INCREASING CRIMES AGAINST SENIOR CITIZENS- NEED OF SPECIAL LEGISLATION

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ABSTRACT
The crimes against the elderly are rising across India. Today, they are victims of grievous hurt, murder, and abuse. It is certainly affected the life and well being of the elderly to a large extent in the family as well as in the society. So it is important to search causing fear of crime among the elderly and different types of crime which are rising day by day. Care and protection of parents are totally ignored. They are denied of basic amenities of life. Many crimes against elderly are under-reported. There are various factors such as residential location, vulnerability, defensibility that cause fear of crime in the minds of the elders in India. In fact the involvement of near and dear ones and neighbors is most in crime against elders. Police should try to provide secure life for elder persons. There is an urgent need to amend the constitution for the special provision to protection of aged person and bring it into a fundamental right. And also there is a need to provide special legislation to protect elder persons.

INTRODUCTION
In India, persons aged 60 or above are considered elderly or senior citizens. ‘A senior citizen is a person who has attained the age of 60 years or above’\(^1\). The United Nations Organization also treats persons aged 60 years or more as elderly\(^2\).

In Metro Cities the cases of crime and abuse against Senior Citizens is on rise. There is a sharp rise in recent times in violence and financial fraud against the elderly by strangers and others who won their trust. The elder mistreatment is a major issue before us. Abuse of the senior citizen may take place in a variety of forms such as physical, sexual, emotional and financial. Neglecting an elder is also a form of abuse.

INTERNATIONAL ASPECT
In 2002, the work of the World Health Organization brought International attention to the issue of elder abuse. In 2006 the International Network for Prevention Of Elder Abuse (INPEA) designated June 15 as World Elder Abuse Awareness Day (WEAAD).

I) In 1992, the U.N.General Assembly adopted the proclamation to observe the year 1999 as the International year of the Older Persons.

II) It has declared ‘1st October’ as the International Day for the Elderly.

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\(^1\) The Maintenance and Welfare of parents and Senior Citizens Act, 2007 ;section2(h)

\(^2\) Group for Economic and Social Studies, 2009
III) On December 16, 1991 adopted 18 principles which are organized into 5 clusters – namely-independence, participation, care, self-fulfillment, and dignity of the older persons.

Some of the principles are as follows:

A) Older persons should have opportunity to work and determine when to leave the work force.

B) They should remain integrated in society and participate actively in the formulation of policies which effect their well-being.

C) They should be able to live in dignity and security and should be free from exploitation and mental and physical abuse.

REASONS FOR UNDER-REPORTED CRIME

There is a huge under-reporting of crimes against older people, due to fear, embarrassment and a lack of access to trusted people to whom they can report their worries.

Older people with poor eyesight or hearing loss can become easy marks for con games such as those involving fraudulent contracts with small print. An older person who has lost close friends or relatives to death may be seeking companionship.

LEGAL PROVISIONS FOR ELDERS

Personal Laws

The moral duty to maintain parents is recognized by all people.

(a) 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.3

(b) Muslim Law

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.

(c) 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.

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.
CONSTITUTIONAL PROVISIONS

Articles 38, 41, and 46 provide for dignified living for the elderly. The right to residence of old should be explicitly recognized in old age social security law. States can adopt effective policy for protection of childless old.

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 undeserved want.

CRIMES AGAINST ELDERS

Major crimes against seniors, including financial crimes, property crimes, violent crimes, and elder abuse

1. Financial crimes
2. Property crimes
3. Violent crimes
4. Elder abuse

Financial Crimes include Fraud, Scams, Identity theft, and Healthcare fraud. Financial criminals generally seek to take cash, credit, credit rating, or other assets by deception.

Why Are Seniors Targets of Financial Crimes?

- Many are isolated by disability, fear of violence in the community, lack of friendships, or lack of transportation.
- Many are trusting or forgetful of details and may be embarrassed to admit they were victims.

The criminal uses information to make a purchase or obtain additional information about a person’s identity. Like Social Security number, Bank account number, Credit card number, Driver’s license number. In many cases the elderly has no choice but to stay alone as their children are residing elsewhere due to their jobs. Such crime cases are bound to infuse fear of crime among the elderly.

Financial crimes may be divided under two categories such as –fraud committed by strangers and financial exploitation by relatives and caregivers. Elder fraud is gravely under-reported. One way to minimize elder fraud is to educate seniors one the warning signs and indicators of financial crimes.

The criminal uses information to make a purchase or obtain additional information about a person’s identity. Like Social Security number, Bank account number, Credit card number, Driver’s license number.

The cases of crimes against the elderly are on the rise across the country. Today, they are victims of grievous hurt, murder, and abuse and isolated by neighbors, family members and domestic servants. According to the National Crime Records Bureau’s report (2010), 32496
The elderly have been murdered and 5836 cases of not amounting to murder and Kidnapping have been reported all over India from 2001 to 2010. The academicians and the policy makers have begun paying attention to this dimension of elder abuse. Help Age India (2011) has done study in twelve major cities of India and reported different kinds of elder abuse cases in its study. According to it, the elderly are abused verbally (60%), physically (48%), emotionally (37%) and economically (35%) and 20% elderly feel neglected themselves from the family as well as society. Major types of crimes faced by the elderly are burglary, molestations and criminal acts. With incidences of crime against the elderly going up, there is a perceptible increase in fear of crime among the elderly.

In one disturbing case, a son conspired to get his father murdered in Nagalsauti, a village near Meerut in Western Uttar Pradesh for land (Dainik Jagran, 2012). In another case a girl accused that her cousins have murdered her father for his property in Malihabad, Lucknow. While the elderly being abused and killed by family members is a matter of serious concern, the number of murders against the elderly living alone or with spouse also draws attention to extreme vulnerability of the elderly. For instance, in one case, six elderly women, in separate cases, were murdered after robbery in their homes at Lucknow in a span of six months.

Some elderly persons lost their lives due to attack from animals or they fell into uncovered potholes. Many neighbors involved in mentally harassing, stealing, injuring and even murdering the helpless elderly. The different forms of elder abuse obtained in this study such as murder, attempt to murder, hurt, theft, cheating, kidnapping and mistreatment highlights the social vulnerability experienced by the elderly. The concept of social vulnerability points to absence of meaningful social attachment between the elderly and other family members and neighbors, to some extent. This definitely raises concern among the elderly as occurrences of such cases generate feeling of fear of crime among them.

The concept of physical vulnerability explains the effect of deficiency in physical environment generating fear among the elderly. Elder people living in communities may feel at greater risk of becoming victims of crime. With a previous history of crimes in a community, the perceived vulnerability as well as fear of crime increases.

CONCLUSION

From the results it is apparent that there is a substantial rise in crime against the elderly. Such crimes are bound to inject fear among the elderly affecting their physical and mental Well-being. Though the percentage of crime by unknown persons and criminals is quite high but shocking thing is the growing incidences of crime committed by family members, relatives and even neighbors. In fact the involvement of near and dear ones and neighbors is most in crime against elders.

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7 The Times of India. (March 21, 2012). “Elderly Woman Found Strangled at Home.”Lucknow, p. 3.
Care and protection of parents are totally ignored. They are denied of basic amenities of life. Social isolation, economic abuse, health care neglect, is their common experiences. Crimes against them are growing. They are suffering humiliation and emotional disturbance in the hands of their loved ones.

This growing population is now becoming victims of crime and the crime against the elderly is being recognized as an emerging social problem in contemporary India.

The nature of crime, prior victimization, incivility, vulnerability and defensibility give rise to feeling of fear among the elderly. It is found that many incidents of murder have been reported against the elderly. In some cases, the murdered elderly were residing alone. This lends to concepts of incivility, vulnerability and defensibility as all these concepts, more or less, talks 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. It has also been observed that the known persons such as family members, relatives and neighbors have been involved in elder abuse in many cases of crime. This is a significant finding as the elderly have, in general, relied upon the family members and relatives for physical and mental support.

Their dependence on family members is based on trust, reciprocity and to some extent helplessness. But as these cases of crime attest, the elderly have been victimized, in many cases, at their own homes.

SUGGESTIONS

- Old age security should be recognized as an enumerated fundamental right in the Indian Constitution.
- There is an urgent need to amend the constitution for the special provision to protection of aged person and bring it into a fundamental right. It should be the constitutional duty of the state to make an Act for the welfare and extra protection of the senior citizen including palliative care.
- Education is one of the most important elements in preventing future abuse.
- Retirement homes may be a good solution for old people who have no family.
- There must be a National Commission for senior citizens Implementation of Senior Citizens Maintenance Act 2007
- Older persons should be treated fairly and with dignity, regardless of disability or other status.
- Take account of the needs of older persons and respect the right to live in dignity at all stages of life.
- Encourage supportive social network for older migrants.
- Provide legal advice and information to older persons in situations of displacement and dispossession of land and other productive and personal assets.
- Development and implement policies aimed at ensuring that all persons have adequate economic and social protection during old age
- Community policing can reduce the fear of crime among the elderly through three
ways. The Police should implement neighborhood watch programs through community policing. The police patrolling should be intensified in areas prone to crime. The police with the help of voluntary sector should identify those areas and colonies where there is higher concentration of retired elderly residing alone or with spouses. Regular vigil should be kept in the market places, public parks and neighborhood areas adjoining these colonies populated by retired persons.

- Police should start elderly helpline in which elderly may register their problems. Police should pay attention to security of life and property of elderly who are living alone
- Police should punish those family members, who abuse and neglect the elderly. Police should prepare separate crime statistics related to elderly for better understanding of elderly issues.