



**THE EXPERIENCED, THE AGED,
THE IGNORED: A REVIEW OF
SENIOR CITIZENS AND THE
ELDERLY LAWS IN INDIA**

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ABSTRACT

THE EXPERIENCED, THE AGED, THE IGNORED: A REVIEW OF SENIOR CITIZENS AND THE ELDERLY LAWS IN INDIA

In the recent times, as technology and science have progressed, it has helped increase the overall quality of life and the overall life expectancy have increased, this has led to an increase in the percentage of elders in the population. This increase in the number of elders has led to the emergence of a legal grey-area. India is a welfare state and thus, it has general laws that are applicable on all citizens and, there are specific laws that are made for the protection of special groups like women, lower castes etc. But, there exists a problem in the legal framework when we consider the laws of the elders. While, certain legislations do exist in favour of the elderly, they are not conclusive and contain several loopholes which has led to a major deficit in the delivery of justice to a large segment of the population who are often left on the roads by ungrateful children.

The authors of this manuscript have tried to evaluate the said socio-legal conundrum with a critical analysis of the laws existing

in India and a comparative study with respect to certain countries and have tried to bring to light the loopholes and grey-areas in the elder laws of India and have tried to communicate solutions that are drawn from the international legal framework in order to create a holistic, equitable and just legal framework for the Indian elders.

INTRODUCTION

“You know you must be doing something right if old people like you.”

The human race has survived for so long because we have been able to adapt and elongate our survival by bending the very rules of nature and changing, evolving the basic construction of man through science and medicine. As the times have progressed, so has man kind and through science, medicine and technology, we have managed to increase the life expectancy. The advance in medicine has led to an imbalance. Though, there has always been an imbalance in society, it has always tipped towards the availability of more resources for less people but, now, we have reached a junction where the birth rate has boomed and overtaken the death rate by millions. This has led to the increase in the segment of population of society that constitutes the elderly. The just and equitable legal system takes into account the needs and welfare of special social groups but unlike women and the discriminated, the elderly have not yet achieved so in many developing societies.

Before reaching a conclusion as to the position of the elderly and their rights, it first imperative to understand the context of the term “elderly” or “elder” which have been used to refer to “senior citizens” who



can be any person being a citizen of India, who has attained the age of sixty years or above¹. The elderly population is the fastest growing portion of society² and the need to implement policies for their benefit has been acknowledged and emphasized by the UN and its organs.

Indian society has a long and cherished culture of respecting and maintaining the dignity of elders of the family. Since time immemorial, older people have been granted a stature of respect, dignity and importance and played a pivotal role in the family system of India. The elders were considered mature, wise, economically and socially stable which led to social recognition and emotional fulfilment. Unfortunately, like all other systems, the family system too has been corrupted by the 'modern' lifestyle. Rather than evolving, we have once again become savages as parents who once upon a time used to be a great asset to the family, have over time come to be regarded as liabilities. Those who were always revered and regarded as being equivalents of God are today being ill-treated, harassed, pushed into old-age homes and stripped of their properties or worse, inhumanly thrown out of the lives of the children. There are several excuses for the same ranging from

generation gap, privacy, economic burden to nuclear family, migration to better lands for more opportunities etc.

Taking the example of India into consideration, while the literacy rate in the country is improving, the education rate is still mediocre and while the economy is progressing, the fact that India has the second largest population in the world does not help our case as the resources that are put in for the welfare of the elderly are not sufficient with regard to the large number that exists. While the government has tried to establish systems of health and welfare for the benefit of the elderly, they have not been implemented in the best manner and thus, several loopholes and problems have continued to exist.

At the current point, there is a significant dearth of strong legislations with only the "Maintenance and Welfare of Parents and Senior Citizens Act, 2007" enforced for the benefit of the elders.

INTERNATIONAL PERSPECTIVE ON AGEING

The question of ageing was first debated at the United Nations in 1948 at the initiative of Argentina. The issue was again raised by Malta in 1969. In 1971 the General Assembly asked the Secretary-General to prepare a comprehensive report on the elderly and to suggest guideline for the national and international action. In 1978, Assembly decided to hold a World Conference on the Ageing. Accordingly, the World Assembly on Ageing, held in Vienna from July 26 to August 6, 1982 wherein an International Plan of Action on Ageing was adopted. The overall goal of the Plan was to strengthen the ability of individual countries

¹ Sec. 2(h), Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

² See Economic, Social and Cultural Rights of Older Persons: General Comment 6, U.N. ESCOR, Econ., Soc., & Cultural Rts. Comm., 13th Sess., para. 1, UN Doc. E/C.12/1995/16/Rev.1 (1995) [hereinafter General Comment 6] (noting that the population of elderly people in developing countries is rapidly increasing); see also Sylvia Beales, Briefing paper, The Mark of a Noble Society: Human Rights and Older People



to deal effectively with the ageing in their population, keeping in mind the special concerns and needs of the elderly. The Plan attempted to promote understanding of the social, economic and cultural implications of ageing and of related humanitarian and developed issues. The International Plan of Action on Ageing was adopted by the General Assembly in 1982 and the Assembly in subsequent years called on governments to continue to implement its principles and recommendations.³

UDHR

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948⁴ as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected. The UDHR has provided in Sec. 25(1) that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.⁵

³ IJSARD, Vol. III, Issue I, Pg. 54-59, Efficacy of "The Maintenance and Welfare of Parents and Senior Citizens Act, 2007": A Critical Analysis, Ashwani Kumar Dwivedi, Assistant Professor, Depart of Law, Inveritis University, Bareilly

⁴ General Assembly resolution 217 A

⁵ <http://www.un.org/en/universal-declaration-human-rights/>, accessed on 14th July 2018

MAJOR PROBLEMS FACED BY ELDERLY IN INDIA

The elderly in India are one of the fastest growing segments of our society, and it is necessary to understand the basic problems faced by the elderly and find ways to counter the problems and find appropriate solutions in order to create a holistic and developed nation. If we want to compare and stand tall amongst the developed and powerful nations of the world and dream to become a superpower in the coming future, it is necessary that we take steps in the direction of a complete development and the conversion of all liabilities into assets today. A country is as strong as its weakest citizens and the weakest citizens today are the elderly who face several problems that need to be countered in order to integrate them back to the society.

1) Pension

One of the most root causes of a low standard of living is lack of money. Many such elderly rely on the pension that is granted owing to their age and some are given pension as relief granted for service in for the central government. But, there are many disparities and issues that are encountered in the process of the pensions. There are many instances where the pension is not granted as the documents are not complete, or there is some discrepancy in the documents provided due to which, their pension is not released. A bigger problem however, is the non-release of the pension for several months by the government. This creates a mammoth problem for the elderly who rely solely on pension for survival. The lack of a proper system to ensure the smooth, efficient and timely release of pension is a major cause for a destitute and



paltry life for many of our country's veterans and elderly. The absence of a uniform pension regime adds to the woes of many pension holders, especially those who served the country in the Armed and Paramilitary Forces.

2) Harassment

There is no end to the harassment faced by the elderly in our country. The multiplicity of identification systems, the accessibility, rampant corruption in government offices etc. are just some of the examples of the harassment faced in daily life by the elders of our country. Gone are the days of respect and care for elders and now ill-treatment and abuse both at home and in public is a common site. The lack of patience and empathy has made the world blind of the physical, mental and emotional limitations faced by the elderly. The government processes add on to this burden of ill-treatment by the world in heaps as the duplicity and multiplicity of things coupled with the attitude and poor interpersonal skills of government officials greatly troubles the elderly. The inefficient and tiresome processes of government offices that require the filling of multiple forms, standing in long queues for hours and then being sent back with a new date to come, let alone elderly who face special difficulty as the physical limitations do not allow them to move and do things as efficiently. The Aadhar for identification, the PAN for taxation, the Voter ID for elections, Driving License for driving; are just a few examples of the different types of identifications that a person has to get made. The generation of these proofs is necessary to entitle availing of different government schemes. The argument that the digital applications and

internet-based services are available is also not valid as many of the elders today are not conversant with the modern technology and may find it difficult to access and complete the application processes online due to the lack of understanding of the technology which may seem basic to the youth but is daunting for a person who comes from an era of letters and rotary dial phones.

3) Isolation

The generation gap and difference of attitude between the elderly and the youth has led to the isolation and separation of the elderly in a very painful manner. Moreover, the lack of accessibility for the elders is a huge hindrance to their assimilation in the society. With the fast pace of city life, the senior citizens are often unable to keep up and are lost in the race. The lack of proper measures by the government and the lack of proper policy implementation in the country is a major cause of their isolation. The lack of a proper legislation to give effect to sanctions against domestic violence of the elderly is also a great cause of disadvantage to the elderly. Often, they are coerced to give up their assets to their children by employing different forms of abuse and they are left literally on the streets. Many children leave their parents at old age homes which are a necessity as per the laws but many districts do not have old age homes or the condition is so destitute that survival of a human in such conditions is a miracle. As per the existing provisions, there is a mandate for the state governments to operate old age homes with the capacity of 150 persons in every district and more if required as per demand, but, many states



like Kerala⁶ have not implemented the same as per the state rules.

4) Health-care

The biggest curse of old age is health problems and age-related ailments. The medicine and other required amenities cost through the roof and most are unable to afford them. Those who have completed a service in the government sector are secure with regard to most medicines and procedures but those who served in the private or unorganized sector face a lot of problems. The high cost of and lack of availability of medicines and medical procedures is a chief cost of death in old-age. Rural public infrastructure must remain in mainstay for wider access to health care for all without imposing undue burden on them. Side by side the existing set of public hospitals at district and sub-district levels must be supported by good management and with adequate funding and user fees and out contracting services, all as part of a functioning referral network. This demands better routines more accountable staff and attention to promote quality. One consequence is the huge regional disparities between states which are getting stagnated in the transition at different stages and sometimes, polarized in the transition. Some feasible steps in revitalizing existing infrastructure are examined below drawn from successful experiences and therefore feasible elsewhere.⁷

⁶ See Preliminary Study on Effectiveness of Maintenance and Welfare of Parent and Senior Citizens Act, 2007, Help Age India

⁷ Health Care in India- Vision 2020 Issues and Challenges, R. Srinivasan, Planning Commission, http://planningcommission.gov.in/reports/genrep/bkpap2020/26_bg2020.pdf, accessed on 13th June 2018

ELDER LAWS IN INDIA AND EFFECTIVENESS

In the light of the contemporary times, as people began to move away from their homes and families to live in bigger cities and families became nucleated, the elders in the family system became neglected. With a dearth of facilities and the absence of any care-takers, the responsibility of taking care of the parents moved from the children to the government. But, the government is not in a position to cater for the ever-growing population of the elders and it was necessary to form a set legislation and policy for the welfare of the elders. In the absence of a specific legislations, the following provisions were applied for the welfare of the elderly of India.

Constitution of India

Art. 38: State to secure a social order for the promotion of welfare of the people

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Art. 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.

Art. 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, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Art. 47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

Traditional Hindu Law

In traditional period most of the communities followed patriarchal pattern wherein the eldest male parent called "Paterfamilias". He dominated the entire family included all its male, female member and children. The word of the paterfamilias was law for them, which they supposed to follow. There were also some communities which followed matriarchal pattern in which the eldest female of family was central authority to manage all affairs of the family.

HINDU ADOPTION AND MAINTENANCE ACT, 1956: This Act is the personal law in India which imposes an obligation on the children to maintain their parents. With the enactment of said Act the obligation to maintain their parents is not confined to sons only now the daughters also have an equal obligation or duty towards their parents

whether she is married or unmarried. It is important to note that only those parents who are financially unable to maintain themselves from any sources, are entitled to seek maintenance under this Act.

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".⁸

Code of Criminal Procedure

Sec. 125 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.P.C, 1973 is a secular law and governs persons

⁸ Ibid.



belonging to all religions and communities. Daughters, including married daughters, also have a duty to maintain their parents.

The Cr.P.C, 1973 also maintains that in case of senior citizens, the recording of statement and filing of F.I.R can be done by a visit of the authorized personnel at the place of residence of such senior citizens in order to facilitate the proper course of justice without the hinderances caused by age.

Government Protections

The Government of India approved the National Policy for Older Persons on January 13, 1999 in order to accelerate welfare measures and empowering the elderly in ways beneficial for them. This policy included the following major steps:

- (i) Setting up of a pension fund for ensuring security for those persons who have been serving in the unorganized sector,
- (ii) Construction of old age homes and day care centers for every 3-4 districts,
- (iii) Establishment of resource centers and reemployment bureaus for people above 60 years,
- (iv) Concessional rail/air fares for travel within and between cities, i.e., 30% discount in train and 50% in Indian Airlines.
- (v) Enacting legislation for ensuring compulsory geriatric care in all the public hospitals.

The policy was later renewed and revised in 2016 in order to account for the changing times and ensure that the grey areas left in the original framework would be covered and new guidelines issued in order to keep up with the times. The Ministry of Justice and Empowerment has also announced regarding the setting up of a National Council for Older Person, called age well Foundation. It will seek opinion of aged on

measures to make life easier for them. Attempts to sensitize school children to live and work with the elderly have been made in order to ensure that the future generations are more sensitive and accommodating to the elders. Steps for setting up of around the clock help line and discouraging social ostracism of the older persons are being taken up. The government policy encourages a prompt settlement of pension, provident fund (PF), gratuity, etc. in order to save the superannuated persons from any hardships. It also encourages to make the taxation policies elder sensitive. The policy also accords high priority to their health care needs. According to Sec. 88-B, 88-D and 88-DD of Income Tax Act there are discounts on tax for the elderly persons. Life Insurance Corporation of India (LIC) has also been providing several schemes for the benefit of aged persons, i.e., Jeevan Dhara Yojana, Jeevan Akshay Yojana, Senior Citizen Unit Yojana, Medical Insurance Yojana. Former Prime Minister A.B. Bajpai was also launch 'Annapurana Yojana' for the benefit of aged persons. Under this yojana unattended aged persons are being given 10 kg food for every month. It is proposed to allot 10 percent of the houses constructed under government schemes for the urban and rural lower income segments to the older persons on easy loan. The policy mentions. It may be pointed out that recently the Madurai Bench of the Madras High Court has ruled that the benefits conferred on a Government employee, who is disabled during his/her service period, under Section 47 of Persons with Disabilities (equal opportunities, protection of rights and full participation) Act, 1995 cannot be confined only seven types of medical conditions defined as 'disability' in the Act.



This Act establishes the Maintenance Tribunal to provide speedy and effective relief to elderly persons. Section 19 of the act also mandates the establishment of an old age home in every district and provides for the protection of life and property of the elderly. Parents can opt to claim maintenance either under Section 125 of the Criminal Procedure Code, 1973 or under this Act, however cannot opt for both. If a person has an application under Section 125 pending before the court, a request can be made to the court to withdraw the application. After the withdrawal, the person can file an application before the Maintenance Tribunal under this Act. Maintenance tribunals are empowered to fix monthly maintenance allowance up to Rs. 10,000 per month. If they are not complying, they can be fined up to Rs. 5000 or 1-3 months in a jail or both. Further, the tribunals have to settle the applications within a maximum period of 90 days. Transfer of property can be declared void by the tribunal in case negligence is reported. In this Act, maintenance is defined as including “provision for food, clothing, residence and medical attendance and treatment”. The only condition for claiming maintenance under this Act is that, the persons must be unable to maintain themselves from their own earnings and property. Adult Children and adult grandchildren, both male and female, are responsible for paying maintenance to parents and grandparents. An application can be filed against any one or more of them. Senior citizens who do not have children or grandchildren can claim maintenance from a relative who either possesses their property or who will inherit their property of the senior citizen after their

death. The relative must not be a minor and must have sufficient means to provide maintenance. If more than one relative is entitled to inherit the property, then maintenance must be paid by relatives in proportion to their inheritance of the property. The Act mandates that the maximum maintenance paid will be Rs 10,000 per month. The maintenance amount is determined by the needs of the claimant (parent) and the paying capacity of the opponent (children). The aim is to provide maintenance allowance for the parents to lead a dignified and normal life.

Any person who is responsible for the protection and care of a senior citizen and intentionally abandons the senior citizen is liable to pay a fine of Rs 5,000 or be imprisoned for 3 months or both. Additionally, senior citizens can file an application before the Maintenance Tribunal to declare the transfer of property void. The following conditions apply: The transfer of property, irrespective of whether it is a gift or not, must be after the commencement of the Act. The property must be transferred by attaching some conditions that require the person to whom the property is transferred to provide basic amenities and physical needs to the senior citizen. The other person must have failed to or refused to provide the amenities and physical needs to the senior citizen. If senior citizens have the right to receive maintenance from an estate and the estate is transferred, either partly or wholly, then the right to maintenance can be claimed from the person to whom the property has been transferred when: 1. The person to whom the property has been transferred for consideration has the notice of the right; or 2. The transfer is gratuitous.



Age well Foundation and Advocacy Centre in 2011 conducted a nationwide study and found that, only 11.5 per cent older persons were aware about MWPC Act, whereas 88.5 per cent never heard about this Act⁹. In urban areas, only 8.2 per cent had heard about this Act. Amongst those who were aware only 0.55 per cent accepted that, they had benefited because of this act directly or indirectly. 99.45 per cent elderly said that, they had not availed benefit of this Act essentially because of ignorance about the provisions of the law and procedures to follow.¹⁰ A legal awareness survey by Development, Welfare and Research Foundation in August 2007 from a cross section of elderly population in Delhi, revealed that for many participants (56 per cent) special legislations like the MWPC Act would increase resources and courage to respond to abuse¹¹. However, there was question about responsibility of the government to provide welfare through schemes for social pension to those who had children or would it be restricted only to those who were destitute¹².

There are recorded cases of physical assault, excessive restraint, exposing older people particularly women to humiliating behavior. In case widows or ageing women if they have some money, they are more vulnerable to exploitation, deprivation of property,

income and verbal humiliation as well as murders in some cases¹³.

On 21 February 2009, Hon'ble Chief Justice of India released a booklet on the Maintenance and Welfare of Parents and Senior Citizens Act, prepared by National Legal Services Authority, to sensitize judicial officers and other enforcement agencies to educate the elderly about the rights of the senior citizens¹⁴.

Adult Protection Legislation in the form of the Maintenance and Welfare Act is a "band-aid", not a solution to the intrinsic problem of improving quality of life of senior citizens. It seems more like a cover-up that makes it look like something is being done to help the older adults. Some help may be given by such legislation, but, it may not be the type of help that will resolve the abuse. Older adult victims of neglect need options to address their needs and help in bringing an end to the abuses that they are experiencing. This will not be achieved by passing an Act¹⁵.

In yet another study, 40% of the respondents said that most favorable legal provision from an older person's point of view was MWPC Act which has many provisions to favor senior citizens. "Adult Protection

⁹ www.agewellfoundation.org visited on 24th March, 2018

¹⁰ Ibid.

¹¹ Development, Welfare and Research Foundation, Research Brief on Widows in India, New Delhi, 2006.

¹² Ibid.

¹³ Shankardass Mala Kapur combating elder abuse in India A emerging social and public health concern in understanding measures for combating Elder Abuse in Asian countries. A Status Report. Tokyo, Japan 2003.

¹⁴ Group of Economic & Social Studies, A Legal Awareness about the rights of the elderly (2009).

¹⁵ Shankardass M K, The Plight of older women Victims of domestic violence. Society for Gerontology Research, 2011



Legislation looks good; but, does not make available the services and assistance in a humane and dignified manner that an old person needs in all circumstances and environments”¹⁶. A study by Indira Jai Prakash underlined the difficulty of a poor and demoralized older person to approach the tribunal to fight against their own family members. A supportive and user-friendly machinery at local level or in the neighborhood was required for people to feel emboldened to act for their rights. Filing legal proceedings against own children/relative is a very sensitive issue and needs to be tackled in a totally different way which is not envisaged in this Act¹⁷. Economic abuse was acknowledged, especially by way of dispossession of property. This seemed also to be linked to neglect. Cases were cited by many old parents themselves wherein the children took over the property while the older parent was alive and then confined them/him to one corner of the house.

Old parents staying separately became yet another perception of what maltreatment was. One parent was made to stay with one child while the other stayed with the other child. This adjustment was made as one child could not take the burden of looking after both the parents. There were also cases of “rotation” wherein the parents stayed with one child for a particular period of time and

¹⁶ Sonali Public Shiksha Samiti. A study of effectiveness of social welfare programmes on senior citizen in rural Rajasthan, Chattisgarh, Gujrat and Madhya Pradesh submitted to Planning commission, Government of India, 2012.

¹⁷ Indira Jai Prakash. Help Age India Research & Development Journal, Vol. 13 No.3 Oct. 2007

then moved over to the other child to stay with him for the same period of time.

Even among the health care workers, physical cases of violence were the only ones that got acknowledged as abuse but they did not report physical violence as being seen by them. They however, did acknowledge symptoms of mental illness and frank pathological mental illness in older men and women who reported to have “family problems”¹⁸

ELDERLY CARE IN OTHER COUNTRIES

NORWAY¹⁹
All older people in Norway receive retirement pension. The amount of this pension varies according to past income. Most older people in Norway live in their own home. Some receive assistance from

¹⁸ Elder Abuse in India, Country Report for World Health Organization, Shubha Soneja (HelpAge India)-http://www.who.int/ageing/projects/elder_abuse/alc_ea_ind.pdf, accessed on 13th June 2018

¹⁹ Norway is the nation with the highest Human Development Index according to the United Nations Organization. It is a country famed for its long dark winter nights and high cost of living – but Norway should also, thanks to a new survey, be recognized as the best place in which to grow old. Its citizens benefit from decades-old policies designed to provide financial security in old age, plus an efficient public transport system, a strong sense of security and a high level of employment among senior citizens. “It’s a combination of good management of natural resources coupled with planning ahead,” said Gustavo Toshiaki, an economist and global ageing specialist based in Norway. “They have identified the issues and are dealing with them.” Research from HelpAge International, released on the UN International Day of Older Persons, showed that Norway had the highest global level of well-being for people over 60.



the municipality (home nursing care, home aid, the possibility of attending a municipal adult day-care centres, etc.), but many manage on their own or with help from their family. When older individuals are no longer able to take care of themselves, they can move into a nursing home. But only half of elderly people over the age of 90 live at a nursing home. Those who receive home nursing care and assistance pay a co-payment for these services. The municipality pays the remainder of the cost. The amount of the co-payment varies considerably from municipality to municipality. Elderly persons living at a nursing home also pay a co-payment. Living at a nursing home costs around 800,000 crowns per year. The amount of co-payment paid is based on income. The elderly often has special health problems:

As we grow older, our bodies begin to wear down. We may experience pain in our muscles and joints and are unable to do as much as before. This can lead to depression and isolation. Approx. 100,000 elderly people in Norway suffer from depression. The 2012 reforms shifted even more responsibility on to local officials. The national government provided bigger grants to municipalities and demanded more efficiency. One change calls for municipalities to pay a penalty of \$700 a day if a patient stays in hospital after he is ready for discharge, says Terje Hagen, an economist at the University of Oslo's faculty of medicine. "So, the problem of 'bed-blockers' in the hospital has disappeared. It's cheaper for the municipalities to take home the patient from the hospital and invest in either home nursing or institutions." The reforms are prodding the

country toward the main goal: cut demand for beds in hospitals and nursing homes.²⁰

RECOMMENDATIONS AND SUGGESTIONS

India has come a long way in terms of social welfare and the protection of the interests of those in need. Countries like Norway, Canada, Japan etc. have put into effect policies for the welfare of the elderly and that is one of the key factors in their development. It is the proper utilization of human resource that has led those countries to greatness.

The previous sections of the manuscript have established the major problems faced by the elderly in our country. There are several steps that need to be taken moving forward in order to mitigate the strains of the elderly in the Maintenance and Welfare of Parents and Senior Citizens Act:

- There should be a standard format to file the petition so that there is uniformity and all the relevant details are captured.
- There should be a contact sheet attached with every petition with the full address, nearest landmark, mobile number of at least of 2 persons, landline number if possible and a number of a neighbour or close relative.
- Digitization of the records so that the petitioner gets a receipt and a unique case id number on his/her mobile. This will make it easy for the petitioners to follow up with the authorities.
- Lawyers should be kept at bay. This provision in the Act should be strictly

²⁰https://www.thestar.com/news/world/2014/10/12/why_norway_is_no_1_for_seniors.html, accessed on 12th June 2018.



adhered to by the tribunal authorities. The location of the Tribunal should be away from the premises of district court to avoid any such informal interference.

- The office of the tribunal authority should be located on the ground floor with wheel chair access, waiting room, drinking water and toilet facility.
- There should be a designated social worker to help the older persons file the petitions and coordinate with them at each stage.
- A retired sessions Judge should be involved at all levels to expedite the process and also make it conducive to mediation; especially in cases where sibling rivalry on property is the root cause of the petitions.
- Government should conduct periodic review of the implementation of the Act.
- The multiple state government departments involved in the process should have convergence mechanism. There should be designated officers in police and social welfare department to coordinate with the tribunal officials and facilitate the process.
- There should be an awareness campaign in local language and through local mediums about the provisions of the Act. The contact detail of the nodal officer/social worker should also be advertised.
- The helplines for senior citizens should be used as the second line for spreading information and ground level facilitation. The local police and a designated NGO should be involved in this process.
- Panchayats should be involved to spread awareness about the provisions of the Act in the rural areas.

- The upper limit of the maintenance allowance of Rs 10,000/- per month should be revised. It should be calculated on a standard formula keeping in mind the paying capacity of the adult children.
- Special consideration should be given to petitioners who are above 80 years of age, disabled or women. Such petitions should be settled within 30 days.
- There should be separate channels to file petitions for maintenance allowance and for annulment of property bequeath.
- There should be a provision for short stay homes for those older persons for the duration of the case. This facility should be available to all those who are victims of elder abuse.
- Respect for Age should be inculcated. Children living with grandparents should be given bonus mark at the time of nursery admission. Grandparents' day should be celebrated in every school on a periodic basis.

IDENTIFICATION SYSTEM

There is a major fallacy in the Indian Socio-Legal System that necessitates the existence of multiple identification systems for the very same person. This fallacy is further increased by the need to renew certain proofs after every few years. This process of renewal is painful at the least and as highlighted above, it becomes a strenuous task for the elderly to embark on day long trips to the government offices for more and more disappointment. There is a need to bring about uniformity and simplicity to the system of identification. It is recommended that the government creates a single database of information regarding a senior citizen and the same can be accessed by the several government mechanics using a



single card or number, the Senior Citizen Card. The proposed Senior Citizen Card should replace the existing systems like Aadhar, PAN, Voter ID, Driving License etc. and the data should be linked automatically to the said senior citizen card.

OTHER REMEDIES:

- It is suggested that the elders who are considered a liability be absorbed into the society and their resources be utilized by the government for the development of the country. A young person may have the time and energy to do work but, the elders prove time and again that their immeasurable experience and expertise cannot be matched. The saying ‘old is gold’ is not in vain, in fact, the people who are elders today are the youth of yesterday, the mistakes that the youth of today will commit have already been committed and remedied by the elders.
- A proper implementation of the pension system is required in order to achieve a content and actualized population. The OROP is all the more important because it pertains to the pensions of the veterans of the country. The men and women who have served the country, sweat and blood, seen comrades die on the battlefield deserve to be remunerated for their hard-work and service.
- The purpose underlying this policy is also to reduce the Government litigation in courts so that valuable court time would be spent in resolving other pending cases so as to achieve the goal in the principles incorporated in the National mission for judicial reforms which includes identifying bottlenecks which the Government and its agencies may be concerned with and also removing

unnecessary Government cases. Prioritization in litigation has to be achieved with particular emphasis on welfare legislation, social reform, weaker sections and senior citizens and other categories requiring assistance must be given utmost priority.²¹

- It is also suggested that the government takes certain steps to facilitate the older people with respect to the different filing of papers. This is a necessary step as the elderly may not be comfortable in using the technology of modern times and may not be familiar with the use of internet.

At the end, it is important that the government officials be made aware of their duties as representatives of the government and should take utmost care in dealing with the senior citizens who are the bedrock of the society. Our efforts must strive to bring change in the present society and make it a better place to live in.

²¹ Director of Income Tax, Circle 26(1), New Delhi v S.R.M.B Dairy Farming Pvt. Ltd., Civil Appeal Nos. 19650 of 2017, Supreme Court of India