



RIGHTS FOR ELDERLY IN VULNERABLE CONSTITUENCIES

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ABSTRACT

Aging comes with many challenges. The loss of independence is one potential part of the process, as are diminished physical ability and age discrimination. Aging process includes biological, emotional, intellectual, social, and spiritual changes.

As it has been observed many older adults remain highly self-sufficient. Others require more care. There can be a challenge for elderly adult as they can no longer hold jobs and challenges. Due to cultural misconceptions, older people can be targets of ridicule and stereotypes. The elderly face many challenges in later life, but they do not have to enter old age without **dignity** as our constitution provides Right to live with dignity under Article 21 to every citizen of India.

Ageism has been at the utmost concern which is reflecting in the workplace, in health care, and in assisted-living facilities, the effects of discrimination can be more severe. It can make older people fear losing a job, feel dismissed by a doctor, or feel a lack of power and control in their daily living situations.

Mistreatment and Abuse of the elderly is also a major social problem. As expected, with the biology of aging, the elderly sometimes become physically frail. This

frailty renders them **dependent** on others for care. It has been seen an adult child caring for an elderly parent while, at the same time, depending on some form of income from that parent, would be considered more likely to perpetrate physical abuse.

All this underlines the importance of the **intergenerational relationship**. As family structures become looser and more scattered geographically which leads to loneliness and depression and can be severe to their health.

In this paper we briefly review all the factors which elderly adult faces in our society and also analyse how these issues can be empowered.

INTRODUCTION

Old age comprises “the later path of life; the period of life after youth and middle age”. The hindrance to society’s fuller understanding of aging is that people rarely understand it until they reach old age themselves. Therefore, myths and assumptions about the elderly and aging are common.

Many stereotypes exist surrounding the realities of being an older adult. While individuals often encounter stereotypes associated with race and gender and are thus more likely to think critically about them, many people accept age stereotypes without question. Each culture has a certain set of expectations and assumptions about aging, all of which are part of our socialization.

Gerontology is a field of science that seeks to understand the process of aging and the challenges encountered as seniors grow older. Gerontologists investigate age, aging, and the aged. Gerontologists study what it is



like to be an older adult in a society and the ways that aging affects members of a society.

Today, with most households confined to the nuclear family, attitudes toward the elderly have changed. Among private households in the country, only some of them are multigenerational. It is no longer typical for older relatives to live with their children and grandchildren.

We need to ensure that our older population are recognised as equal contributors to society and are a mainstream part of it, and to recognise that if people are going to live for 20 years in retirement we all have to have things to do.

PROCESS OF AGING

As human beings grow older, they go through different phases or stages of life. It is helpful to understand aging in the context of these phases as aging is not simply a physiological process. A **life course** is the period from birth to death, including a sequence of predictable life events such as physical maturation and the succession of age-related roles: child, adolescent, adult, parent, senior, etc. At each point in life, as an individual sheds previous roles and assumes new ones, new institutions or situations are involved, which require both learning and a revised self-definition. Each phase comes with different responsibilities and expectations, which of course vary by individual and culture. The fact that age-related roles and identities vary according to social determinations mean that the process of aging is much more significantly a social phenomenon than a biological phenomenon.

GROWING POPULATION

The population of the elderly persons has been increasing over the years. As per the UNESCO estimates, the number of the aged(60+) is likely to 590 million in 2005. The figure will double by 2025. By 2025, the world will have more elderly than young people and cross two billion mark by 2050. In India also, the population of elder persons has increased form nearly 2 crores in 1951 to 7.2 crores in 2001. In other words about 8% of the total population is above 60 years. The figure will cross 18 % mark by 2025.

CHALLENGES FACING THE ELDERLY

Aging comes with many challenges. The loss of independence is one potential part of the process, as are diminished physical ability and age discrimination. The term **senescence** refers to the aging process, including biological, emotional, intellectual, social, and spiritual changes.

Ageism

Ageism is discrimination based on age. **Dr. Robert Butler** coined the term in 1968, noting that ageism exists in all cultures. Ageist attitudes and biases based on stereotypes reduce elderly people to inferior or limited positions.

Changes happened not only in the workplace but also at home. In agrarian societies, a married couple cared for their aging parents. The oldest members of the family contributed to the household by doing chores, cooking, and helping with child care. As economies shifted from agrarian to industrial, younger generations moved to cities to work in factories. The elderly began



to be seen as an expensive burden. They did not have the strength and stamina to work outside the home. What began during industrialization, a trend toward older people living apart from their grown children, has become commonplace.

Mistreatment and Abuse

Mistreatment and abuse of the elderly is a major social problem. As expected, with the biology of aging, the elderly sometimes become physically frail. This frailty renders them dependent on others for care sometimes for small needs like household tasks, and sometimes for assistance with basic functions like eating and toileting. Unlike a child, who also is dependent on another for care, an elder is an adult with a lifetime of experience, knowledge, and opinions, a more fully developed person. This makes the care providing situation more complex.

Dependency

Dependency is the main concern for elderly people, as they are dependent on youth. It is basically about how our public policy and resourcing seek to preserve both dignity and capacity among those who may be increasingly physically challenged, but who remain citizens capable of contributing vital things to the social fabric.

Delivering Dignity

Our constitution of India provides right to life and personal liberty under Article 21 which also gives Right to live with dignity and security and should be free from exploitation and mental and physical abuse. Dignified life should have access to adequate food, water, shelter, clothing and

health care through the provision of income, family and community support and self help. Older person should have the opportunity to work or to have access to other income generating opportunities.

Intergenerational relationship

As family structures become looser and more scattered geographically, it is vital that there be regular opportunities for interaction between younger and older people, not least between children and older citizens, whether through schools arranging visiting and befriending or through formal and informal oral history projects, which have been a very significant aspect of the life of some schools in creating and developing liaison with older members of the community.

EFFORTS LAID DOWN BY THE GOVERNMENT OF INDIA

1. Constitutional Protection

Article 41: Right to work, to education and to public assistance in certain cases-The State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 46: Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections-The State shall promote with special care the educational and economic interests of the weaker sections of the people and shall protect them from social injustice and all forms of exploitation.

However, these provision are included in



the Chapter IV of Indian Constitution i.e., Directive Principles of the Indian Constitution. The Directive Principles, as stated in Article 37, are not enforceable by any court of law. But Directive Principles impose positive obligations on the state, i.e., what it should do. The Directive Principles have been declared to be fundamental in the governance of the country and the state has been placed under an obligation to apply them in making laws. The courts however cannot enforce a Directive Principle as it does not create any justiciable right in favour of any individual. It is most unfortunate that state has not made even a single Act which are directly related to the elderly persons.

2. Legal Under Personal

The moral duty to maintain parents is recognized by all people. However, so far as law is concerned, the position and extent of such liability varies from community to community.

I. Hindu Law:

Amongst the Hindus, the obligation of sons to maintain their aged parents, who were not able to maintain themselves out of their own earning and property, was recognized even in early texts. And this obligation was not dependent upon, or in any way qualified, by a reference to the possession of family property. It was a personal legal obligation enforceable by the sovereign or the state. The statutory provision for maintenance of parents under Hindu personal law is contained in **Section 20** of the **Hindu Adoption and Maintenance Act, 1956**. This Act is the first personal law statute in India, which imposes an

obligation on the children to maintain their parents. As is evident from the wording of the section, the obligation to maintain parents is not confined to sons only, and daughters also have an equal duty towards parents. It is important to note that only those parents who are financially unable to maintain themselves from any source, are entitled to seek maintenance under this Act.

II.

III.

Muslim Law:

Children have a duty to maintain their aged parents even under the Muslim law. According to Mulla:

a) Children in easy circumstances are bound to maintain their poor parents, although the latter may be able to earn something for themselves.

b) A son though in strained circumstances is bound to maintain his mother, if the mother is poor, though she may not be infirm.

c) A son, who though poor, is earning something, is bound to support his father who earns nothing.

According to Tyabji, parents and grandparents in indigent circumstances are entitled, under Hanafi law, to maintenance from their children and grandchildren who have the means, even if they are able to earn their livelihood. Both sons and daughters have a duty to maintain their parents under the Muslim law. The obligation, however, is dependent on their having the means to do so.

IV.

V.

Christian And Parsi Law:

The Christians and Parsis have no personal laws providing for maintenance for the parents. Parents who wish to seek maintenance have to apply under provisions of the Criminal Procedure Code.



Under The Code of Criminal Procedure:

Prior to 1973, there was no provision for maintenance of parents under the code. The Law Commission, however, was not in favour of making such provision. According to its report: The Cr. PC is not the proper place for such a provision. There will be considerably difficulty in the amount of maintenance awarded to parents apportioning amongst the children in a summary proceeding of this type. It is desirable to leave this matter for adjudication by civil courts. The provision, however, was introduced for the first time in Sec. 125 of the Code of Criminal

The provision, however, was introduced for the first time in Sec. 125 of the Code of Criminal Procedure in 1973. It is also essential that the parent establishes that the other party has sufficient means and has neglected or refused to maintain his, i.e., the parent, who is unable to maintain himself. It is important to note that Cr. PC 1973 is a secular law and governs persons belonging to all religions and communities. Daughters, including married daughters, also have a duty to maintain their parents.

RECOMMENDATION

- For future generations of the elderly, we must reduce exposure to experiences that harm human development. It is equally important to enhance individual capabilities and throughout life. To achieve this, a human development, people-empowering approach is necessary that emphasizes lifelong health, education and training. A greater emphasis on active ageing policy

discourse will empower people to contribute to their own development and that of their society.

- Countries need to combine comprehensive investment in building personal resilience with the provision of age-friendly enabling environments that boost community resilience. Suggestions for improving physical, social and institutional infrastructure are numerous, but lifelong learning, access to information and communication technology, social connectedness, physical safety, civic freedom and access to key public services such as transport are critical. The strengthening of social protection is required, but must be undertaken with the two interventions mentioned above. Recently, many countries have placed a strong emphasis on basic non-contributory social pensions, which have helped attain income security for older people.
- One other point emphasized both here and in the Global Age Watch Index 2013 report is that country-level economic development does not automatically improve the lives of older citizens. Instead, specific public policy priorities are required for promoting the quality of life and well-being of older people: Norway and Sweden for instance progressively invested in education, health care, employment and training, and social security throughout the life course long before they became “high income countries”.
- Likewise, the introduction of good practices in middle-income countries such as Mauritius and Sri Lanka is



relevant to countries at a similar stage of economic development and to emerging economies. In Sri Lanka, long-term investments in education and health have generated a cumulative lifetime advantage for many older people, offering lessons to other South Asian countries such as India and Pakistan. In Mauritius, on the other hand, nearly all the over 60s receive a non-contributory pension, which offers lessons for Africa in providing income security for older people.

Schemes/ Provisions made by the Government to improve the condition of the aged persons

Ministry of Social Welfare and Empowerment

Centre seeks to response to the changing demographics, keeping in mind the changed profile of the elderly the government had started some of its plans. "The idea of old age homes as ashrams was not acceptable and s we are now opening a large number of day care centres for the elderly." Similarly apart from major health schemes for them, the **Rashtriya Vayoshri Yojana** has been launched to assist senior citizens for age related ailments and to provide them dentures, hearing aids and spectacles.

Government of India

Old age pension is provided under the Pradhan Mantri VayaVandana Yojana(PMVVY) which is a component of Varishtha Pension Bima Yojana 2003 and Varishtha Pension Bima Yojana 2014, incorporated by Life Insurance Corporation

of India. Under PMVVY, central assistance of minimum Rs.1000/- per month and maximum of Rs.5000/- per month is provided to persons above 60 years on payment of minimum Rs.1,50,000 and maximumRs.7,50,000.

Ministry of Health and Family Welfare

Keeping in view the recommendations made in the National Policy on Older Persons, 1999 as well as the State's obligations under the Maintenance and Welfare of Parents and Senior Citizens, 2007, the Ministry of Health and Family Welfare had launched the National Programme for Health Care of the Elderly (NPHCE) during the 11th Plan period to address various health related problems of elderly people. The basic aim of NPHCE is to provide dedicated health care facilities to the elderly people through State Public health delivery system at primary, secondary and tertiary levels, including outreach services.

Major components of this programme, launched in 2010-11, are:

- Community based Primary Healthcare approach;
- Strengthening of health services for senior citizens at District Hospitals/ CHC/ PHC/ Sub-Centres;
- Dedicated facilities at 100 District Hospitals with 10 bedded wards for the elderly;
- Strengthening of 8 Regional Medical Institutions to provide dedicated tertiary level Medical Care for the elderly, with 30 bedded wards and Introduction of PG courses in Geriatric Medicines in the these



Institutions and In-Service training of health personnel at all level.

- As on date, a total of 104 districts of 24 States/UTs have been covered under the Programme.

Ministry of Finance, Department of Revenue

Insurance Regulatory Development Authority (IRDA) includes

- Allowing entry into health insurance schemes till 65 years of age
- Income tax exemption for senior citizen of 60 years and above upto Rs.3 lakhs pa
- Income tax exemption for senior citizen of 80 years and above upto Rs.5 lakhs pa
- Deduction of Rs. 50,000 under Section 80D is allowed to an individual who pays medical insurance premium for his/her parents who is a senior citizen.
- Senior citizen over the age of 80 years with total annual income of more than Rs.5 lakhs exempt from the e filing of ITR.

Ministry of Railway

The following facilities have been extended by Ministry of Railways from time to time to senior citizens:

- As per rules, male Senior Citizens of minimum 60 years and lady Senior Citizens of minimum 58 years are granted concession in the basic fares of all classes of Mail/Express/Rajdhani/Shatabdi/Jan Shatbdi/Duronto group of trains. The element of concession is 40% for men and 50% for women.

- In the computerised Passenger Reservation System (PRS), there is a provision to allot lower berths to Senior Citizens, Female passengers of 45 years and above automatically, even if no choice is given, subject to availability of accommodation at the time of booking.

- In all trains having reserved accommodation, a combined quota of two lower births per coach has been earmarked in sleeper, A/C 3 tier and A/C 2 tier classes for the Senior Citizens, Female passengers aged 45 years above and pregnant women when travelling alone.

Instructions exist for provisions of wheel chairs at stations. This facility is provided, duly escorted by coolies on payment as per present practice. Moreover, Zonal Railways have also been advised to provide free of cost 'Battery Operated Vehicles for Disabled and Old Aged passengers' at Railway Stations.

Ministry of Home Affairs:

The Ministry of Home Affairs has issued two detailed advisories dated 27-3-2008 and 30-8-2013 to all States Governments/UTs advising them to take immediate measures to ensure safety and security and for elimination of all forms of neglect, abuse and violence against old persons through initiatives such as identification of senior citizens, sensitization of police personnel regarding safety, security of older persons, regular visit of the beat staff; setting up of toll free senior citizen helpline; setting up of senior citizen security cell; verification of domestic helps, drivers etc.

Ministry of Civil Aviation:



In order to facilitate the passengers, particularly senior citizens, expectant mothers, passengers with disability, first time travellers etc. all the stakeholders have been instructed to ensure that the following requirements are complied:

- Airline /airport operator shall ensure provision of automated buggies free of charge for all senior citizens, in the terminal building to facilitate their access to boarding gates located beyond reasonable walking distance at all airports having annual aircraft movements of 50,000 or more. This facility may be extended to other needy passengers on demand basis free of charge.
- Further, Air India offers 50% discount to senior citizens on the highest economy class Basic Fare. The discount is offered to those who have completed 63 years of age on the date of commencement of journey.
- Senior citizens can also avail multi-level fares offered by Air India on each sector for travel on domestic sectors, starting from a low level advance purchase fares which facilitate early selling to the highest one.

MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007

This Act provides inexpensive and speedy procedure to claim monthly maintenance for parents and senior citizen. This Act casts obligation on children to maintain their parents, grandparents and also the relative of the senior citizen. The main attraction of this Act is there are provisions to protect the life and property of such persons. This Act also provide setting of old age homes for providing maintenance to the indigent senior

citizen and parents. This Act extends to the whole of India except Jammu and Kashmir state.

Criticism

Though this Acts provides provisions for a better position for the parents and elderly, there are some criticism also. It is alleged that this Act is not easy to implement, there is no obligation casts on the state government to establish old age homes, there is no provision for old age pension also.

CONCLUSION

It may be conclude by saying that the problem of the elderly must be addressed to urgently and with utmost care. There is urgent need to amend the Constitution for the special provision to protection of aged person and bring it in the periphery of fundamental right. With the degeneration of joint family system, dislocation of familiar bonds and loss of respect for the aged person, the family in modern times should not be thought to be a secure place for them. Thus, it should be the Constitutional duty of the State to make an Act for the welfare and extra protection of the senior citizen including palliative care.

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