

# WELFARE OF SENIOR CITIZENS: LAW AND POLICY PERSPECTIVES IN INDIA

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Elders/Senior citizens have been accorded highest esteem and regarded as proud members of the society and the family. They command greater respect and considered as bearers of wisdom and knowledge; persons of experience and expertise; up keepers of traditions, culture and customs; friends, philosophers, guides and counselors of family, especially for junior member of the family such as grandchildren. The traditional view is that elders are 'Next to God' and that is why family members and others touch their feet, seek their advice and blessings. The senior citizens, therefore, enjoy a state of reverence throughout the world traditionally. However, in recent times, there appears to be a change in traditional scenario. In modern period, some senior citizens are often found to be excluded, neglected, and overlooked in view of change in social values, socio-economic conditions and cultural settings. This shift in status necessitated the intervention of the State to secure the welfare and wellbeing of the senior citizens through formulation of pertinent policies, strategies and legislation to address the concerns of the senior citizens. This paper, therefore, makes an attempt to identify, analyze and evaluate various schemes and relevant laws formulated in India for the welfare and benefit of senior citizens.

## Plight of the Senior Citizens:

The shift from joint family system to nuclearization of the family coupled with the industrialization and urbanization have rendering the aged as social problem. Senior Citizens are now being treated as a problem because they are not productive and earning member of family. Moreover, the fast growing economy and standard of life, the family is not able to meet the needs of their children, Therefore senior citizens being neglected in the family and being considered as an unnecessary burden instead of a pleasant responsibility. If things continue like this, the status of senior citizens will soon be shifted from respectful existence to shameful presence.

Senior Citizens face very specific threats to their rights in relation to age discrimination, for example, in access to health care, in employment, in property and inheritance rights, in access to information and education and in humanitarian responses. They also face particular forms of violence and abuse. The senior citizens face certain economic problems; include such problems as loss of employment, income deficiency and economic insecurity. They also face physical and physiological problems, include health and medical problems, nutritional deficiency, and the problem of adequate housing etc. and also Psycho-social problem which cover problems related with their psychological and social maladjustment as well as the problem of elder abuse etc. After a certain age health problems begin to crop up leading to losing control over one's body, even not recognizing own family owing to Alzheimer are common in old age. It is then children began to see their parents as burden. It is these parents who at times wander out of their homes or are thrown out. Some dump their old parents or grandparents in old-age homes and don't even come to visit them anymore.

As per the survey conducted by Help Age India in 2014, 50% of senior citizens living with their families are reportedly facing abuse of one kind or another, but only 1 in 6 cases actually comes to light. Most of these people don't know their rights and even if they do, they wouldn't report such incidences as they do not want to spoil their family name. According to NGOs incidences of elderly couples being forced to sell their houses are very high. Some elderly people have also complained that in case of a property dispute they feel more helpless when their wives side with their children. Many of them suffer in silence as they fear humiliation or are too scared to speak up. According to them a phenomenon called 'grand dumping' is becoming common in urban areas these days as children are being increasingly intolerant of their parents' health problems.

## Welfare of Senior Citizens: National Initiatives

The Fundamental Rights and Freedoms provided under Indian Constitution ensure life with dignity, equality, health and security to the elderly people. The Directive Principles of State Policy vide Articles 38, 46, 47 also imposes a duty on State to secure welfare and wellbeing of citizens of India. Article 41 directs the State to make effective provisions for securing the right to work, education and public assistance in case of unemployment, old age, sickness and disablement and in other cases of undeserved want. The directive principles, though, are not enforceable, yet imposes a positive obligation on the State to secure their enforcement through legislations and suitable schemes. All these Constitutional provisions imposes an obligation on the State to introduce and enforce policies, plans and strategies for securing the welfare of senior citizens.

The Government of India, therefore, approved **National Policy for Older People in January 13, 1999** in pursuance of declaration of 1999 as International Year of Older People by UNO. The policy includes the following major steps:

- ❖ Establishing a Pension Fund for those who are serving in the Unorganized Sector
- ❖ Setting up of Old Age Homes and Day Care Centers for every 3-4 districts
- ❖ Establishment of resources centers and re-employment bureaus for people above 60 years
- ❖ Providing concessional air fare/train tickets for travelling within the country i.e 30% for train and 50% for air fare.

- ❖ Enacting legislations for ensuring compulsory geriatric care in all public hospitals.

**National Council for Older Persons** has been constituted by Ministry of Social Justice and Empowerment to operationalize the National Policy on Older Persons. With tenure of five years, the Council will monitor the implementation of the policy and advise the government on concerns of senior citizens. A similar body would be established in every state with the concerned minister heading the State Council for Senior Citizens. The Council would include representatives of relevant central ministries, the Planning Commission and ten states by rotation as well as Representatives of senior citizens associations from every state and Union Territory and Representatives of NGOs, academia, media and experts on ageing. The council would meet once in six months.

Its basic objectives are:

- ❖ To advice the govt. on policies and programmes for the welfare of elders
- ❖ Formulate plans of concessions, rebates and discounts for the elders
- ❖ Represent collective opinion of the aged to the Government
- ❖ Suggest steps to make age productive and interesting

**Indira Gandhi National Old Age Pension Scheme (IGNOAPS)** was introduced by the Ministry of Rural Development, Government of India under National Social Assistance Programme (NSAP). The scheme provides central assistance towards pension by providing Rs. 200 per month to old age people above 60 years of age and Rs. 500 to person above 80 year of age and who belongs below poverty line. As per the Draft National Policy for Senior Citizens Rate of monthly pension would be raised to Rs.1000 per month per person and revised at intervals to prevent its deflation due to higher cost of purchasing.

**Scheme of Integrated Programme for Older Persons (IPOP)** was launched by the Ministry of Social Justice and Empowerment in 1992 and was revised in 2008. Under this scheme, funds were provided to the state governments, local bodies, NGOs to run and maintain old age homes, day care centres, mobile medicare units, help lines and counseling centres for the benefit of old age persons. **National Programme for the Health Care for the Elderly People (NPHCE)** was launched by the Ministry of Health and Family Welfare in the year 2010-11. The major features of this scheme were community based primary healthcare approach, strengthening of health care services, dedicated facilities at 100 districts hospitals etc .

### **Draft National Policy for Senior Citizens, 2011:**

Keeping in view the changing demographic pattern, socio-economic needs of the senior citizens, social value system and advancement in the field of science and technology over the last decade, the National Policy on Older Persons, 1999 has been reviewed and new **National Policy for Senior Citizens, 2011** was Drafted by Ministry of Social Justice and submitted to the Government. The Policy recognized that special care and focus should be made on Old Age Women and Old age persons belongs to rural and poor.

### **Focus of the Policy:**

- Mainstream senior citizens, especially older women, and bring their concerns into the national development debate with priority to implement mechanisms already set by governments and supported by civil society and senior citizens associations. Support promotion and establishment of senior citizens associations, especially amongst women.
- Promote the concept of “Ageing in Place? or ageing in own home, housing, income security and homecare services, old age pension and access to healthcare insurance schemes and other programmes and services to facilitate and sustain dignity in old age. The thrust of the policy would be preventive rather than cure.
- The policy will consider institutional care as the last resort. It recognises that care of senior citizens has to remain vested in the family which would partner the community, government and the private sector.
- Being a signatory to the Madrid Plan of Action and Barrier Free Framework it will work towards an inclusive, barrier - free and age -friendly society.
- Recognise that senior citizens are a valuable resource for the country and create an environment that provides them with equal opportunities, protects their rights and enables their full participation in society. Towards achievement of this directive, the policy visualises that the states will extend their support for senior citizens living below the poverty line in urban and rural areas and ensure their social security, healthcare, shelter and welfare. It will protect them from abuse and exploitation so that the quality of their lives improves.
- Long term savings instruments and credit activities will be promoted to reach both rural and urban areas. It will be necessary for the contributors to feel assured that the payments at the end of the stipulated period are attractive enough to take care of the likely erosion in purchasing power.
- Employment in income generating activities after superannuation will be encouraged.
- Support and assist organisations that provide counselling, career guidance and training services.
- States will be advised to implement the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and set up Tribunals so that elderly parents unable to maintain themselves are not abandoned and neglected.
- States will set up homes with assisted living facilities for abandoned senior citizens in every district of the country and there will be adequate budgetary support.

The Policy suggested that there will be efforts to provide an identity for senior citizens across the country and the ADHAAR Unique identity number will be offered to them so that implementation of assistance schemes of Government of India and concessions can be offered to them. As part of the policy implementation the Government will strive for:

- Establishment of Department of Senior Citizens under the Ministry of Social Justice and Empowerment, which will be the nodal agency for implementing programmes and services for senior citizens and the NPSC 2011.
- Establishment of Directorates of Senior Citizens in states and union territories
- National/State Commission for Senior Citizens. The Commissions would be set up under an Act of the Parliament with powers of Civil Courts to deal with cases pertaining to violations of rights of senior citizens.
- Establishment of National Council for Senior Citizens, headed by the Minister for Social Justice and Empowerment will be constituted by the Ministry. With tenure of five years, the Council will monitor the implementation of the policy and advise the government on concerns of senior citizens.

All these policies, schemes and strategies aimed at working at the lower levels of the society and ensure that the poorest of poor senior citizens are provided the basic amenities to live their life peacefully and dignifiedly.

### **The Maintenance and Welfare of Parents and Senior Citizens Act, 2007:**

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was assented by The President on December 29, 2007. This Act makes it legal obligation for children to provide maintenance to parents and senior citizens. The aim of the Act is to provide maintenance to senior citizens casting an obligation on children and relatives of senior citizens to look after them. The act provides for protection of life and property of such citizens and also for setting up of old age homes.

Before The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted there was a provision of a similar kind. The Section 125 of Code of Criminal Procedure, 1973 gave a similar kind of protection to the parents where it cast a duty upon children to look after their parents. This provision was expressly enforced for the 'maintenance of parents' notwithstanding the rights of senior citizens without children. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 enacted by the Government of India was specifically for the parents and senior citizens, wherein children as well as legal heirs to property of a parent or senior citizen are duty bound to provide for maintenance. This modified system can be remedial upon the dynamics of the world where legislation is called for the moral duty of maintenance of parents and senior citizens. The act also aims at providing a more simpler, inexpensive and effective remedy for the senior citizens to get maintenance and other sorts of protection.

The entire Act is divided into six main chapters dealing with definitions, maintenance of parents and senior citizens, establishment of old age homes, medical care, protection of life and property and offences. Senior citizen is defined as any person above the age of sixty years. Children include son, daughter, grandson and granddaughter. Relatives shall include all persons in possession of or the ones inheriting property of a senior citizen. Parents shall include both mother and father even if not 60 years of age.

Sections 4 to 18 deal with maintenance of parents and senior citizens. People entitled for maintenance under the Act are parent, grandparents and senior citizens who are unable to maintain themselves. All the parents and grandparents unable to maintain themselves are entitled for maintenance by their children. In case of childless senior citizens the relatives shall do all the necessary to maintain such senior citizens. Maintenance here would mean food, clothing, residence, medical attendance and treatment. Maximum amount which may be ordered for maintenance of a senior citizen by Tribunal shall be as prescribed by the State Government.

No civil court shall have jurisdiction to conduct proceedings under the provisions of the Act. Application for maintenance shall be made by senior citizen to the tribunal. Tribunal shall be 'maintenance tribunal' established under section 7 of the Act. Maintenance Tribunals shall be established by the State Government in every sub-division and Appellate Tribunals shall be established by State Government in each district. They are to be presided over by S.D.O and District Magistrate respectively. Two social workers one of whom shall be a woman shall be nominated as members of the tribunal.

The application shall contain name, address and all other necessary details of persons from whom maintenance is being demanded. In case there is more than one child or relative then maintenance shall be claimed from all such persons depending on their means of income. Maintenance proceedings shall be initiated in the district where the parents or senior citizens reside or where the children or relatives reside. In matters where parents and senior citizens are not in a position to make an application, any other person, voluntary organisations registered under Societies Registration Act 1860 shall make an application, or tribunal suo motu shall take cognizance of the matter. Once an application for maintenance is received by a tribunal, it shall issue notices to children's or relatives, conduct hearing, record evidence and finally decide the maintenance. Maintenance officer not below the rank of District Welfare Officer shall be appointed who incase required shall represent parent or senior citizen. Tribunal under the Act has power to initiate reconciliation proceeding or pass interim orders for maintenance before initiating proceedings. The application for maintenance shall be disposed of within 90 days. The Tribunal can award maintenane upto a maximum amount of Rs.10000. Incase the person who by an order of tribunal is directed to pay maintenance fails to do so, tribunal may impose fine or impose imprisonment on such person. The provisions of the Act are equally applicable on children and relatives, not residing in

India. In case a senior citizen is not satisfied with order of the Tribunal he shall appeal before Appellate Tribunal constituted under section 15 of the Act.

Act under chapter V provides for establishment of old age homes atleast one in every district. These homes shall be equipped with entertainment sources and medical facilities. Section 20 provides for availability of medical facilities to these citizens. Senior citizens shall have reservation of beds in hospitals, separate queues, and facilities for treatment of chronic diseases. In certain circumstance where children or relatives have promised to take care of senior citizen in lieu of property transfer, such children or relative shall provide for basic amenities to such senior citizen. Failure to provide basic amenities shall deem the transfer as fraudulent and is liable to be cancelled. Where children or relative has completely abandoned a senior citizen he shall be guilty under the Act and shall be sentence for an imprisonment of 3 months or with fine of rupees five thousand or both.

## Conclusion:

The senior citizens constitute a precious reservoir of such human resource as is gifted with knowledge of various sorts, varied experiences and deep insights. May be they have formally retired, yet an overwhelming majority of them are physically fit and mentally alert. Hence, given an appropriate opportunity, they are in a position to make significant contribution to the socio-economic development of their nation. Apart from Government plans and schemes, being children and grandchildren to our elderly people, it's our responsibility to care for them and make them live proudly with respect, dignity and happiness. Taking care of our parents/grandparents/senior citizens is our primary responsibility and sparing and spending some time every day with our elders should be our utmost priority.

As declared by Habitat Agenda (paras 17 & 40) "Older persons are entitled to lead fulfilling and productive lives and should have opportunities for full participation in their communities and society, and in all decision-making regarding their well-being, especially their shelter needs. Their many contributions to the political, social and economic processes of human settlements should be recognized and valued. Special attention should be given to meeting their evolving housing and mobility needs in order to enable them to continue to lead rewarding lives in their communities...."

## NOTES & REFERENCES:

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