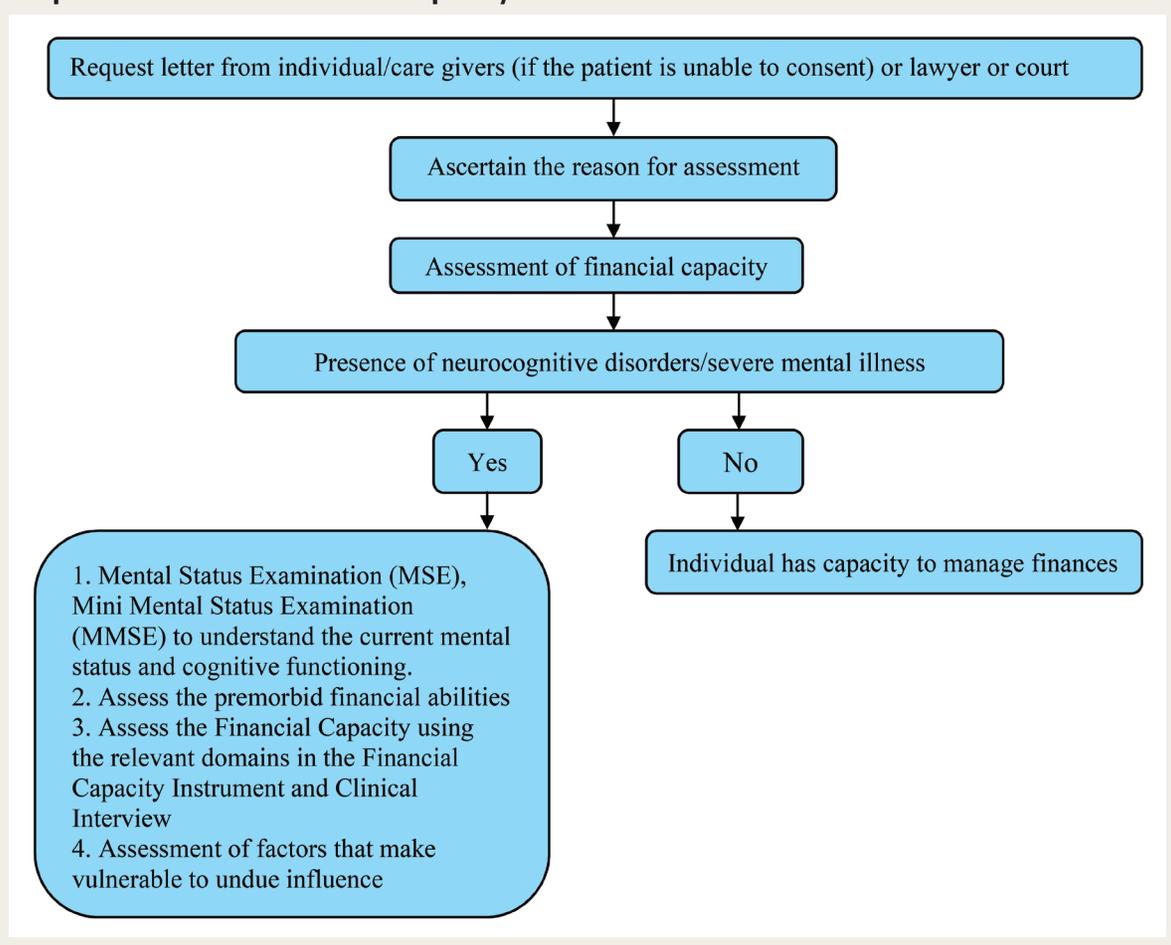
Furthermore, because the family's head oversees the transactions, the other family members may be unaware of the assets or other transactions done by him. As a result, if the head of the family loses capacity, there is a risk that an outsider may financially exploit the head of the family. In these types of scenarios, the court may seek an expert opinion on financial capacity.

General Guide to Assess the Financial Capacity of the Elderly

Because there is no formal format for assessing financial capacity, it is difficult for a geriatric psychiatrist, psychiatrist, or neurologist to issue a certificate. **Figure 1** shows the steps that the team can take to assess the financial capacity. It is recommended to collect a request letter from the individual or caregivers (if the patient cannot approve) or lawyer or court to determine financial capacity. Because financial capacity is task-specific and

Figure 1.

Steps to Assess the Financial Capacity



dynamic, a more categorical approach would be beneficial in legal settings. The drafting certificate must be carefully worded because financial capability is a multidimensional construct.

Conclusion

Financial capacity is a multidimensional construct that can be influenced by various factors, including the severity of cognitive decline, the fluctuating nature of the severe mental illness, premorbid financial abilities, and others. So, a multidisciplinary team needs to do a comprehensive examination with attention given to any pre-existing medical and neuropsychiatric disorders, the current mental status examination, cognitive assessment using mini mental state examination or similar tool, premorbid and present financial capacity, and ruling out any undue influence. The multidisciplinary team must consider the challenges in India, and assessments should be tailored to each individual. More categorical approach tools would be beneficial in issuing a certificate in legal settings.

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Declaration of Conflicting Interests

The authors declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The authors received no financial support for the research, authorship, and/or publication of this article.

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