

PROTECTION OF ELDERLY PEOPLE AGAINST CRIME AND SOCIETY

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Abstract

With growing liberalism, Capitalism and disintegrating of families', crimes against the elderly people are increasing at a very rapid rate. From 19.8 million in 1951 to 76 million in 2001 and projections indicate that the number of 60+ in India will increase to 100 million in 2013 and 198 million in 2030. With the steady increase of old persons, the magnitude of their problems is also increasing. Problems manifest in the form of abuse and violence against the elderly. The concept of joint family is taking over the old aged concept of the nuclear family and accordingly size of the family has also decreased from too many people to just the parent and children. The youth generation is able to cope up with the fast moving life but the elderly ones are held back due to shift from traditional to modern society. As the elderly people are the non-working class of the age structure of India, they are thrown out of the mainstream and have no place to go and live a productive life. Due to age factor they are also not being able to work and hence are considered as a liability on the society. Therefore, in the end their vulnerability leads to the increasing crime rates in the old age group. As they are weaker, they become the soft target for crime. The criminals attack these group of people as they easy target. The Government of India incorporated many policies so as to regulate against the unjust behaviour of the youth towards them. The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007 which enumerates a lot of policies which unfortunately look good only on paper and fail to curb the growing marginalization and dangers the old face. Now, this generation instead of labelling the old people as liabilities, should gain real time experience as they have seen the both sides of the picture, both modern and traditional phase of the society. Their knowledge and inputs could be very useful for the generations to come.

This paper aims towards assessing the effectiveness of The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007, considering the atrocities the elderly is facing. Further,

it will analyse the needs of the people with disabilities in the urban areas and check to scrutinize whether the Act provides for those needs.

I. INTRODUCTION

Old age is a part of life which a human being cannot refute even if they want to. The childhood and old age are conditions where both rely on someone as to take care of them. The concept of nuclear family resulted in a misbalance in the life of the old age and changing the years old practice of treating old age people as on same level as God. Parents are becoming a burden on their children as they have lost the capacity to work efficiently and earn for their livelihood.

This research paper will put emphasis on the plight of the Old Age people

II. TRADITIONAL SOCIETIES

Many societies in the past considered family harmony as very important factor of human life. Numerous conventional social orders of the past viewed family agreement as a critical factor administering family connections. This veneration for the family was strengthened by philosophical conventions and open approach. In Chinese society, it was inserted in an esteem framework that focused on —filial piety. Abuse of elderly people was unrecognized and positively unreported. These conventions are as yet powerful today. Concentrates in the United States of behaviour towards old people revealed that subjects of Korean cause had confidence in the supremacy of family congruity over individual prosperity as a measuring stick for deciding if a specific conduct was viewed as injurious or not. Similarly, individuals of Japanese cause considered the —group to be foremost, and that a person's prosperity

ought to be yielded for the benefit of the group.¹

III. NATIONAL POSITION

When overall crime situation in an area is well under control, crime against elderly and other weaker sections are less. When crime situation deteriorates, these sections are hit Hardest. At the same time, special crime control measures are necessary for the protection Of aged persons in view of the problems they face due to their frailty/ disabilities and Lonely lives, they are compelled to lead. It appears that while Delhi has a fairly Comprehensive and formal action plan for providing protection and security to its senior Citizens, such plans for Mumbai, Kolkata and Chennai, are yet to be evolved. Special Crime control measures for elderly include: senior citizen's security cells, □ senior citizens toll-free help-lines, registration with police of senior citizens living alone for exercising extra vigilance in relation to them through sensitised beat patrols, police patrol vans And volunteers from local communities, enrolled as special police officers, special drives for verification of antecedents of servants, drivers and other domestic helps as also of tenants. Sensitisation of people/ resident welfare associations regarding safety measures. Counselling of senior citizens and mobilisation of members of public and NGO's/ voluntary organisations such as help age, age well, youth clubs, women groups, etc. For providing emotional support to lonely citizens and encouraging setting up of senior citizens organisations. Unfortunately, despite these special security measures, crime against elderly is a chilling recurring feature.

a) *Problems of the old age person:* As a person is growing old it starts depending on the other generation for its welfare. Now when not taken care of, both by their children and law, they

¹ Tomita SK. Exploration of Elder Mistreatment Among the Japanese. In: Tataru T, ed. Understanding Elder Abuse in Minority Populations. Philadelphia, PA, Francis & Taylor, 1999:119–139.

find no recourse through legal measures, instead requires social – legal mechanism to curb it down.

- i. Economic problem is the gravest problem faced by the old people. It also includes loss of employment, income deficiency and income insecurity.
 - ii. Physical problems pertaining health and medical and also inadequacy in housing.
- b) *Population of the old age group increasing:* The population of his group has been increasing worldwide. As per UNESCO estimates, it ranges from 590 million to 600million in the year 2005. It is estimated, that this figure will double by 2025. Also, in India the population of elderly people has increased from 2 crores in 1951 to 7.2 crore in 2001.
- c) *Abuse of Oldage people:* It is due to direct confrontation or conflict between parents and children or spouses. A history of other forms of family distort such as child abuse plays an important role. An abusive care may also be the victim of violence or the adult survivor of child abuse who is now in a position of power over their past perpetrators.
- d) *Risk factor for older abuse:* Carer stress has been the main issue through out for older abuse. It also largely depends on the individual pathologies, either on the part of victim or perpetrator². It is also a result of long term conflict between parents and children.
- e) *The consequences of elder abuse:* Old age people are more prone and it can cause serious harm to their body as they are much sensitive and vulnerable with brittle bones and the process of healing would take ages. Old age abuse could also lead to permanent damage to their which can take a bigger toll relatively. Many of old age people survive on a little or negligible or no income. Therefore, loss of a very small amount could have a deep and significant impact on their life. During this time, they are vulnerable to a very large extent and could became targets of fraudulent schemes.
- f) *An example of Oldage abuse in India: An eighty-four-year-old women living with her son and daughter-in-law, she was ill treated by her family members putting her in the corridor of the house and she cannot go anywhere just like prisoner she was treated and also she was forced to do all the work of the house. The cruel part of the story is that her daughter-in-law was forcing her to bath by the toilet water.*³

² Schiamberg LB, Gans D. An Ecological Framework for Contextual Risk Factors in Elder Abuse by Adult Children. *Journal of Elder Abuse and Neglect*,1999, 11:79 – 103.

³ Sahara Samay M.P(news television program), 29/10/05 (8.30 am morning news) at Jaipur.

IV. PROTECTION UNDER NATIONAL LAWS

a) *Constitutional Provision:* Right to work, education and public assistance in certain cases must be done by state keeping in mind the limitation of economic capacity and development, make provision as such that protects right to work, education and public the case of unemployment, old age, sickness and disability. Weaker sections should be given major emphasis so as to promote the education and economic interest and shall be protected from exploitation in whatever forms possible.⁴ These provisions are mentioned in the Chapter IV of the Indian Constitution. The Directive Principle are however not enforceable by any court of law but makes sure that it directs state accordingly on what it should do. The DPSP have been declared to be fundamental and state has to follow it.

b) *Legislative Protection:*

i. *Protection under personal laws:*

There is a sense of moral obligation on the children to maintain their parents, but the extent of liability depends from community to community.

1. Under Hindu Laws:

Part IX –Personal Law (Hindu), (Chapter III –Hindu Adoption and Maintenance Act, 1956)

A Hindu during the course of his or her life time, has to maintain its legitimate/illegitimate children and his/her aged or infirm parents.⁵ The main obligation is to maintain their parents or unmarried daughter as the case may be is not being able to maintain or support for their living out of his/her own earning.⁶ This act is the first personal law statute in India, which imposes a responsibility on the children to maintain their parents. This duty is not only binding to the son but also on daughters to equally share the responsibility towards their parents. Also, it is very important to note that parents who are unable to support themselves financially can seek support and maintenance under this Act.

⁴ Article 46 of the Constitution of India

⁵ Section 20(1) of Hindu Adoption and Maintenance Act, 1956

⁶ Section 20(3) of Hindu Adoption and Maintenance Act, 1956

2. Protection under Muslim Law:

Children have a duty to maintain their aged parents even under the Muslim law.

According to Mulla:

- (a) Children in easy circumstances are bound to maintain their parents and then latter may earn for themselves as well.
- (b) Even if son is in a strained condition, he is supposed to support his mother at all times, if the mother is poor.
- (c) A son, who is poor, but earns something, is bound to support his father, who earns nothing.

According to Tyabji, parents and grandparents are entitled to their support, under Hanafi Law, to maintenance from their children and grandchildren who have means of livelihood. Both son and daughter have the duty to maintain their parents under Muslim law. The obligation, however, is dependent on their affordability and means to do so.

ii. Protection under Criminal Law:

Criminal Procedure Code, 1973: Chapter IX:

Order for maintenance of wives, children and parents: if any person is having sufficient means is negating his duty and refuses to maintain his parents, or himself or herself, a magistrate of the first class may upon proof of such neglect, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother.⁷

It can thus be said that prior to 1973, there was no provision for maintenance of parents under the code. The Law Commission, however, was not in favour of making such provision. The provision, however, was introduced for the first time in Sec. 125 of the Code of Criminal Procedure in 1973.

c) Government Provision:

⁷ Section 125(1)(d) of Criminal Procedure Code 1973

Ministry of Social Justice & Empowerment is the main Ministry which takes care or is responsible for welfare of the Senior citizens. This Ministry recognizes person above the age of 60 as Senior Citizen. This Ministry has also implemented schemes accordingly.⁸

- 1) This ministry implemented the National policy for Older Person on 13th of January, 1999 in order to uplift and accelerate ways to empower them. This policy included major steps:
 - i) Setting up of pension funds for people working in unorganized sector.
 - ii) Construction of old age homes and other facilities for every 3-4 districts.
 - iii) Resource centre for people above 60 so as to provide them with some work.
 - iv) Concessions on rail and air fares.
- 2) Also, Ministry of Justice and empowerment has announced the official setting up of the National Council for Older Person, namely Agewell Foundation.
- 3) This Government Policy will help in settlements of pensions, Provident Fund (PF)

Apart from all these policies, Government of India has earmarked special benefits and concessions for Old age person of India. Here is a brief introduction to them:

1. *Speedy decision for the cases against or involving Senior Citizens:*

The Chief Justice of India has advised Chief Justices of all High Courts to accord priority to cases involving older persons and ensure their expeditious disposal.

[vide letter of Government of India, Ministry of Social Justice & Empowerment (SD Section), New Delhi, F. No. 20-76/99-SD dated 03.11.1999]⁹

2. *The RTI Act (Right to Information Act):*

⁸ Formulated by the Govt. Of India, Social Justice and Empowerment Ministry and adopted by the Union Cabinet on 13th February 1999

⁹ (Mandal, 2011)

Appeals filed by senior citizen or differently abled people are given special priority according to a directive of the Central Information Commission (CIS).

3. *Health Care:*

Special queues for senior citizens at hospitals and health care clinic and also preference given to them when they visit any of these. Our Capital has special hospitals for senior citizens.

4. *Travel by Indian Railways:*

- a) Travel by Indian Railways is 30% cheaper for all Senior Citizens who are 60 years in age or above. Trains like Jan Shatabdi, Rajdhani, Shatabdi provides for fare concession for the Old Age People.
- b) Separate Counters for senior citizen while purchase of tickets at the railway stations.
- c) For those who can't walk properly, for them wheel chair are available at all big railway station, railway headquarters.
- d) Indian Railways have recently introduced specially build coaches which have provisions for better toilets and wheel chairs for the handicapped and the old people.

5. *Travel by Airlines:*

- a) Senior Citizens get flat 50% discount on economy class fares on all flights with certain terms and conditions.
- b) Air India Provides 45% discount for senior citizens (women aged above 63 and men aged 65)

6. *Travel by Roadways:*

- a) State Road Transport Undertakings have made provision for senior citizens for reservation of 2 seats in the front row of all buses.

7. Law(legislations):

Maintenance & Welfare of Parents and Senior Citizens Act, 2007

V. CRIME AND ITS SOLUTION

Now, the second aspect that is the issue regarding the security of the Old Age and how emphasis should be also given on the increasing crime rates. This age is vulnerable so as to they are defenceless and are not able to fight back against the perpetrators. Again, police should be playing important role so as to help out these citizens who aren't able to help themselves. A total of 20,532 cases of IPC crimes against senior citizens were registered during 2015, showing an increase of 9.7% during the year over previous year 2014 (18,714 cases). Out of 20,532 IPC crimes under crime against senior citizens, maximum cases were registered under cheating (1,867 cases) followed by robbery (1,294 cases), murder (1,053 cases) and grievous hurt (949 cases), contributing 9.1%, 6.3%, 5.1% and 4.6% of total such crimes during 2015 respectively.

Police is the backbone of society and plays an important role in implementation of rules and order in the society. There are some suggestions that police should take into account so as to increase the safety parameter for the elderly people.

- a) Senior Citizen should be established in every district.
- b) Police should start old age helpline son that they could register their complain.
- c) Pay attention towards the lives of elderly who are staying all alone.
- d) Patrolling twice a day at the areas where old age people reside, so that to avoid any undesirable elements.
- e) Special Training to the police to handle the elderly.¹⁰

¹⁰ Crimes against the Elderly in India: A Content Analysis on Factors causing Fear of Crime, Anindya J. Mishra1 & Avnish Bhai Patel, Indian Institute of Technology Roorkee, India

VI. FINDINGS AND CONCLUSION

The crime rates have only increased and are not going down as we can see that by the figures stated above. Government should take necessary steps possible to curb the crime as the elderly people of the society has the experience to give and also can share a lot of personal and public experiences so that to take society in correct directions. The Constitution of India states, —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

cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.¹¹ Last but not the least apart from political will favour of the protection of Old Age people a strong and sensitive civil society is to be shaped so that the value based social responsibility of individual as well as of society at large can be created to prevent the pollution of our strong Indian values where parents are consider as God in mortal form.

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¹¹ Article 41 of the Constitution of India.

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