

## ABUSE OF AGED-AN IGNOMINY: NEED FOR GERIATRIC CARE

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*“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in spirit of brotherhood”<sup>1</sup>.*

The genuine and natural human feeling has expressed itself in the United Declaration of Human Rights, adopted by the General Assembly of the U.N.O on 10<sup>th</sup> Dec 1948. Article 3 declares that “everyone has the right to life, liberty and security of persons”.

The elderly population in India is a fast growing phenomenon. In India, the culture of sending elderly persons to Old Age Home is fast developing. In 2002, of the total 1018 old age homes in India registered with the Help Age India, 186 are from Kerala. In 2002, of the total 1018 old age homes in India registered with the Help Age India, 186 are from Kerala. The old age population in 1961 was 25.6 million while after 30 years i.e., in 1991 it was more than double which comes to 56.7 million. In percentage terms it was 5.83% in 1961, 8.82% in 1991 and 9.79% in 2001 which is much higher than in other states. It is also to be noted that majority of old age people in Kerala are widows. In 1991, among the old age people in the range of 60-69, 53.8% are widows and among those above 70 years it comes to 69.20 percent<sup>2</sup>.

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<sup>1</sup> Article 1 of UN Declaration, 1948.

<sup>2</sup> <http://www.swd.kerala.gov.in/index.php/senior-citizens> visited 2/3/2016

At the dawn of agriculture, about 8000 B.C., the population of the world was approximately 5 million. Over the 8,000-year period up to 1 A.D. it grew to 200 million (some estimate 300 million or even 600, suggesting how imprecise population estimates of early historical periods can be), with a growth rate of under 0.05% per year. A tremendous change occurred with the industrial revolution: whereas **it had taken all of human history until around 1800 for world population to reach one billion**, the second billion was achieved in only 130 years (1930), the third billion in less than 30 years (1959), the fourth billion in 15 years (1974), and the fifth billion in only 13 years (1987). During the 20th century alone, the population in the world has grown from 1.65 billion to 6 billion. In 1970, there were roughly half as many people in the world as there are now. Because of declining growth rates, it will now take over 200 years to double again<sup>3</sup>.

In 2010, an estimated 524 million people were aged 65 or older—8 percent of the world's population. By 2050, this number is expected to nearly triple to about 1.5 billion, representing 16 percent of the world's population. Although more developed countries have the oldest population profiles, the vast majority of older people—and the most rapidly aging populations—are in less developed countries. Between 2010 and 2050, the number of older people in less developed countries is projected to increase more than 250 percent, compared with a 71 percent increase in developed countries. India is in a phase of demographic transition. As per the 1991 census, the population of the elderly in India was 57 million as compared with 20 million in 1951. There has been a sharp increase in the number of elderly persons between 1991 and 2001 and it has been projected that by the year 2050, the number of elderly people would rise to about 324 million<sup>4</sup>. India has thus acquired the label of “an ageing nation” with 7.7% of its population being

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<sup>3</sup> <http://www.worldometers.info/world-population/> visited 25/2/2016

<sup>4</sup> Age care statistics. [cited on 2007 Oct 6]. Available from: <http://www.helpageindia.com>

more than 60 years old. The demographic transition is attributed to the decreasing fertility and mortality rates due to the availability of better health care services<sup>5</sup>.

According to recent statistics related to elderly people in India, in the year 2001, it was observed that as many as 75% of elderly persons were living in rural areas. About 48.2% of elderly persons were women, out of whom 55% were widows. A total of 73% of elderly persons were illiterate and dependent on physical labour. One-third was reported to be living below the poverty line, i.e., 66% of older persons were in a vulnerable situation without adequate food, clothing, or shelter. About 90% of the elderly were from the unorganized sector, i.e., they have no regular source of income. The number of centenarians in India is about 2,00,000 and India is one of the few countries in the world in which the sex ratio of the aged favours males. This could be attributed to various reasons such as under-reporting of females, especially widows and higher female mortality in different age groups<sup>6</sup>. By 2050, there will be 324 million citizens over the age of 60 in India, while 48 million of them will be over 80. While the government focuses on supporting the youth, expecting them to contribute to the economy, there is very little support for those who already have and 8% of India's population needs support and social security. This is the fastest-growing demographic segment<sup>7</sup>.

Although India will be the youngest country in the world by 2020 with a median age of 29 years, the number of elderly people is likely to increase significantly after that, according to the 2014 State of Elderly in India report released by the Help Age India, by 2021, the elderly in the country

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<sup>5</sup> <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2763704/> visited on 22/2/2016

<sup>6</sup> <http://www.helpageindia.com>. Visited on 22/2/2016

<sup>7</sup> <http://timesofindia.indiatimes.com/budget-2015/common-man/Budget-2015-Government-needs-to-focus-on-elderly/articleshow/46352397.cms> visited 20/2/2016

will number 143 million, the report said. The increase in life expectancy over the years has resulted in an increase in the population of the elderly. While the overall population of India will grow by 40% between 2006 and 2050, the population of those aged 60 and above will increase by 270%. Out of this, the oldest old segment, which is the most vulnerable on account of suffering from disabilities, diseases, terminal illness and dementia, is also the largest growing segment of the elderly population, at a rate of 500%. The increasing population of the elderly is “a development concern that warrants priority attention for economic and social policies to become senior citizen-friendly”.<sup>8</sup>

Out of the oldest old, 71% stay with their sons while 9.8% stay with their daughters. Disturbingly, nearly 80.6% of the respondents in this age group admitted to having faced abuse with verbal abuse, disrespect and neglect cited as the major type of abuse<sup>9</sup>. Since 75% of the elderly reside in rural areas, it is mandatory that geriatric health care services be made a part of the primary health care services. This calls for specialized training of Medical Officers in geriatric medicine. Also, factors such as a lack of transport facilities and dependency on somebody to accompany an elderly person to the health care facility impede them from accessing the available health services<sup>10</sup>.

In Kerala the number of aged rose from 5.83% in 1961 to 8.82% in 1991 & 9.79% in 2001, higher than the national figure. There is an increase of 69% in number of residents of old-age homes in 4

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<sup>8</sup> <http://www.livemint.com/Politics/z6BacVOwf5SvmpD9P1BcaK/20-of-population-to-be-elderly-by-2050-HelpAge-India-repor.html> visited 24/2/2016

<sup>9</sup> <http://www.livemint.com/Politics/z6BacVOwf5SvmpD9P1BcaK/20-of-population-to-be-elderly-by-2050-HelpAge-India-repor.html> visited 24/2/2016

<sup>10</sup> <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2763704/> visited on 23/2/2016

years. Going by this trend, the aged in Kerala will constitute 16% of total population in 2021. It is time to find out the reason why Kerala has the maximum number of old age homes *vis-a-vis* other states for which a viable solution by holding detail discussions on the topic to sensitize the law teachers and law students about the problem of senior citizens in India and to know our duties to protect them. The present scenario of the Society depicts that, there is a large number of aged parents who are totally neglected by their off springs and they are forced to take shelter in the destitute home or old age homes.

The study of Gerontology applies this knowledge for making policies and programs including the macroscopic and microscopic perspectives. Seclusion and neglect of aged parents is a major social problem nowadays. Old age is invariably associated with loss of capacity and faculties coupled with diseases and physical ailments leading to difficulties in enjoyment of their human rights. Older persons continue to face multiple threats of financial exploitation including fraud, arbitrary deprivation of their property, theft or misappropriation of cash and valuables, more often perceived by their children as a burden.

#### **Man Made Problems:**

Modern life style disregarding the values of life is another reason for increase in the number of persons who require social security.

1. **Abolition of Joint Family System;** which was founded by our ancestors was in fact one of the best method of social security. Under that system, all the members of the family live together under one roof, work together and share the benefits and enjoy or suffer together. This provided sufficient security of each member of the family.

2. **Erosion of human values;** one of the values of life has been the sense of gratitude. But unfortunately due to selfishness this value has been eroded and parents are considered as a burden or useless and consequently large number of parents has to depend upon social security arrangement for their daily life. As a result, Old age homes/ (Vridhashramas) are coming up everywhere, even when their children are leading a posh life. Such erosion of values also has added to the burden of social security arrangements whether private or public<sup>11</sup>.
3. **Increasing number of Divorce:** About four or five decades before, divorce was rare in our country. But recent years on account of throw away attitude, number of divorces increased giving rise to lot of social security problems to the divorced wife as well as to children of divorced parents.
4. **Victims of war and Terrorist attacks:** Increase in terrorist activities, War and offences against women makes large number of widows, orphans and destitute. Terrorist activists and violence against women have become a world phenomenon. When human beings are behaving in an inhuman manner, they are nothing but demons in human form<sup>12</sup>.

These are the man-made situations where the remedy must be preventive and adding values of life resurrected and duty towards parents, or the elderly should be roused.

#### **Legal and Constitutional provisions for the aged:**

Article 41 of the Indian Constitution mandates the well being of citizens and it says, "the state shall, within the limits of its economic capacity and development, make effective provision for securing the right to public assistance in cases of old age".

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<sup>11</sup> R.K.A.Subrahmanya, Perspectives of Social Security, Shipra Publications, Delhi, 2011 P.36

<sup>12</sup> Ibid

Apart from constitutional provision of social security, there are other legislations enacted for the protection of aged persons. They are:

1. Section 125 (1) (d) of the Code of Criminal Procedure 1973, gives a right to father or mother, unable to maintain himself or herself to claim maintenance from children having sufficient means who neglects or refuse to maintain.
2. Section 128 of the Code of Criminal Procedure, gives the right to get free copy of the order of maintenance and also enforcement of the said order by any Magistrate in any place where the person against whom the order is made.
3. Maintenance and Welfare of Parents and Senior Citizens Act, 2007: This Act came into force on 24<sup>th</sup> September 2008 and is enacted to provide appropriate mechanism to provide need-based maintenance; medical facilities; suitable mechanism for the protection of life as well as property of older parents or senior citizens; and also setting up of old age homes in every district. The important provisions of the Act are as follows:-
  - a. Section 4 of the Senior Citizens Act gives right to claim maintenance from children or grandchildren or relative/ heirs (in case of childless persons) through a speedy and inexpensive mechanism, to lead a normal life.
  - b. Section 5 of the Act gives the provision for 'application for maintenance' by senior citizen /parent or if he is incapable, by another person or organisation authorised by him or *suo motu* by the Tribunal.
  - c. As per section 10, if the children/relatives neglect or refuse to maintain senior citizen who is unable to maintain him, the Tribunal may order such children/relatives to make a monthly allowance for the maintenance of such senior citizen and the

- maximum maintenance allowance, as prescribed by the State Government, shall not exceed ten thousand rupees per month.
- d. Section 10 allows the Tribunal to make variation or alteration in the allowance for the maintenance, as it thinks fit.
  - e. Section 11 of the Act provides for free copy of the order and that may be enforced by any Tribunal in any place where the order against whom it is made.
  - f. Section 19 states the Govt. to establish old age homes in every district, at least one each with medical and entertainment facilities.
  - g. Section 20 provides for medical treatment in Govt. hospitals and to provide beds for all senior citizens, to arrange separate queues for them; and also there should be earmarked facilities for generic patients in every district hospitals duly headed by a Medical Officer with experience in geriatric care.
  - h. Section 23, gives protection of property. Where any senior citizen has transferred his property either as gift or otherwise for taking care of him by providing basic amenities and refuses or fails to provide such amenities/ physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion and shall be declared void.

Recently, collector of Kozhikode district cancelled one property registration as the transferee refused to take care of his grandmother as she had acquired all her properties by working in gulf and transferred the same in 2012 to her grandson<sup>13</sup>.

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<sup>13</sup> Malayala Manorama dt. 26<sup>th</sup> Feb 2016



**Geriatric Care:** Although the problem of ageing is not a new phenomenon but now-a-days it is often discussed openly to make everybody know about the human rights of the Senior Citizens and to emphasise the protective laws and their implementations. Gerontology is the study of the social, psychological, cognitive and biological aspect of 'ageing'. It encompasses the study of physical, mental and social changes in people as they start ageing and also the effects of ageing population on society. The relationship between individual and the society is mutual and inseparable. Every individual is, as long as he has the capacity to work is under a duty to serve the society. Every profession, employment, avocation, trade, business or power position, should be used to render service to the society. In return it is the duty of the society through the instrumentality of the State as also through social organisation to come to the rescue of individuals, when they are in difficulty and they are in need of help. In fact the very object and purpose of founding the institution of State was to secure protection and social security for all individuals<sup>14</sup>.

Instances of abuse to elderly are galore, where aged parents are neglected despite legislative protection enacted for the welfare of senior citizens. Due to degradation of moral values in the present society, the abuse of elderly is in existence in many forms such as physical, mental and deliberate neglect. The Indian joint family tradition has tremendous respect for elderly and parents. Our tradition, religion and scriptures have given much emphasis on the importance of elders and their experience which need to be accepted as a guiding value system<sup>15</sup>. Statistics showed that 9% of our population is the elderly and sixty seven percent of those elderly are widowed. By 2021, about 20% of our population would be elderly and the demand on the social

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<sup>14</sup> R.K.A.Subrahmanya, Perspectives of Social Security, Shipra Publications, Delhi, 2011P.27

<sup>15</sup> P.K. Raut, Rights of the Elderly-A Legal Cogitation, published in the Nyaya Deep,

security system would be really enormous. So, it is very important to remember that social security to the senior citizens is not charity instead it is their basic human right<sup>16</sup>.

Wealthy old persons can also become lonely like the poor when they are discarded by their children or relatives. Science and technology can provide them more longevity yet the new generation finds them useless or burden. Hence laws relating to maintenance on elderly persons should be enforced strictly. So time has come to create conducive ambience wherein the aged can live life to the full without sacrificing their dignity and self-respect by improving the quality-of-life of the elderly calls for a holistic approach.

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<sup>16</sup> <http://www.swd.kerala.gov.in/index.php/senior-citizens> visited 2/3/2016