

Law Relating To The Rights Of Senior Citizens In India-A Study

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Abstract:

"Matru Devo Bhav" and "Pitru Devo Bhav" are the Sanskrit phrases, which reflects the sentiments to one's parents. Traditionally it was seen that elderly people were given love and respect but now in the 21st-century world, the transformation of joint family to the nuclear family had created a huge effect on their social lives which has caused emotional abuse, physical problems, financial insecurity, lack of social security and social isolation.

India, like many other countries, is heading towards the phenomenon of population aging. Improved health care facilities, awareness, and spread of life-saving drugs coupled with socioeconomic progress have resulted in increase in the number of aged people. The Indian aged population which is currently the second largest in the world has raised from 942.2 million in 1994 to 1.36 billion in 2019. The rising population of aged has become challenging for the government to face the issues and problems of it.

The Government of India has taken various legal steps in order to narrow down the effects of consequences through Acts, policies, schemes and programs but still there is a large number of older people whom these services were not reached or available. It is because most of the elder people didn't know about it. Some of them working in the public sector, will get pension on a regular basis but there are a huge number of older people working in the unorganized sector where there is no such provision for pension. So, the Indian government should lay more emphasis on the concept of "Pension for All".

Keywords:

1. Introduction

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On the part of Criminal Procedure Code, the Supreme Court interpreted by its judgment that to maintain the parents by daughter/son (Sec.125(1) (d)) it would be more appropriate to appoint the public prosecutor because this process needs greater transparency and a skillful prosecutor to resolve such complexities in cases. The vulnerable group like the elderly need such kind of backbone to raise their voices and grievances in front of the prosecutor which he/she presents in court by fully investigating the case. This would impart transparency into the system and restore the confidence of the public in criminal justice.

There is huge responsibility of welfare, care, and protection of older person taken by Ministry of Social Justice and Empowerment initiating different programs and policies. In spite of the fact that the number of elders is increasing at an alarming rate, the issues of aged are dealt with the same ministry which is overburdened. There should be a separate ministry for welfare of older people. Before implementing the policies, it is important to take suggestions from the beneficiaries in order the law more equitable and secured.

Therefore, the researcher in this paper would deal with various measures initiated to provide a life of dignity to old age persons. As lot of old age people remain outside the purview of these measures because of lack of awareness of these security measures and ineffective enforcement of the same.

It is therefore essential to develop a value based social system where parents are considered as God in mortal form. As after all one should not forget that he is formed from the flesh and blood of their parents and his achievements are the result of sacrifice, suffering and toil hard of his parents.

2. Chapterization

Legislative Measures In India To Protect The Rights Of Senior Citizens

“The Indian legislature realized the necessity of old age social security and recognized the care and protection of old age person as an integral part of the Indian Juris corpus. The Constitution of India in articles 14, 15, 21, 38, 41 and 46 guarantees care and welfare of the elderly people”.

“The objective of Articles 14 and 15 is equal justice to all without any discrimination. Though the ‘age’ is not explicit in prohibited discriminations of these provisions, it shall not be a ground for denial of equality. Therefore, they should not be discriminated but treated equally on par with the members of family and society as well. Article 21 guarantees a right to dignified life to every one including senior citizen. Social security is a means to dignified life. Therefore, right to security of aged is an integral part of right to life under Art.21. Articles 38, 41 and 46 provide for dignified living for the elderly. Though, these Directive Principles are not enforceable in a court of law but they provide constitutional matrix for making law and for policies and programs of governments. Therefore, the Constitution of India has provided protection to basic human rights of the elderly”.

“A Hindu is bound during his or her life-time, to maintain his or her legitimate /illegitimate children and his or her aged or infirm parents during his or her lifetime. The obligation of a person to maintain his or her aged infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of his or her own earnings or others property”.

Thus, amongst the Hindus, the obligation of sons to maintain their aged parents, who were not able to maintain themselves out of their own earning and property, was recognized even in early texts.”

“Criminal Procedure Code, 1973 in section 125 (1) (d) provides for the maintenance of parents of any age and any religion. This provision was major means for old age security until recent past”.

“To keep the fag end of their life safer from horrible experiences, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been passed. The object of this Act is to provide more effective provisions for the maintenance and welfare of parents and childless senior citizens guaranteed and recognized under the Constitution of India. The Act provides protection to childless senior citizens, adoptive parents, step father, grandparents which is absent feature in earlier social security legislations. The Act provides for the establishment of maintenance tribunals, old age homes and protection of maintenance agreements. Apart from maintenance it also ensures care, welfare, security of health, life, dignity, person and property of this vulnerable group guaranteed in human rights law. The Act provides better, adequate, appropriate, speedier and less expensive relief and also provides innovative social security measures. The Act has been enacted to give effect to the Directive Principles. Therefore, social security under the Act is the constitutional right of the old and it creates justiciable fundamental right. For

better enforcement of the Act, Rules are adopted in 2010 but many States are not yet taken any initiative for the enforcement of the Act”.

“The National Policy on Older Persons, 1999 identified financial security, health care and nutrition, shelter, education, welfare, protection of life and property and protection against abuse as important areas of action plan for the empowerment of old. It is a comprehensive document covering every aspect of elder’s life. But unfortunately, even after 15 years the policy awaits implementation in many states. To implement the National Policy the central government has set up the National Council for Older Persons. Under the National Social Assistance programme the Government of India adopted various schemes and support services. In addition to them travel concessions, tax rebates other incentives are provided for the welfare and benefit of the aged. All these measures are meant for the improvement of the quality of life of old age persons”.

International Efforts For Protecting Rights Of Senior Citizens In India

“In 1971, the United Nations General Assembly requested that the Secretary-General prepare a detailed report on the elderly and make recommendations for national and international action. The Assembly voted to hold a World Conference on Aging in 1978. As a result, from July 26 to August 6, 1982, the World Assembly on Ageing was held in Vienna, where an International Plan of Action on Ageing was adopted. The Plan's ultimate aim was to improve individual countries' ability to cope effectively with the ageing of their populations while taking into account the unique interests and needs of the elderly. The Plan aimed to increase awareness of the social, economic, and cultural consequences of ageing, as well as related humanitarian and developed-world issues. The General Assembly adopted the International Plan of Action on Ageing in 1982, and the Assembly has called on governments to continue to enforce its principles and recommendations in subsequent years.”

“The Assembly encouraged the Secretary-General to keep working to ensure that the Plan's follow-up actions are carried out effectively.”

“In 1992, the United Nations General Assembly declared the year 1999 to be the International Year of the Elderly.”

“In October, the United Nations General Assembly proclaimed the International Day for the Elderly, which was later renamed the International Day of the Older Persons.”

“On December 16, 1991, the United Nations General Assembly adopted 18 values grouped into five clusters: independence, engagement, care, self-fulfillment, and dignity of the elderly.”

These ideals serve as a foundation for age-related intervention. The following are some of the Principles:

- (i) “Older people should be able to work and decide when they want to leave their jobs.”
- (ii) “Older people should stay involved in society and engage in the development of policies that affect their well-being.”
- (iii) “Older people should have access to health services to help them preserve their physical, mental, and emotional well-being at the highest level possible.”
- (iv) “Older people should be able to seek opportunities that enable them to reach their full potential and have access to society's educational, cultural, spiritual, and recreational resources.”
- (v) “Older people should be able to live in dignity and safety, free from abuse, mental illness and physical abuse”.

Recent Initiatives By Government For Protection Of Old Age People

1) “Pradhan Mantri Vaya Vandana Scheme”

This is an Indian Life Insurance Corporation (LIC) scheme that guarantees a pension payment at a set rate for a period of ten years. It also provides a death benefit to the nominee in the form of a refund of the purchase price. The Pradhan Mantri Vaya Vandana Yojana (PMVVY) pension scheme for senior citizens has been extended until March 31, 2023.

2) “Indira Gandhi National Old Age Pension Scheme (IGNOAPS)”

According to the guidelines prescribed by the Government of India, this scheme is specifically designed for older adults over the age of 60 who are poor. The Ministry of Rural Development introduced it. It's a part of the Social Security Administration's National Social Assistance Program (NSAP).

Obtain an application form from the local Social Welfare Department.

3) “National Programme for the Health Care of Elderly (NPHCE)”

During 2010-11, the Ministry of Health & Family Welfare launched the ‘National Programme for the Health Care of the Elderly’ (NPHCE) to address various health-related issues faced by the elderly. The NPHCE's main district-level goals are to provide dedicated health services through the State Health Society in District Hospitals, Community Health Centre's (CHCs), Primary Health Centre's (PHCs), and Sub-Centre's (SCs). The health-care services offered by this scheme are either free or heavily subsidized. The following services are given without charge:

- District Hospitals have a Geriatric OPD and a 10-bed Geriatric Ward.
- Community Health Centre's hold a bi-weekly geriatric clinic (CHCs)
- At the Primary Health Centre, there is a weekly geriatric clinic (PHCs).
- At Sub-centre Aids and Appliances are given.
- For operations up to the district level, the Centre will bear 75% of the overall expenditure and the State Government will contribute 25% of the budget.

4) “Varishtha Mediciclaim Policy”

This programme provides assistance to seniors by covering the costs of medications, blood, ambulance fees, and other diagnosis-related expenses. This programme is designed to assist senior citizens between the ages of 60 and 80 in meeting their health-related expenses. Furthermore, premium payments are eligible for income tax benefits under Section 80D. Despite the fact that the policy is only valid for one year, you may extend the renewal up to the age of 90 years”.

Case Analysis

There are some of the landmark judgments in Honorable Courts (high courts and Supreme court), in which the children who abuse their parents while living in

their home, are been taken into consideration.

Sunny paul vs. State of nct of delhi and others

“The Delhi High Court ruled in this case that children who harass their parents while living at home can be ejected from their home. In his decision, Honorable Justice Manmohan stated that “as long as the parents have lawful possession of the land, they have the right to evict their violent children from their home. In addition, the court has ordered the Delhi government to amend its rules so that parents or senior citizens can file a complaint with the district court even if they are renting an apartment. Previously, the Delhi Government's rules only included senior citizens' rights in self-acquired property.”

Union of india vs. Shankar lal soni and anr

In this case Hon. Supreme Court opined that the concessions given to the senior citizens in the Airlines, Railway Corporation and Transport department will have no modifications. The concession will remain the same, as the court feels that the senior citizens are the backbone of the Indian society and they should not be in any trouble.

In another landmark case of justice shanti sarup dewan vs. Union Territory

In this case Punjab and Haryana High Court opined that if the children illegally

take possession of their parents by unlawful means, in that case, until the period of

the judgment given by the court, the maintenance charges and the property will be

given again to the parents and children will be evicted from the house 4 , and the elder

parents may directly approach to the High Court or the Supreme Court under Articles 226 and 32 5 respectively.

Dr. Ashwani kumar vs. Union of india and ors.

In this case the Supreme Court opined and directed the central government to make special facilities and separate queues for the senior citizens and advised all the doctors to compensate the elder people in case they are poor and underprivileged. The Apex Court was of the view that the court can never remain helpless in case of any elderly citizens of the country.

Sh. Y.s dwivedi vs. Directorate of estate anr.

In this case Delhi High Court, opined that in cases when the abusive children are expelled out of their parents' house, they can live in that house, until the situation of the COVID-19 is not normalized. Also, the court has issued some directions for the senior citizen's treatment, but only till the COVID-19 pandemic time.

Hence, it can be concluded that our Indian Judiciary is also worried about the senior citizens. There was a latest observation and direction given by our judicial officers, that in coming times, nearly all the old age homes, will get financial assistance form the Central Government and the senior citizens will get all the facilities over there free of cost.

3. Conclusion

“To sum up, senior citizens in our country face a variety of issues, including a lack of proper treatment, adequate medication, and neglect on the part of family members as well as society, as well as a variety of actions that may endanger their lives and property. In order to benefit senior citizens, the government has launched numerous schemes and programmes, such as a pension scheme. They need love, care, and affection from their families and society, above and above all other benefits. All we need to remember is that our attitude about them needs to change for the better so that they can have a better tomorrow as well. Democracy is a democratic process that benefits all”

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