

CRITICAL STUDY ON HUMAN RIGHTS OF SENIOR CITIZEN IN INDIA WITH SPECIAL REFERENCE TO POLICIES AND PROGRAMMES

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Abstract

It is true that India is a country where we compare our elders to God and have a special place for them in our traditions, culture, and scriptures. Statistically it is equally true that India is also one of those countries which have very few laws regarding the rights of senior citizens. The rising life expectancy across the country, there has been a significant rise in the number of older persons in our country too. It is transparent that that India has had a long-standing tradition of giving the older persons a position of respect in all spheres of life. However, the position and status of the elderly in the contemporary society is being undermined due to several factors including the breakdown of the joint family system. The present paper therefore deals with various problems faced by Senior Citizen in India such as physical, psychological, emotional, and social and so on. It also discusses various policies and programmes relating to Senior citizen and their implementation. The National and International parameters relating to senior citizen government policies and critical analysis of the law under study with appropriate recommendations are also discussed.

INTRODUCTION

The population of India has approximately tripled during the last 50 years, but the number of elderly Indians has increased more than fourfold. Better medical facilities, care and liberal family planning policies made the elderly the fastest growing section of the society in India - average life expectancy has also gone up to over 70 years today. India is the only country in the world where we touch the feet of our elders as a mark of respect. We live in a country where we compare our elders to God and have a special place for them in our traditions, culture, and scriptures. Unfortunately, India is also one of those countries which have very few laws regarding the rights of senior citizens. A massive programme is necessary for addressing the needs of the country's elderly persons.

Types of Problems faced by Senior Persons:

Following problems are generally seen in case of old age persons in India-

1. Physical Problem:

Old age is a period of physical decline. Even if one does not become sans eyes, sans teeth, sans everything, right away, one does begin to slow down physically. The physical condition depends partly upon hereditary constitution, the manner of living and environmental factors. Vicissitudes of living, faulty diet, malnutrition, infectious, intoxications, gluttony, inadequate rest, emotional stress, overwork, endocrine disorders and environmental conditions like heat and cold are some of the common secondary causes of physical decline.

Due to the loss of teeth, the jaw becomes smaller and the skin sags. The cheeks become pendulous with wrinkles and the eye lids become baggy with upper lids over hanging the lower. The eyes seem dull and lusterless and they often have a watery look due to the poor functioning of the tear glands. Loss of dentures affect speech and some even appear to lisp.

The skin becomes rough and loses its elasticity. Wrinkles are formed and the veins show out prominently on the skin. Perspiration is less profuse and other skin pigmentation appears as the age advances. The hair becomes thin and grey, nails become thick and tough. Tremors of the hands, forearms, head and lower jaw are common. Bones harden in old age, become brittle and are subject to fractures and breaks.

Changes in the nervous system have a marked influence on the brain. Atrophy is particularly marked in the spleen, liver and soft organs. The ratio of heart weight to body weight decreases gradually. The softness and pliability of the valves change gradually because of an increase in the fibrous tissue from the deposits of cholesterol and calcium. The aged are also prone to heart disease, other minor ailments and chronic diseases.

Due to the weakening regulatory mechanism, the body temperature is affected. Therefore the old persons feel the change in climate more profoundly than others. They suffer from digestive troubles, insomnia. Due to dental problems they are not able to chew or swallow well.

The old are more accident prone because of their slow reaction to dangers resulting in malfunctioning of the sense organs and declining mental abilities, the capacity to work decreases. Eyes and ears are greatly affected

Changes in the nerve centre in the brain and retina affect vision and sensitivity to certain colours gradually decreases. Most old people suffer from farsightedness because of diminishing eye sight.

With advancing age, the sexual potency decreases along with a waning of secondary sex characters. Women go through menopause generally at the age of 45 – 50 years accompanied by nervousness, headaches, giddiness, emotional instability, irritability and insomnia. The movements of the aged are fewer co-ordinates. They get fatigued easily. Due to lack of motivation, they do not take interest to learn new skill and become lethargic. Above all visits to the doctor becomes a routine work for them.

2. Psychological Problems:

Mental disorders are very much associated with old age. Older people are susceptible to psychotic depressions. The two major psychotic disorders of older people are senile dementia (associated with cerebral atrophy and degeneration) and psychosis with cerebral arterial sclerosis (associated with either blocking or ruptures in the cerebral arteries). It has been observed that these two disorders account for approximately 80% of the psychotic disorders among older people in the civilized societies.

3. Emotional Problem:

Decline in mental ability makes them dependent. They no longer have trust in their own ability or judgements but still they want to tighten their grip over the younger ones. They want to get involved in all family matters and business issues. Due to generation gap the youngsters do not pay attention to their suggestion and advice. Instead of developing a sympathetic attitude towards the old, they start asserting their rights and power. This may create a feeling of deprivation of their dignity and importance.

Loss of spouse during old age is another hazard. Death of a spouse creates a feeling of loneliness and isolation. The negligence and indifferent attitude of the family members towards the older people creates more emotional problems.

4. Social Problems:

Older people suffer social losses greatly with age. Their social life is narrowed down by loss of work associated, death of relatives, friends and spouse and weak health which restricts their participation in social activities. The home becomes the centre of their social life which gets confined to the interpersonal relationship with the family members. Due to loss of most of the social roles they once performed, they are likely to be lonely and isolated severe chronic health problem enable them to become socially isolated which results in loneliness and depression.

5. Financial Problem:

Retirement from service usually results in loss of income and the pensions that the elderly receive are usually inadequate to meet the cost of living which is always on the rise. With the reduced income they are reversed from the state of "Chief bread winner to a mere dependent" though they spend their provident fund on marriages of children, acquiring new property, education of children and family maintenance. The diagnosis and treatment of their disease created more financial problem for old age.

Old age is a period of physical deterioration and social alienation in some cases, loss of spouse, friends, Job, property and physical appearance. In old age physical strength deteriorates, mental stability diminishes, financial power becomes bleak and eye sight suffers a setback. It is a period of disappointment, dejection, disease, repentance and loneliness.

Nevertheless grandparents provide an additional source of affection and enrichment of experience in respect of child care and family business. Despite various problems of old age, one must keep himself actively engaged for the personal well being and social good as well.

POLICY AND PROGRAMMES FOR THE WELFARE OF ELDERLY PERSONS

1. Administrative setup:

The Ministry of Social Justice and Empowerment is the nodal Ministry for the welfare of senior citizens. The Ageing Division in the Social Defence Bureau of the Department of Social Justice and Empowerment develops and implements programmes and policies for the senior citizens in close collaboration with State Governments, Non- Governmental Organisations and civil society. The programmes for senior citizens aim at their welfare and maintenance, especially for indigent senior citizens, by supporting old age homes, day care centres, mobile Medicare units, etc. These programmes are implemented through providing support for capacity building of Government /Non-Governmental Organizations (NGOs) Panchayati Raj Institutions (PRIS) /local bodies and the Community at large.

2. Major issues concerning the Division

The Division has been implementing a Central Sector Scheme, "Integrated Programme for Older Persons" (IPOP) since 1992, which was revised in 2008 and new innovative projects were included for the welfare of Senior Citizens. Cost norms of the Scheme have been revised from 1st April 2015.

The National Policy on Older Persons (NPOP) was announced in January 1999 to reaffirm the commitment to ensure the well-being of the older persons. This Policy is being revised suitably, in keeping with the demographic changes in Ageing population, technological advancements etc.

The International Day for Older Persons (IDOP) is being observed on 1st October every year since 2005. An Inter-generational walkathon is organized at the India Gate, New Delhi and National Awards are given on the occasion.

The Maintenance and Welfare of Parents and Senior Citizens Act was enacted in December 2007, inter alia, to ensure need based maintenance for parents and senior citizens and their welfare. In pursuance of the National Policy for Older Persons, a National Council for Older Persons (NCOP) was constituted in 1999 under the Chairpersonship of the Minister for Social Justice and Empowerment to oversee implementation of the Policy. NCOP has been reconstituted and renamed as National Council of Senior Citizens (in 2012). In order to recognize the efforts made by eminent senior citizens and Institutions involved in rendering distinguished services for the cause of elderly persons, especially indigent senior citizens, **Vayoshreshtha Samman**, was first presented in 2005, by Ministry of Social Justice and Empowerment. The Vayoshreshtha Samman has been conferred the status of National Award status in 2013. The National Award was presented for the first time on 1st October 2013. The Award is conferred every year in thirteen categories to eminent and outstanding institutions or organizations and individuals. The categories are given as under:

- **Institutional Category:**

- Best Institution for Research in the field of ageing;
- Best institution for providing services to senior citizens and awareness generation;
- Best District Panchayat in providing services and facilities to senior citizens;
- Best Urban Local Body in providing services and facilities to senior citizens;
- Best State in implementing the Maintenance and Welfare of Parents and Senior Citizens Act 2007 and providing services and facilities to senior citizens;
- Best Private Sector Organisation in promoting the wellbeing and welfare of senior citizens;
- Best Public-Sector Organisation in promoting the wellbeing and welfare of senior citizens;

- **Individual Category:**

- Centenarian
- Iconic Mother
- Lifetime Achievement
- Creative Art
- Sports and Achievements
- Courage and Bravery

- **Integrated Program for Older Persons(IPOP)**

The Ministry of Social Justice and Empowerment is implementing a Central Sector Scheme of Integrated Programme for Older Persons (IPOP) since 1992 with the objective of improving the quality of life of senior citizens by providing basic amenities like shelter, food, medical care and entertainment opportunities etc. through providing support for capacity building of Government/ Non-Governmental Organizations/Panchayati Raj Institutions/ local bodies etc. The Scheme was revised with effect from 01.04.2008 and 01.04.2015. Besides revising cost norms of financial assistance for existing projects, several innovative projects were added as being eligible for assistance under the Scheme during the 2008 revision. The following projects are being assisted under the IPOP Scheme:

- i. Maintenance of Old Age Homes;
- ii. Maintenance of Respite Care Homes;
- iii. Running of Multi Service Centres for Older Persons;
- iv. Mobile Medicare Unit;
- v. Day Care Centre for Care of Old Person with Dementia;
- vi. Multi Facility Care Centre for Older Widows;
- vii. Physiotherapy Clinics;
- viii. Regional Resource and Training Centres;
- ix. Helplines and Counseling for Older Persons;
- x. Programme for Sensitization Schools/College Student;
- xi. Awareness Projects for Older Persons;
- xii. Volunteers Bureau for Older Persons;
- xiii. Formation of Vridha Sanghas/Senior Citizen Associations/Self Help Groups;
- xiv. Any other activity, which is considered suitable to meet the objective of the Scheme.

3. The National Policy On Older Persons (NPOP)

The National Policy on Older Persons (NPOP) was announced in January 1999 to reaffirm the commitment of the State to ensure the well-being of the older persons. The Policy envisages State support to ensure financial and food security, health care, shelter and other needs of older persons, equitable share in development, protection against abuse and exploitation, and availability of services to improve the quality of their lives. Keeping in view the changing demography of the senior citizens in the country over the last decade, the Ministry of Social Justice and Empowerment constituted a Committee to (i) assess the present status of various issues concerning senior citizens, in general, and implementation of NPOP, 1999, in particular, and (ii) draft a new NPOP keeping in view the emerging trends in demographic, socio-economic, technological and other relevant fields. The new National Policy for Senior Citizens is under finalization.

4. International Day For Older Persons (IDOP) And National Awards :Vayoshreshtha Samman

The Ministry of Social Justice and Empowerment observes the International Day for Older Persons (IDOP) on 1st October every year in a befitting manner by organizing a series of events and programmes dedicated to the senior citizens. The day is dedicated to acknowledge the contribution of senior citizens to the society and to sensitize the public at large about their problems and needs and to make our society more elderly friendly. In order to recognize the efforts made by eminent senior citizens and Institutions involved in rendering distinguished services for the cause of elderly persons, especially indigent senior citizens, the Ministry of Social Justice and Empowerment (Department of Social Justice and Empowerment) has prepared a new Scheme of National Awards for senior citizens to showcase the Government's concern for senior citizens and its commitment towards senior citizens with the aim of strengthening their legitimate place in the society. The Scheme of National Awards for senior citizens has been notified in the Gazette of India on 22.01.2013 and was given for the first time during 2013.

5. The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted in December 2007, inter alia, to ensure need based maintenance for parents and senior citizens and their welfare. The Act shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint. So far, all the States and UTs have notified the Act. The Act does not extend to the state of Jammu and Kashmir. Himachal Pradesh has its own Act for welfare of Parents and Senior Citizens.

The Act provides for:

- i. Maintenance of Parents/ senior citizens by children/ relatives made obligatory and justiciable through Tribunals
- ii. Revocation of transfer of property by senior citizens in case of negligence by relatives
- iii. Penal provision for abandonment of senior citizens
- iv. Establishment of Old Age Homes for Indigent Senior Citizens
- v. Protection of life and property of senior citizens
- vi. Adequate medical facilities for Senior Citizens

Consequent upon notifying the Act, State Governments/UT Administration are required to take the following necessary measures/ steps for effective implementation of the Act:

- i. Frame Rules u/s 32;
- ii. Appoint Maintenance Officers u/s 18 (1);
- iii. Constitute Maintenance Tribunals u/s 7 (1); and
- iv. Constitute Appellate Tribunals u/s 15 (1).

As per available records, 20 States and 6 UTs have so far completed all the above mentioned consequential steps under the Act

6. National Council For Older Persons (NCOP)/ National Council Of Senior Citizens

In pursuance of the National Policy for Older Persons (NPOP), a National Council for Older Persons (NCOP) was constituted in 1999 under the Chairpersonship of the Minister for Social Justice and Empowerment to oversee implementation of the Policy. The NCOP is the highest body to advise the Government in the formulation and implementation of policy and programmes for the aged.

In order to have a definite structure as well as regional balancing, National Council for Older Persons (NCOP) has been reconstituted and renamed as National Council for Senior Citizens (NCSrC) vide a resolution dated 17-2-2012 which was published in the Gazette of India on 22-2-2012. The NCSrC will advise Central and State Governments on the entire gamut of issues related to welfare of senior citizens and enhancement of their quality of life. The NCSrC will meet at least twice a year.

7 Benefits Extended By Other Central Ministries

1. Ministry of rural development- The Ministry of Rural Development is implementing the Indira Gandhi National Old Age Pension Scheme (IGNOAPS) under which Central assistance is given towards pension @ Rs.

200/- per month to persons above 60 years and @ Rs. 500/- per month to persons above 80 years belonging to a household below poverty line, which is meant to be supplemented by at least an equal contribution by the States.

2. Ministry of health & family welfare-The Ministry of Health and Family Welfare provides the following facilities for senior citizens of:

- Separate queues for older persons in government hospitals.
 - Geriatric clinic in several government hospitals.
 - Objectives of the National Programme for the Health Care for the Elderly
 - Strengthen referral system
 - Develop specialized man power and
 - Promote research in the field of diseases related to old age.
 - Major Components
 - To establish geriatric department in all the existing 8 Regional Geriatrics Centres
 - Strengthening healthcare facilities for elderly at various levels
 - Regional Institutions to provide technical support to geriatric units at district hospitals
- MINISTRY OF

FINANCE

Health Insurance

Insurance Regulatory Development Authority (IRDA) vide letter dated 25.5.2009 issued instructions on health insurance for senior citizens to CEOs of all General Health Insurance Companies which, inter-alia, includes:

- Allowing entry into health insurance scheme till 65 years of age
- Transparency in the premium charged
- Reasons to be recorded for denial of any proposals etc. on all health insurance products catering to the needs of senior citizens. Like wise the insurance companies cannot deny renewability without specific reasons.

Tax Benefits

The Ministry provides the following facilities for senior citizens for the Assessment Year 2016-17:

- Income tax exemption for Senior Citizens of 60 years and above up to Rs. 3.0 lakh per annum.
- Income tax exemption for Senior Citizens of 80 years and above up to Rs. 5.0 lakh per annum.
- Deduction of Rs 30,000 under Section 80D is allowed to an individual who pays medical insurance premium for his/ her parent or parents, who is a senior citizen.
- An individual is eligible for a deduction of the amount spent or Rs 60,000, whichever is less for medical treatment of a dependent senior citizen suffering from specified diseases. For senior citizens of 80 years and above the limit is Rs 80,000.

MINISTRY OF HOME AFFAIRS

Protection of Life and Property

Chapter V of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 provides for protection of life and property of senior citizens. State Governments are required to prescribe a comprehensive Action Plan for providing protection of life and property of senior citizens.

The Ministry of Home Affairs, Government of India has also issued detailed advisories dated 27.3.2008 and 30.08.2013 to all the State Government/UTs, who are primarily responsible for prevention, detection, registration, investigation and prosecution of crime including crime against senior citizens as "Police" and "Public order" are state subjects.

The Ministry of Home Affairs in its advisories has advised the States/UTs 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 citizens helplines; setting up of senior citizen security cell; verification of domestic helps, drivers, etc.

MINISTRY OF RAILWAYS

Concession in Rail Fares

The Ministry of Railways provides the following facilities to senior citizens:

- Separate ticket counters for senior citizens of age 60 years and above at various Passenger Reservation System (PRS) centres if the average demand per shift is more than 120 tickets
- Provision of lower berth to male passengers of 60 years and above and female passengers of 45 years and above.

- 40% and 50% concession in basic rail fare for male (60 years) and female (58 years) senior citizen respectively.
- Wheel chairs at stations for old age passengers

MINISTRY OF CIVIL AVIATION

The National Carrier, Air India under the Ministry of Civil Aviation provides air fare concession in up to 50% of basic fare of normal economy class for senior citizens who have completed 63 years of age on the date of commencement of journey and on production of proof of age (Photo-ID) and nationality.

World Elder Abuse Awareness Day

On June 15 2006, the international network for the prevention of elder abuse and the World Health Organization at the United Nations launched World Elder Abuse Awareness Day (WEAAD) as an annual call to action for individuals, organizations and communities concerned with senior rights.

❖ Global Parameters:

Beginning with the Universal Declaration of Human Rights, going on to the many International Instruments - including the Covenants on Economic Social and Cultural Rights, on Civil and Political Rights as well as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) - there are many references to **the** Rights of all. The Declaration on Social Progress and Development in 1969, for the **first time** specifically mentions old age in Article 11.

The UN adopted the 1st International Plan of Action on Ageing in Vienna in 1982 and it took until 1991 for the General Assembly to adopt the UN Principles for Older Persons (Resolution 46/91) and its 4 main themes independence, participation, care, self-fulfillment and dignity. v The Committee on Economic, Social and Culture Rights adopted the General comment no 6 on the Economic and Social and Cultural Rights of Older Persons. In 1999, with the International Year of Older Persons (came the Conceptual Framework based on the Plan and Principles with 4 priority areas: (a) The situation of older persons, (b) individual lifelong development, (c) the relationship between generations, (d) the interrelationship of population, ageing and development. Finally, in Madrid in 2002, 20 years after, the 2nd World Assembly on Ageing (WAA) adopted unanimously a Political Declaration and an International Strategic Plan of Action on Ageing.

Both the documents include clear objectives and related actions to be taken: (/) to ensure the Rights. Of older persons, (/) to protect older persons from "neglect, abuse and violence" in all situations addressed by the UN as well as (/) to recognize "their role and contribution to society". The 2002 Madrid Plan of Action goes into great details on the situation of older persons and the Commission for Social Development was given the charge of implementation.

Unfortunately, these precedents are not enough to give older persons their Rights as well as recognition of their contribution to society. Older persons are not only unrecognized but more and more excluded from their role in society.

To generate public attention concerning mainstreaming of older persons, the theme chosen for the International Day of Older Persons in 2003 was 'Mainstreaming ageing: forging links between the Madrid International Plan of Action on Ageing and the Millennium Development Goals'. Various UN programmes, specialized agencies as well as NGOs have made efforts to mainstream the concerns of older persons into their respective agendas.

On the level of operative action, United Nations Population Fund (UNFPA) strives to mainstream ageing into its areas of work, namely reproductive health, gender issues and humanitarian responses conflicts situations. WHO's major mainstreaming objective is to focus on principles and methods of developing health care systems that are responsive to ageing.

DOMESTIC PARAMETERS

1 Constitutional Provisions:

In Constitution of India, entry 24 in list III of schedule VII deals with the Welfare of Labour, including conditions of work, provident funds, liability for workmen's compensation, invalidity and Old age pension and maternity benefits. Further, Item No. 9 of the State List and item 20, 23 and 24 of Concurrent List relates to old age pension, social security and social insurance and economic and social planning.

Article 41 of Directive Principles of State Policy has particular relevance to Old Age Social Security. According to this Article, "the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of underserved want.

I. Personal Laws

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.

Hindu Laws: 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; the 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.

Muslim Law: Under the Muslim law also children have a duty to maintain their aged parents. According to Mulla (Muslim title applied to a scholar or religious leader): (/) Children in easy circumstances are bound to maintain their poor parents, although the latter may be able to earn something for themselves. (/ /) A son in stressed circumstances is bound to maintain his mother, if the mother is poor, though she may not be infirm. (//) A son, although poor, is earning something, is bound to support his father who earns nothing.

According to the Muslim law, 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.

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. (Know Your Rights - NHRC)

II. The Code of Criminal Procedure (Cr.P.C)

The Cr.P.C 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. The provision for maintenance of parents under the code was introduced for the first time in Section 125(1) of the Code of Criminal Procedure in 1973. As per the code 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.

CONCLUSION AND RECOMMENDATIONS:

It can be said that now it is time for a new paradigm, one that views older people as active participants in an age-integrated society and as active contributors as well as beneficiaries of development. Broadly it can be said that-for most of the older persons Human Rights is a new term for their basic rights. Awareness about Human Rights of Older Persons among older persons is negligible. Secondly the transformation of traditional joint family system into nuclear or small family systems is one of the main factors responsible for violation of human rights of older persons. Thirdly in urban areas cases of violation of human rights of elderly population are on the rise in comparison to rural areas - due to small/nuclear family systems, lack of intergenerational interaction, less social interaction of older persons, age discrimination, etc. Also the young older people (i.e. in the age-group of 60-70) are more aggressive towards protection of their human rights people entering in the bracket of 60-70 years don't like the "Old Age" tag being attached to them. Interestingly, they don't digest the fact that they have become old, that's why they feel hurt when treatment or behavior of other people is changed towards them due to their growing age. Further it is necessary to decrease the incidences of age-discrimination, age-discriminatory policies like retirement policies in both government and public sector need to be amended.

Therefore, today, India urgently needs an inclusive social security programme for older persons at grass root level while utilizing tools like value based education, awareness generation, research and advocacy in order to protect the human rights of older persons.

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