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OLD AGE: AN END OF RIGHT TO LIVE WITH DIGNITY?*

INTRODUCTION

The Indian society has always observed the marginalization of various sections, and the elderly or the Old Age people have been one of the numerous oppressed and unheard sections of the society. This section consists of people nearing or surpassing the average life span of human beings. The periphery of old age cannot be defined exactly because it does not have the same meaning in all societies. The Government of India adopted 'National Policy on Older Persons' in January, 1999 which defines 'senior citizen' or 'elderly' as a person who is of age 60 years or above.¹ People can be considered old because of certain changes in their activities or social roles. Old people have narrow regenerative abilities and they are more prone to disease, syndrome, and sickness as compared to other adults. The United Nations also refers to the age of 60 years for the older population.²

Both the share and size of elderly population is increasing over time.³ The percentage of elderly persons in India has risen from 5.63% of the total population in 1961 to 7.44% in 2011.⁴ In terms of absolute numbers, the elderly population has gone up from 24.6 million in 1951 to 96 million in 2011 by 2001 census.⁵ There is greater life expectancy of citizens at birth and the life expectancy at age sixty is also increasing.⁶ Also, with the advent of modernity and globalisation and the accompanying phenomena such as industrialisation, urbanisation and migration the conventional living style has been undermined. Number of nuclear families is increasing and more and more elderly are now living alone.⁷

Everyone has a right to live at an adequate standard of living and should have basic facilities of health, shelter, including food, clothing, housing and medical care and necessary social security, well being of him and his family members and the right to security in the event of unemployment, sickness, disability, widowhood, old-age or other lack of livelihood in circumstances beyond his

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¹ Situation Analysis of Elderly in India, Central Statistics Office, Ministry of Statistics & Programme Implementation, Government of India available at http://mospi.nic.in/mospi_new/upload/elderly_in_india.pdf last accessed on 12/02/2016

² Aging and Life Course, World Health Organization available at <http://www.who.int/healthinfo/survey/ageingdefnolder/en/> last accessed on 12/02/2016

³ Supra 1.

⁴ Census of India, 2011

⁵ Anindya J. Mishra & Avanish Bhai Patel, Crimes against the Elderly in India: A Content Analysis on Factors causing Fear of Crime, 0973-5089, available at [Crimes-against-the-Elderly-in-India.pdf](#) last accessed on 15/02/2016

⁶ In the period 1989-93, life expectancy at age sixty was 15 years for males and 16 years for females. Para 1, National Policy on Older Persons, Ministry of Social Justice and Empowerment, Government of India

⁷ "RISING CRIMES AGAINST ELDERLY PEOPLE AND RESPONSIBILITY OF POLICE IN METROS" Project Report Submitted To Bureau Of Police Research And Development by Group for Economic & Social Studies (GESS)

control.⁸ **Article 21** of the Indian Constitution provides that, 'no person shall be deprived of his life or personal liberty except according to the procedure established by law'. Further in the part IV of the Indian Constitution⁹, under **Article 39 (a)** states, 'the State shall, in particular, direct its policy towards securing that the citizen, men and women equally, have the right to an adequate means of livelihood'. **Article 41** of the Indian Constitution provides for securing the right to work, economic capacity, development, education and public assistance in cases of unemployment, old age, sickness and disablement and other cases of undeserved want. In furtherance, **Article 47** lays down the duty of the state in raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.

According to the National Crime Records Bureau's report (2010), a total of 32496 elderly have been murdered and 5836 cases of not amounting to murder and kidnapping have been reported across India from 2001 to 2010.¹⁰ So, to eradicate the increasing crimes against senior citizens the government of India has enacted some policies. The National Policy on Older Persons (NPOP) was announced in January 1999 to confirm the commitment to ensure the well-being of the older persons. The government took an appreciable step and enacted The Maintenance of Parents and Senior Citizens Act in 2007 to ensure need based maintenance for parents and elderly people. Other such initiatives by government were Central Sector Scheme of Integrated Programme for Older Persons (IPOP), enacted in 1992 having objective of improving the quality of life of elderly people. Our government also provides assistance for construction of old age homes/ multi service centre senior citizens by providing basic amenities like shelter, food, medical care and entertainment opportunities and by encouraging productive and active ageing through providing basic amenities like shelter, food, medical care and encouraging productive ageing through providing support for building government/non government organization etc. Hence, we see that to ensure the right to live with dignity of the elderly, the government has taken various steps and if the society plays its role in implementation of such policies, old age would not mean the end of right to live with dignity.

Right to Live With Dignity

Article 21 of the Indian constitution assures the right of every individual to live with human dignity, i.e., free from exploitation and the state is under an obligation to see that there is no violation of the fundamental right of any person, particularly when he belongs to the weaker section of the community and is unable to wage a legal battle against a strong and powerful opponent who is exploiting him. The Governments are therefore bound to ensure various social welfare and labor laws enacted by Parliament for the purpose of securing to the underprivileged people a life of basic human dignity in compliance with the directive principles of the state policy. The various judgments which have upheld the fact that right to life also includes right to life with dignity, health and shelter have been given below.

The Apex Court in the case of *S.S. Ahuwalia v. Union of India and others*¹¹ held that in the interpretation of the Article 21 of the Constitution, it is the duty of the State to create a climate where members of the society who belong to different faiths, caste and creed, live together and therefore, the State has a duty to protect their life, liberty, dignity and worth of an individual which should not be jeopardized or endangered.

In the very famous case of *A K Gopalan*¹², the Supreme Court held that there can be no doubt that the people of India having sovereign will, as expressed in the Preamble, adopted the

⁸ Universal Declaration of Human Rights, Article 25(1)

⁹ Directive Principles of State Policy

¹⁰ Dr. Deepa P Patil, Analytical Study of Senior Citizen In India available 2320 – 8341 available at <http://www.researchfront.in/13%20Special%20Issue%204/16.pdf> last accessed on 18/02/2016

¹¹ AIR 2001 SC 1309

¹² AIR 1950 SC 27

democratic ideal which assures to the citizen the dignity of the individual and other cherished human values as a means to the full evolution and expression of his personality. It was held by the honorable Supreme Court in the landmark case of *Maneka Gandhi v. Union of India*¹³ that it cannot be argued that there must exist a free sphere for man, resulting from the nature and dignity of the human being as the bearer of the highest spiritual and moral values.

Moreover, the right to life also includes right to health as the Supreme Court held¹⁴ that right to health and medical care is a fundamental right which is covered by Article 21 since health is essential for making the life of meaningful and compatible with personal dignity. With advancing age, senior citizens have to cope with health and associated problems some of which may be chronic, of a multiple nature, require constant attention and carry the risk of disability and consequent loss of autonomy. Some health problems, especially when accompanied by impaired functional capacity require long term management of illness and nursing care.¹⁵ Hence, state has an obligation to safeguard the right to life of every person, preservation of human life being of paramount importance. The main area of concern among the elderly is their health, which can in turn have a significant impact on their economic security, level of independence and social interaction.¹⁶

The Supreme Court has in the case of *Parmanand Katra vs Union of India*¹⁷ held that whether the patient be an innocent person or be a criminal liable to punishment under the law, it is the obligation of those who are in charge of the health of the community to preserve life so that innocent may be protected and the guilty may be punished. Since we can see from the above judgment that even criminals are entitled to get healthcare facilities, the right to live of elderly should also be upheld by providing them with such facilities.

The interpretation of the right to life under article 21 in the past has been so wide that it had also included right to shelter under it. In the famous case of *Human Rights Commission V. Arunachal Pradesh*¹⁸, wherein, Bangladeshi migrants were denied shelter by the state, the Human Rights Commission stood against the decision and challenged the same in the court wherein the state was directed to provide shelter to the migrants. Since, even the Bangladeshi migrants can be allowed shelter in our country, the senior citizens, who are nationals should not suffer because of their incapability to get a shelter are thus forced to live a life of disgrace.

In recent time the situation is getting attention with respect to policy makers, government authorities and voluntary organizations which have resulted in various schemes/programs and support mechanisms for the elderly population. The concept of social security implies that the state is responsible for ensuring a minimum standard of material welfare to all its citizens.¹⁹ This is the philosophy behind right to life and to live with dignity which needs to be implemented by state mechanism of welfare as interpreted in many cases, especially in the case of elderly people whose right is getting violated.

Plight of Senior Citizens

The phenomenal medical triumph has brought about an unprecedented increase in life expectancy of people in the country. The percentage of 60 plus population in India is on the rise providing a challenge for their well-being and security. The historical-cultural tradition of care and respect for

¹³ AIR 1978 SC 597

¹⁴ AIR 1989 SC 2039

¹⁵ National Policy on Senior Citizens 2011, Page 6.

¹⁶ S. Siva Raju, Studies on Ageing in India: A Review, BKPAI Working Paper No. 2, United Nations Population Fund (UNFPA), New Delhi

¹⁷ Ibid.

¹⁸ 1996 AIR 1234

¹⁹ Kanchan Bharati and Charan Singh, Ageing in India: Need for a Comprehensive Policy, Indian Institute of Management, Bangalore, August 2013

the elderly is on the decline due to change in life style and globalization.²⁰ Elders in India in considered as the integral part of a family. The reason is the belief that traditional age-old joint family system is considered to be instrumental in safeguarding the social and economic security of the elderly people in Indian society.²¹ This too proves the importance of senior citizens in their family and society. But in the current society we can see the value and respect for the senior citizens eroding. The modernization and breaking up of joint family into nuclear ones as resulted in the separation of families. With economic development and changing social norms, parental care by the young has declined.²² So, the result is the senior citizens do not have the same respectful role as to what they used to have in those traditional times. The main thrust of welfare should be to identify the more vulnerable among the older persons such as the poor, the disabled, the infirm, the chronically sick and those without family support, and provide welfare services to them on a priority basis.²³ The senior citizens comprise of 6.9 percent of the total population.²⁴ The elderly population has gone up from 24.6 million in 1951 to 96 million in 2011. The life expectancy has increased from 40 years in 1951 to 64 years in 2011.²⁵ So, a notice in the crimes rate against them has also been observed and its been rising far across India. Report of the National Crime Records Bureau in 2010 revealed that 32,496 elderly have been murdered and 5836 cases of not amounting to murder and kidnapping have been reported all over India from 2001 to 2010.²⁶

Main Problems of Senior Citizens

- **Economic Problems:** As far as this problem is concerned, it is basic of all issues faced by the elderly. When a person gets retired from his service, he doesn't only loose his employment but also a considerable amount of reduction in his income level. Sometimes, the pensions given to them are also not enough to carry there daily life. All these makes them financially insecure.
- **Physiological Problems:** As a person starts to grow old various changes within him occur i.e. The physiological changes. These changes are that of behavior and attitude and therefore they suffer various physiological problems of strength and stamina, lack of concentration in work which becomes more severe as the aged grow older.
- **Problems Related to the Housing:** Housing for the aged must be failing of diseases and illness. Mostly in their later years when they face various problems like failing of hearing power, loosing eye sight , diminishing energy ,forgetfulness , unsure steps etc. Thus, it has been found that their housing is inappropriate and not useful for them. A large population of old widows and old males are facing the issue of 'where to live peacefully'.
- **Problem of Elder Abuse:** Elder abuse is "a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person".²⁷ The prevalent patterns of elder abuse include mainly psychological abuse in terms of verbal assaults, threats and fear of isolation, physical violence and financial exploitation.²⁸

Health problems are also supposed to be the major concern of a society. It is often claimed that ageing is accompanied by multiple illnesses and physical ailments. Besides physical illnesses, the

²⁰ Supra 7.

²¹ Ibid.

²² Ibid.

²³ Supra 10.

²⁴ Tenth Five Year Plan 2002-2007, Vol. 2, Planning Commission, Government of India. The projected population of senior citizens for the year 2016 is about 11.2 million.

²⁵ Ibid

²⁶ Ibid

²⁷ Aging and Life Course, World Health Organization available at http://www.who.int/ageing/projects/elder_abuse/en/ last accessed on 22/02/2016

²⁸ Supra 16.

aged are more likely to be victims of poor mental health, which arises from senility, neurosis and extent of life satisfaction.²⁹

Senior citizens are also victims of crimes against body, crimes against property, economic crimes and even rape.³⁰ At this age of their life, the senior citizens need to be taken care of and made to feel special. They are a treasure to our society. Their hard work has helped in the development of the nation. The youth of today can gain from their experience, in taking the nation to greater heights.³¹

Safeguards by The Government

The elderly in the country face several problems as compared to what they used to face in 1951. There is deterioration in the tradition and morals of the people of India which has lowered the value of senior citizens in Indian society. As compared to what it was 60 years ago, there is greater life expectancy of citizens at birth and the life expectancy at age of sixty is also increasing.³² Seniors experience aging in many ways, including the often ageist and discriminatory ways they are treated by others.³³ Breaking up of the joint family system, changing of day to day lifestyle and the lack of social and moral support worsen the health and nutritional problems of the elderly.³⁴ Thus, keeping all this in mind, the government realized the need for certain provisions and acts that could safeguard the rights of the elderly in our nation, some of which are mentioned below.

I. Maintenance and Welfare of Parents and Senior Citizens Act, 2007

It is one of the major leaps that the government has taken in the favour of senior citizens. This act gives welfare and maintenance for parents and senior citizens. It got enacted in December 2007. The Act provides for:-

- Maintenance of Parents/ senior citizens by children/ relatives made obligatory and justifiable through Tribunals
- In case where the family members or relatives show negligence, through this act Revocation of transfer of property by Senior Citizens can be done.
- Penal provision for abandonment of senior citizens
- Establishment of Old Age Homes by the government and non government organization for indigent and needy Senior Citizens
- Sufficient and adequate medical facilities and security for Senior Citizens and their safeguard.

The Maintenance and Welfare of Parents and Senior Citizen Act is applicable in all states except that of Jammu and Kashmir where as the State of Himachal Pradesh has its own set of laws and act for the senior citizens.³⁵

II. Ministry of Health and Family Welfare.

The government with the central health helps every pension seeker of the central government job the facility of medicines for chronic ailments for 3 months. This ministry provides for geriatric clinic in government hospitals and separate queues for elderly in these hospitals. It has launched

²⁹ S Irudaya Rajan, Population Ageing And Health In India, The Centre For Enquiry Into Health And Allied Themes (Cehat), Mumbai, July 2006

³⁰ Supra 7.

³¹ Know your Rights, National Rights Human Commission available at <http://nhrc.nic.in/Documents/Publications/KYR%20Elderly%20English%20Final.pdf> last accessed on 22/02/2016

³² In the period 1989-93, life expectancy at age sixty was 15 years for males and 16 years for females. Para 1, National Policy on Older Persons, Ministry of Social Justice and Empowerment, Government of India.

³³ For an introduction to the literature on ageism and its effects, see Palmore (1990), and APA (2003)

³⁴ Tenth Five Year Plan 2002-2007, Vol. 2, Planning Commission, Government of India.

³⁵ Supra 1.

new scheme called the National Programme for the Health Care for Elderly (NPHCE) in 11th Five Year Plan which with the sum total of 288 crore got implemented from 2011.³⁶

III. Ministry of Finance

The Ministry of Finance provides these following facilities to the senior citizens

- Exemption of income tax for elderly of 60 years and above 60 up to 2.50 lakh per annum.
- Exemption of income tax for elderly of 80 and above 80 up to 5.0 lakhs per annum.³⁷

IV. The Department Of Pension.

The National Old Age Pension Scheme (NOAPS) was introduced in 1995 under the National Social Assistance Programme (NSAP) of Government of India.³⁸

The department has formulated a Pension Portal so that senior citizens can know their rights and they can avail it an information about their documents, applications etc. This department provides for lodging of grievances too.

V. The Hindu Adoptions and Maintenance Act, 1956

Section 20(3) of this act talks says The obligation of a person to maintain his or her aged or infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of his or her own earnings or other property.³⁹ Here, a childless step mother also comes under the ambit of this section.⁴⁰ Here, under this act the obligation of maintenance is not only limited to the sons, the daughters also have this equivalent duty. Only those elderly who are financially cannot maintain themselves from anywhere, are entitled for maintenance under this act.⁴¹

VI. The Code of Criminal Procedure

Criminal Procedure Code, 1973 says it to be a secular law and thus says person belonging to all religions and communities and the daughters in a family including the married ones have an obligation to maintain their parents.⁴²Section 125(1) of Criminal Procedure Code says that if any person having sufficient means neglects or refuses to maintain his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his father or mother, at a monthly rate as the magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct.⁴³

Whereas, there was some national efforts made by the constitution makers of our nation .**Article 41** tells us that 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.⁴⁴

³⁶ An article on Elderly People by National Rights Human Commission available at <http://nhrc.nic.in/Documents/Publications/KYR%20Elderly%20English%20Final.pdf> last accessed on 24/02/2016

³⁷ Ibid

³⁸ B.Devi Prasad and N.Komali Salom, Implementation Of The Old Age Pension Scheme In Visakhapatnam District, A.P. – A Study available at http://www.nird.org.in/NIRD_Docs/OctLevel_202.pdf last accessed on 24/02/2016

³⁹ Section 20(3), The Hindu adoption and Maintenance Act. 1956

⁴⁰ Ibid.

⁴¹ Supra 30.

⁴² Ibid.

⁴³ Section 125 Code of Criminal Procedure

⁴⁴ Art. 41, Constitution of India.

Article 47 says that 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.⁴⁵

At international level, the United Nations, has shown labors for the rights of the Old Aged. The U.N. General Assembly has declared “1st October” as the International Day for the Elderly and observes the year of 1999 as the International Year for the Older Persons. The General Assembly of the United Nations in the year 1991 adopted 18 principles, organized into 5 chapters, namely- independence, participation, care, self-fulfillment, and dignity of the older persons.⁴⁶

Role of Society

Development alone cannot bring peace and prosperity unless social justice and equality of older people are ensured. It has been well accepted that various welfare and development programmes are bypassed older people especially the older people of rural India, who constitute major chunk of our population.⁴⁷

What should be understood after knowing about the problems faced by elderly in India, even after their rights have been laid down and government has various safeguards to implement and secure those rights, they do not get to enjoy the basic rights by the virtue of the old age. A society as large and complex as India needs to explore the contemporary society to work out an extensive plan for the care and well-being of the elderly⁴⁸. Hence, the role of society needs to be emphasized in helping the elderly live a life with dignity and basic facilities, which should be provided to every human being. The need and recommendations for betterment of situation of elderly people is dealt with in this chapter.

There is a need to introduce literacy programmes for older persons and awareness about lives and security of older people should be developed in the society, which would reduce their vulnerability to exploitation and help in strengthening their knowledge of their rights, access to entitlements and services, capacity to overcome discrimination and ability to resist violence. Loneliness and passing time are the pivotal problems of the aged. For literacy and recreation of the elderly, there is a need for a special T.V. channel.⁴⁹ For the crimes committed against elderly and their vulnerability to be targeted, people of the society need to cooperate with the authorities. Community policing can reduce the fear of crime among the elderly⁵⁰. Such initiatives have been developed that target prevention of elder abuse that rises to the level of a crime and these need to be strengthened and have wider coverage.

Also, as mentioned earlier the health of elderly in India is a matter of concern, hence measure have to be taken for that too. This vulnerable section of society like any other economically backward section of the population needs to be provided with subsidized or concessional health care facilities. There should be special wards for treating the elderly in general hospitals throughout the country.⁵¹

Other Measures and Recommendations

⁴⁵ Art 47, Constitution of India.

⁴⁶ Dr. Rakesh Kumar Singh, Rights Of Senior Citizen : Need Of The Hour available at <http://www.legalserviceindia.com/article/1170-Rights-Of-Senior-Citizen.html> last accessed on 24/02/2016

⁴⁷ Study Report on A study of effectiveness of Social Welfare Programmes on Senior Citizen in rural Rajasthan, Chhatisgarh, Gujarat & Madhya Pradesh, By Sonali Public Shiksha Samiti

⁴⁸ Supra 16.

⁴⁹ Supra 7.

⁵⁰ Supra 5.

⁵¹ Supra 29

- Sustained multidimensional research and data gathering on problems of elderly and old age that would help in devising and implementing cost effective measures for well being and protection of elderly and provision of old age security should be undertaken.
- Though there are clear symptoms of collapsing of traditional support system for elderly. In the place of sacrifice, selfishness has been developed in family members.⁵² Industrialization, urbanization, education and exposure to modern India life style in countries bring in changes in values and life styles.⁵³ National Policy on Old Persons (NPOP) assumes that social security role of family is continuing. It is high time for modifying this assumption and making efforts through public-private participation for putting in place affordable institutional arrangements for protection and care of non-destitute elderly.
- Community-based services for older people including nutrition programs, transportation, case management, selected home care ,information and referral, advocacy , and other services intended to empower older people to be self-directing for as long as possible can be useful.
- School curricula should include material that inculcates sensitivity and values, which promote proper attitude for care and respect for elderly and develop skills for giving care and emotional support to elderly.
- Resident Welfare Associations (RWAs) should play active role. They should arrange for better local area security.
- Public education campaigns that define elder abuse and neglect and explain how older adults can protect themselves from abuse and neglect have an important role to play.
- Developing Caregivers' support programs which are intended to educate and provide emotional support to caregivers of older people can help to prevent abuse and neglect.

Conclusion

Population of aged is increasing in all countries of the world, including India. People are living longer due to economic and social development.. Similar to other countries, India is also facing challenge in addressing the old age issues of rising population of the elderly. With family institution itself undergoing a change, the help of government in the form of various social security measures targeted towards elderly are significant that aim at ensuring their financial independence and dignity. If such measures are not taken, the right to live with dignity of elderly cannot be ensured and old age indeed would mean an end to this basic right, enshrined in our Constitution and guaranteed to every person.

In India, as in many other developing countries, traditionally the responsibility of taking care of older persons and protecting them, falls on individuals in the family and the community. Yet, family and community are now increasingly being viewed as shying away from their role of 'caring for elders' and are being held responsible for perpetuating elder abuse, neglect and violence.⁵⁴ If combating elder abuse is the goal, education and outreach, and engaging community organizations are essential. This needs to be addressed because of rise of incivility, vulnerability and defensibility of elderly, and all these concepts, more or less, talk of weaknesses in physical environment, lack of proper social network, the presence of anti-social elements in the neighborhood and poor vigilance by the police, hence measures are needed for combating the same.

The State should give top priority for the welfare and protection of elder people. With the degeneration of joint family system, dislocation of familiar bonds and loss of respect to the aged person, the family in modern times should not be thought to be a secure place for them. The elderly themselves must be made aware of possible threats to them by taking cautionary measures such as keeping important helpline numbers.

⁵² Supra 10.

⁵³ Supra 47.

⁵⁴ Mala Kapur Shankardass Critical Understanding of Prevalence of Elder Abuse and the Combating Strategies with Specific Reference to India, Indian Journal of Gerontology, 0971-4189, V ol. 22 Nos. 3 & 4, 2008

Legislations are not enough to control the problem and do not make a crimeless Society. The views regarding elders need to be changed. “In a country where there is supposed to be a long tradition of respecting the elders (Matha Pitha Guru Deivam – an ancient Sanskrit hymn comparing parents and teachers to God), it is a pity that health services and social security systems for the elderly are failing badly”, but the government is taking various measures to protect the interest of the elderly like the initiative of **The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007** according to which it is mandatory to maintain one’s parents. In furtherance to this more Health Care Centers should set up and awareness over elder abuse in the society should be spread not only at national level but also at the global level so that the world could become a better for place for the elders to live in.

