



PROBLEMS FACED BY SENIOR CITIZEN AND LAWS: ISSUES AND CHALLENGES

Dr. Mukta Verma,

Assistant Professor, Faculty of Law,

University of Allahabad, Prayagraj, U.P., mkvs624@gmail.com

ABSTRACT

Old age is the curse to human race. Lord Buddha was distracted from the old age sufferings and therefore he abandoned the life of a prince and lived a saint life. When it comes to all stages of life, the most dangerous stage is old age, when a person turns to 60 years of age. This age is nonetheless it used to be. Going back in half a century or more, Sexagenarian (person between 60 and 69 years of age) did not usually worry so much living out their rest as their sons, daughters, and their children were usually a part of a well-knit harmonious joint family. With globalization and modernization, there is a change in everyone's life. Firstly, families live scattered rather than joint. Secondly, the well-knit bond of joint family becomes fragile and nuclear family common. With the suffering of depression becomes common. With the suffering of depression during this age, they are incapacitated independently. They are isolated in empty nests and toys with the idea of moving old age homes. However, several elderly keen to spend more time with reading books and newspapers through joining associations, in order to improve their lives. There are several problems to old age people for their survival at home and in society due to their economic and health conditions. Laws should be implemented in proper way so they can live life with dignity.

Key Words: Senior Citizen, Indian Constitution, People and Old age.

INTRODUCTION

India is a progressive nation. Still senior citizen people to contribution to nation's progress are left unsupported for meaningful, sustainable existence. Losing hope of love and care from children are some of the challenges suffered by senior citizen. They live separately so, prone to kidnapping, looted and other crimes. Law needs to protect their human rights. Old age is not definite biological stage but it is the chronological age denoted as old aged differentiating culturally and historically. Some experts focus on several studies of diseases affect older age adopted such technology that support the ageing people, medical studies of ageing process of ageing etc. Old people are susceptible to illness, injury than younger adults and have fewer regenerate abilities. Ageing is

continuous problem that starts from conception till death of an individual. It is universal as well as irreversible process.

The word ELDERLY is defined by National Elderly Policy 60 plus is elderly, whereas the term Senior Citizen, as defined in Sec.2 (h) of The Maintenance and Welfare of Parents Senior Citizens Act, 2007 as any person being citizen of India who has attained the age of 60 years or above.

MEANING

Literal meaning of Senior Citizen refers an elderly especially old age person age of 60 years. Legal meaning of Thesaurus Dictionary defines as People in US who are more than 60 years of age are commonly refers to as senior citizen or seniors. This term refers people whose stage in life is generally after sixty years called old age, though no precise way to identify the final stage of normal life span. Person is said to be senior citizen when they reach the age of 60 or 65 years because those are ages at which most people are retire from the workplace.

DEFINITION

There are few words such as Official definition and Sub- group definition with 4 dimensions of Old Age which are as follows:

1. Official Definition:

Mostly the age of 65year is considered to be the retirement age by several western nations. This age leads the person to avail the benefits of Senior Citizen Programs. Old age can't universally be defined because it is sensitive in context. The United Nation considered the old age is 60 years or older. On the other hand, a joint report by the US National Institute of 2001 On Ageing and Organization (WHO) Regional Office for Africa set the beginning of old age in Sub - Saharan Africa is 50 years¹. Unlike the developed nation, where the chronological age determine retirement, societies in developing countries old age according to person's ability to make effective contribution to society. Dating prior to middle age certain scholars varied old age but state of being elderly was being 60 years or older in many respect.

2. Sub-Group Definition:

Gerontologists divide old age in three groups:

¹Scherbov, Sergei;Sanderson,Warren(2019), New Measures of Population, United Nations.

First Study:

- (a) Young - 60-69 old age.
- (b) Middle - 70-79 old age.
- (c) Very old - 80+ old age.

Second Study:

- (a) Young old age - 65-74.
- (b) Middle old age - 75-84.
- (c) Very old - 85+

Third Study:

- (a) Young old age - 65-74
- (b) Middle young - 74-84
- (c) Old age - 85+

While two British Scholars added fourth group Paul Higgs and Chris Gilleard said this group is: An arena of inactive, unhealthy, unproductive and ultimately unsuccessful ageing.²

Dimension of Senior Citizen:

There are four dimensions of senior citizens which are as follows:

(1) Age dimension:-

The age of 65 has been considered as benchmark for senior citizenship by several nations. This convention originated from Chancellor Otto Von Bismarck's introduction of pension system in Germany during 19th century. The Age of retirement is 70 while age of receiving pension is 60 as per Bismarck legislation. This age was standardized by several nations.

² Paul Higgs and Chris Gilleard, Rethinking Old Age Theorizing the Fourth Age (Palgrave Macmillan 2015).

(2) Sign Dimension:-

The distinguishing characteristics of old age are both physical and mental. The transition of individual from young age to old age is different in every person and identified through sign & behavior. It occurs at different rates in different people of same chronological age. A basic mark of old age that affects both body and mind is “slowness of behavior”. The term slowness of behavior describes as correlation between advancing age and slowness of reaction and physical and mental task performance. However two universities said “elderly are a happier age group than their younger counterpart”– Buffalo University, North Western University.

(3) Physical Dimension:-

As per the physical marks, it is easy to identify that person is in his old age. Following signs that indicates dimension on physical grounds. They are:

- Bone and Joint problem arises due to thinning and shrinking old bones. It results in loss of the body weight.
- Chronic mucus hyper secretion results in coughing and bringing up sputum, is a common respiratory symptoms of old age.
- Dental issues arise due to less secretion of saliva that reduces ability to maintain oral hygiene and consequently chance of tooth decay and infection.
- Digestive system issue like swallowing, mobility to eat enough and to absorb nutrition, constipation, bleeding.
- Essential tumor is an uncontrollable shaking in part of the upper body that is common in old age.
- Risk of injury due to falling.
- Losing eyesight by age of 50 years because of presbyopia.
- Hair usually turns grey and thinner.
- Immune-function loss.
- Women enter into menopause and hearing loss in men is 48% while in female is 87 at the age of 75.

(4) Mental Dimension:-

- Several mental ailments appear during old age in senior citizen.
- Absurdity and accepting commonly occur in old people due to dependence on other. Thus, it lacks them in taking decision.
- Depressed mood is the risk factor for old age caused.

- Increasing fear of health problem.
- Mental and cognitive ability reduced during old age to brain's decreasing ability to encode, store and retrieved information. It took more time to learn new information. The prevalence dementia is increases.
- Stubborn behavior is common during old age.
- Forgetfulness is one of the consequences of ageing therefore they can't identify their articles where they kept.

POPULATION FIGURES ON AGEING

1. Age division of Indian population (0-14 years) is 30.8 %, 15- 59 is 60.3%, 60+age is 8.6%.
2. As per census 2011 nearly 104 million senior citizens are resides in India.
3. It increased from 5.5% to 8.6% from 1951 to 2011.
4. It is expected to arise 19% in 2050.
5. As per rural and urban areas more than 73 million person i.e., 71% of elderly population resides in rural area while 31 million or 29% of elderly are live in urban areas³.

INTERNATIONAL EFFORTS

Ageing was a great problem and raise for the first time at UNO in 1948 at the initiatives of Argentina. In 1969 Malta take another initiative after Argentina. In 1971 Secretary General was asked to prepare report and to suggest guidelines for National and International actions. In 1978 General Assembly decided to organize conference for Ageing at Vienna from 26th July to 6th August 1982 wherein an International Plan of Action on Ageing adopted. This aims to strengthen the abilities of nation to support ageing individuals and promote social, economic and cultural implications of ageing and other humanitarian issues. All signatory nations are directed to implement the guidelines of 1982 and also Secretary General directed to implement directives of the conference.

In 1992, the UN General Assembly adopted Declaration of 1999 as "International year of the Older Persons". The UN General Assembly has declared 1st October as the International day for Elderly, later rename as the "International Day of Older Persons". These principles provide a broad framework for action on ageing. Some of the principles are as follows:

- (a) Older persons have an opportunity to leave work force.

³ <https://www.drishtias.com/to-the-point/paper-2/elderly-in-india> (accessed on 14 July 2023).

- (b) Older persons should remain integrated in society and participate in policies.
- (c) Older persons should access to health care to help them maintain optimum physical and emotional well-being of older.
- (d) Older persons should be able to pursue opportunities for fulfillment of elder well-being.

NATIONAL PERSPECTIVE

(A) Constitutional Protections:-

The Constitution of India provides Fundamental rights of citizen in Part-III and these rights are regarded as human rights. Similarly, State is bound to protect individual rights and to enforce directive principles while framing policy in the welfare of people. These directive principles are non-justifiable rights i.e., not enforceable in court due to failure of State to implement it. These directives are provided in Part-IV of the Indian Constitution.

- Article 41 of the Constitution of India secures the rights of senior citizen to employment, education and public assistance. It also ensures that the State must uphold these rights in cases of disability, old age or sickness.
- Meanwhile, Article 46 asserts the educational and economic rights of senior citizen protected by the state.
- Article 309 of the Constitution of India says “the act of appropriate legislature may regulate the requirement and condition of services in connections with Central Government or any State. The concerned government frame rules and regulations from time to time laying conditions of services including retirement benefits to its employees.⁴
- As per rights guaranteed under the National Policy for Senior Citizen, 1999, all Indian Citizens aged above 60 years are entitled to 30% concession in ticket prices while travelling through Indian Railway. The concession of 50% for women aged above 60 years along with provision of separate counter stand and other services including berth request. This National Policy for Older Person recognized certain rights of senior citizen and imposes responsibility on government to provide education and social security to them. In spite of declaration of said policy 1991, even after decades no steps were taken to implement it.
- There was strong and consistent pressure from different Organizations, NGO’S on government regarding implementation of it. Several steps were taken and consequently, the passing of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 was passed.

⁴<http://www.crpc.in/senior-citizen-rights.php> (accessed on 20 July 2023).

(B) Under Personal Law:-

- Different religion have different laws to protect senior citizens' interest, some are very particular viz., statutory provision for maintenance of parents under Section 20 of the Hindu Adoption and Maintenance Act, 1956.
- Sec. 88B, Sec.88D, Sec.88DDB of Income Tax Act of India allow claim of discount in tax to Senior Citizen. They entitled to get higher interest on tax savings plan apart from having a wide variety of LIC Policies and Post Office Saving Scheme chooses from the right ensure growing Older becomes privilege.

SCHEMES AND PROGRAMS RUN BY VARIOUS MINISTRIES/ DEPARTMENTS OF GOVERNMENT FOR SENIOR CITIZENS

The Government of India passes several schemes and programs for the benefit of senior citizens. These are as follows:-

1. Integrated Program for Senior Citizens.
2. Rashtriya Vayoshri Yojana.
3. Senior Citizen Welfare Fund.
4. National Council for Older Persons.
5. Vayoshreshtha Samman.
6. National Social Assistance Program.
7. Annapurna Scheme.
8. Antyodaya Anna Yojana Vaya Vandana Yojana.
9. Pradhan Mantri Vaya Vandana Yojana.
10. Income Tax Rebate.
11. Service tax.
12. Scheme for Reverse Mortgage.
13. Health Insurance.
14. Financial assistance.
15. Retiring benefits as pension.
16. Safety and Security.
17. Accessible India Campaign (Sugamaya Bharat Abhiyan).
18. Concession in the Fares and other Amenities.

19. National Health Mission.
20. National Program for Health Care of the Senior Citizen.
21. Rashtriya Swasthya Beema Yojana
22. Senior Citizen Health Insurance Scheme.
23. Pradhan Mantri Jan Arogya Yojana.
24. Concession in Telephone Connection, Bharat Sanchar Nigam Limited.
25. Concession on Air Fare and other Amenities.
26. Home for Windows.
27. Medical Facilities for Senior Citizen.

LEGISLATION

Ministry of Social, justice and Empowerment, Government of India initiated the legislation named, 'Maintenance and Welfare of Parents and Senior Citizen Act, 2007'. This law aims to impose obligation on children and heirs to provide more effective, speedy, and inexpensive remedy to senior citizen for monthly allowance. This Act assented by the President of India on 9th December 2007 while comes into force on such date as the state government may specify in the gazette notification. The first case came in November 2011 by Siluvai (age 84) of Tuticorin and his wife Arulammal (80) against their son and daughter- in - law for neglecting them and also take their of two homes and gold jewellery.

Objectives of the Act:

This Act aims to provide inexpensive and speedy procedure to claim monthly maintenance for parents and senior citizens. This Act caste an obligation on children, heirs to maintain them otherwise they are penalize. This Act also caste an obligation on State to establish Old Age Homes. This Act extends to whole of India including Jammu and Kashmir and Ladakh from 31st October 2019.

Definitions under the Act:

- Children include son, daughter, grand-son, grand-daughter, son-in-law, daughter-in-law.⁵
- Maintenance includes provision of fooding, clothing, medical attendance and treatment.⁶

⁵ Daughter-in-Law and Son-in-Law too would be responsible for care of old.

⁹ <http://socialjustice.nic.in/oldageact.php>? Accessed on 20 July 2023.

- Parent means father and mother whether biological, adoptive, step father or step mother whether they are senior citizen or not.⁷
- Senior citizen means the person who has attained the age of 60 years or above.⁸
- Welfare means provision for food, health care, recreation centers or other amenities.⁹

CONSTITUTIONAL BASIS OF THE STATUTE

If a senior citizen after passing this statute transferred his property either movable or immovable, by way of gift or otherwise, subject to condition that the transfer shall provide him basic necessities and if he fail to provide these facilities then this transfer deemed to be made by fraud or coercion and transfer become void.

LEADING CASES

1. **A. Ahathinamiligai v/s Arumugan, 1998, Madras High Court.**

The Honorable Court observed daughter - in - law and son of senior citizen compel their parents for transfer of their property to them and take their jewellery but fail to provide daily necessities. There is need to frame statute to protect their fundamental right.

2. **S. Vanitha v/s The Deputy Commissioner, December 2020, Supreme Court.**

The Apex Court upheld that Relief to parents and senior citizen, while Chapter 2 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 entitle parents and senior citizens to apply for orders, relief against neglect, harassment and protection of property.

3. **Ravi Shankar v/s The State of Bihar on 23 July 2023, Patna High Court.**

The Court said that remedy under Maintenance and Welfare of Parents and Senior Citizens Act, 2007, provide inexpensive remedy to parents and senior citizen, it ensures protection of life and property of senior citizens.

4. **S. Krishnamurthy v/s Dr. Manivasan on 30 June 2022, Madras High Court.**

The Court upheld that Senior Citizen homes must register by the District Social Welfare Authority.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

5. Krishna Kumar v/s State of Uttar Pradesh, 2023, Supreme Court.

The Apex Court observed that there was a dispute on sec.23 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, the Court said transfer of property by senior citizen and parents to children in expectation of providing necessity and livelihood to them. When children fail, parents are not allowed to claim property on such failure.

CONCLUSION

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is a crucial piece of legislation that ensures the maintenance and welfare of older adults while also protecting them from abuse and neglect. The essential adjustments must be made immediately so that the act gains more practical significance and becomes an important tool for aged care and protection, reducing vulnerabilities and ensuring holistic care with support in multiple bio-psycho-social domains.

It can also be stated that there is various problems faced by senior citizens and these problems are solved by imposing obligations on children and state government through passing of statute named Maintenance and Welfare of Parents and Senior Citizen Act, 2007. State is bound to establish Old Age Homes to provide food, health, clothing, medical facilities, books and newspapers etc. Children are duty bound to serve their parents and senior citizens.

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