PROTECTION OF RIGHT TO MAINTENANCE AND WELFARE OF OLD AGE PERSONS IN 21ST CENTURY: A CHALLENGING FACET OF SENIOR CITIZENS RIGHTS IN CHANGING SCENARIO

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ABSTRACT

Old age is one of the stages of life cycle of a person that require special care. Elderly people are dependent on others as they suffer from many physical as well as mental diseases and disabilities. They cannot be ignored by sensitive and responsible society except untimely death. The recent trend of nuclear family has adversely affected this inevitable stage of life triggering imbalance in normal life of elderly people by defeating thousand years old practices of India where parents are treated as God. Elderly people become physically feeble and are unable to earn. Children contemplate their parent as burden because their financial liabilities are increased in addition to sparing time for their day to day life support which compromises their freedom. In this article, available legal social, moral and government norms are examined in the context of possible way by which elderly people’s human rights are infringed ending up in suffering from pain and agony. The article also examines the available laws, policies and guidelines for the protection of old age person’s rights in India.

INTRODUCTION

Principles of Karma and religion (Judicial System for doing work) are the foundation of four age-based life stages, described by Hinduism in ancient and medieval era. These four distinct stages known as Brahmacharyashram, Gruhasthashram, Vanprasthashram and Sanyasahram have unique goals and responsibilities. Before approximately 5000 B.C., Manusumriti described “law of Manu” or “Institutions of Manu” which is regarded as foundational work of Hindu law and ancient Indian Society, compiled and written quite late in India. In Rigveda the life span was assumed to be 100 years. Third stage of life or Vanprasthashram was considered as time of retirement from active life. It is this period of life which is considered most difficult as senile degeneration of body starts and results in chronic diseases and disabilities. Retirement from active productive life leads to loss of economic gains. Ultimately person becomes dependent on others. In Buddha period old people were living in isolation. In the reign of King Asoka there was the facility of hospitals to take care of old age people. During British rule people got more attracted towards comforts hence started to ignore old people. As per the Indian culture father is the head of family and the responsibility of old age parents rest up on son. In Indian life style there are positive and negative two sides.
Our ancient philosophy, values and culture have eroded drastically in 20th century. India’s demographic profile of post-independence era reveals huge burden of aged people suffering from diseases and disabilities. Further, globalization and modernization has brought paradigm shift in culture and way of living in India. This has culminated in neglect of aged by society in general and their children in particular. Rights of elderly people are grossly neglected. In this context, it is necessary to look into the problems faced by elderly people on social, economic and legal front, look into existing legal provisions to safeguard the interests of elderly and suggest remedial measures for protection of their rights.

NATIONAL SCENARIO: ISSUES OF ELDERLY PEOPLE

1. Growing population of Old age person:

The population of senior citizens, aged 60 and above in India has increased from 42.5 million in 1981 to 55 million in 1991 and is now placed at 70.6 million in the 2001 census. They comprise about 6.9% of the total population. Life expectancy of citizens at birth and also at age sixty have increased due to better nutrition and medical facilities. As of 2010, India’s elderly population is estimated at 8%. Presently India has the second largest population of senior citizens in the globe. According to UN by 2050 the population of 60 plus in India would likely to increase up to 20%.

2. Problems of the old age persons:

   Major problems which old age people suffer are;
   1. Economic problems related to unemployment and economic insecurity.
   2. Physical and physiological problems related to health, wellness, medical problems, appropriate residential facility etc.
   3. Psychological problems and difficulties faced by elder people in society, elder abuse is problems related to psychosocial troubles. Generation gap causing conflict in mindset and behavior ends up in separation of parents from their children. This further aggravates economic problems.

3. Abuse of Old age person:

   According to “Report on Elder Abuse in India (2014)” by Help Age India, half of the elderly (50%) reportedly experiencing abuse. 48% males and 53% females reported personal experience of abuse. According to report, Verbal Abuse (41%), Disrespect (33%) and Neglect (29%) are ranked as the most common types of abuse experienced by the elderly. According to one survey, 11% of 60+ year olds have experienced at least one type of elderly abuse (Physical 5.3%, Verbal 10.2%, Economic 5.4%, Disrespect 6%, Neglect 5.2%). The most common perpetrator is the son, who is reported to be responsible for the abuse among 41% of male victims and 43% of female victims.

   a. Risk factor for older abuse.

   The prime risk factor of elderly abuse is illiteracy. Decadency of the abused upon the abuser is another risk factor. Older abuse is also very often the consequence of long term family conflict between parent and child or between spouses.
INTERNATIONAL LAW PROVISION

The article 25 of “Universal Declaration Of Human Rights” states that “everyone has the right to a standard of living adequate for the health and wellbeing 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”. 3

“The Universal Declaration of Human Right” applies to people of all ages. Both the International Covenant on Civil and Political Rights (ICCPR-1966) and International Covenant on Economic Social and Cultural (ICESCR-1966) apply to every person regardless of their age.4

The question of ageing was first debated at the United Nations in 1948 at the initiative of Argentina. In 1971 the General Assembly asked the Secretary-General to prepare a comprehensive report on the elderly and to suggest guidelines for the national and international action. In 1978 Assembly decided to hold a world conference on the Ageing.

WORLD SCENARIO: PROTECTION OF RIGHTS OF ELDERLY

Sri Lanka protection of the Right of Elders Act, 2000 under establishes national older person’s council requires children to provide care for their parents and makes provisions for parents to obtain maintenance from children requires state to provide appropriate residential facilities to destitute elderly without children. United States older American act of 1965 under creates the administration on ageing within the department of health education and welfare authorizes grant to states for community planning services for elderly and research and training in the field of ageing. China law of the people’s republic of China on protection of the rights and interests of the elderly 1996 under places responsibility on families to care for elderly establishes a state – based old age insurance system increase legal protection of elderly with speedy court procedure. South Africa older persons Act no. 13 of 1996 under provides strict controls for registered old age facilities makes abuse of elderly criminal offence creates social and cultural community – based services for elderly. Canada parent maintenance act 1078 and 1993 under mandates children to pay maintenance to dependent parent up $20 per week.

INDIAN SCENARIO: NATIONAL LAW PROVISION

1. Constitutional Protection:  

Indian constitution under Article 21 also echoes the same. It says, “No person shall be deprived of his life or personal liberty except according to procedure established by law”. Article 39(a) of the constitution of India says, the state shall in particular direct it policy towards securing (a) that the citizen, men and women equally have the right to an adequate means of livelihood”. Article 41 of the Indian Constitution enjoins upon the state to make
effective provisions for public assistance within the limits of its economic capacity and development, in cases of unemployment old-age, sickness and disablement and in other cases of unreserved want both the central and state governments are empowered under Entry 23 of list III to make provisions with regard to social security and social insurance.

2. Legislative Protection:

a. Protection under 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.

b. Protection under Hindu Laws:

Amongst the Hindu, it is the obligation of sons to maintain their aged parents. The statutory provision for maintenance of parent under Hindu personal law is contained in section 20 of the Hindu Adoption and Maintenance Act, 1956. Part IX – Personal Law (Hindu), (Chapter III – Hindu Adoption and Maintenance Act, 1956)

c. Protection under Muslim Law:

Muslim law children in easy circumstances are bound to maintain their poor parents, A son though in strained circumstances is bound to maintain his mother if the mother is poor though she may not be infirm. A son who though poor is earning something is bound to support his father, earns nothing. Children have a duty to maintain their aged parents even under the Muslim law.

d. Protection under Criminal Laws:

Criminal Procedure Code, 1973: Chapter IX: Order for maintenance of wives, children and parents Section 125(1) (a) of code of criminal procedure 1973 is such a provision in Indian Law whereby a magistrate can order children to make a payment of monthly allowance as maintenance to their parents. Father or mother must be unable to maintain himself or herself. Fulfillment of parental obligation is not pre-condition to claim maintenance. Daughter is liable to pay maintenance to parents. Step-mother can claim maintenance. Application for maintenance to be filed where the son or daughter lives.

e. Protection under Christian & Parasi Law:

Christian and Parasi laws have no personal laws providing for maintenance for the parents. Parents who wish to seek maintenance have to apply under provision of the criminal procedure code.

f. Protection under Legislations:

Under The maintenance and Welfare of parents and senior citizen act 2007 a senior citizen (60 years or above) including a parent who is unable to maintain himself. Parents can apply against children, childless senior citizen against relative who are inheritors of their property. Applications to be made to maintenance tribunal to be set up by the state.
To add life to the years that have been added to life, the United Nations General Assembly adopted the Independence, Participation, Care and Self-Fulfillment Principles for older persons on 16th December 1991.

3. **National policy on older person.**

Policy of government of India cover all aspects related to the welfare of older persons. The National Policy on Older persons recognizes a person aged 60 years and above as a senior citizen. Benefits and concessions for Indian Senior Citizens.

- Quick disposal of old age person’s cases.
- RTI Act (Right to Information Act) for older person.
- Establishing Geriatric Ward for elderly patients at all district level hospital.
- Finance and Taxation for IT department has declared that in Finance Year 2014-15 that senior citizen’s tax slab will be below Rs.5.00 Lacs.
- Banking and Insurance sector for Indian government provides more interest rate to Senior Citizen.
- Travels by Indian Railway and Airlines for Senior Citizen are entitled 30% conversion discount and 50% discount airline (on economy class) respective.

**CONCLUSIONS**

Conclusively, yes of course special arrangements are there for old age persons but still orderly people are not happy due to our, social approach towards them and our mindset is required to be changed. There should be social security network for old age person and ensuring assistance to old age should be priorities. A package of services must be assured to elderly for better quality of life. It is constitutional duty to provide extra protection to senior citizens. Moreover, the recent law passed by the parliament also needs revision to make it effective. Political will to protect old age people is of utmost importance. Civil society should also be sensitive towered senior citizens. State support is needed to ensure financial and food security, healthcare, shelter, as well as protection of life and property in order to improve the quality of the lives of senior citizens.

**REFERENCES**

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4. K. Jayshakar and Natti Ronel ,Second International Conference of the South Asia Society of Criminology and Victimology (SASCV), India, pp.341

"In order to improve the quality of life of senior citizens, the Union ministry of social justice and empowerment has adopted a multi-pronged strategy which includes formulation of a national policy on older persons, enactment of the Maintenance and Welfare of Parents and Senior Citizens Act 2007," he said.