VOL. 4 | ISSUE 2 | FEB. 2018
(UGC Approved Journal No. 63716)

ISSN: 2454-5503
IMPACT FACTOR: 4.197 (IIJIF)

CHRONICLE OF HUMANITIES AND CULTURAL STUDIES

A BIMONTHLY REFEREED INTERNATIONAL JOURNAL

SPECIAL ISSUE

On the Occasion of One Day International Conference On

RECENT ADVANCES IN LANGUAGES, LITERATURE AND SOCIAL SCIENCES

17th February, 2018

(BOOK- 9)

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ORGANIZED BY

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CENTRE FOR HUMANITIES AND CULTURAL STUDIES, KALYAN, DIST. THANE &

NEW MAN INTERNATIONAL JOURNAL OF MULTI-DISCIPLINARY STUDIES, PARBHANI

www.newmanpublication.com

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PROBLEMS OF SENIOR CITIZEN IN MODERN INDIA: SOCIO-LEGAL ISSUES IN THE CONTEXT OF HUMAN RIGHTS PERSPECTIVE.

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Introduction: - The problems of the aged people and related issues vary from culture to culture and from individual to individual. The age of an individual may make a lot of different problems. They will find out many changes due to old age, with this they have to face many other problems like health, family, financial, and socio-legal etc.

In India, senior citizens are not aware of their human rights due to illiteracy and lack of awareness. On the other hand, due to comparatively high physical as well as psychological vulnerability their cries for help get locked within four walls. That's why only few cases of violation of human rights of senior citizens are being reported.

Human Rights means: -- Human rights are rights inherent to all human beings, whatever our nationality, place, residence, sex, national or ethnic origin, race, religion, language or other status.

Significance of problem:

Today there is an explosive growth in the aged population living around the world. The United Nations information says that in the year 2025 their population will be 1.2 billion and by 2050 it would reach to 2 billion. At present the 2/3 of their total population live in the developing countries. India is not an exception in this regard. The Report of Ministry of statistic and programmed implementation, the Government of India gives an alarming signal that the population of elderly persons in India which was 5.6 per cent of the total population in the year 1961 it would be 12.6 per cent of the total population in the year 2020. Most the elderly people live in the rural area.[1]

Is it not a national shame in a country like India where sons like Rama, Bhishma, Shravan Kumar made great sacrifices in their lives for the sake of being obedient to their old parents? A country where the prime concept was

"Matru deva bhava pitru deva bhava | tamayva mata ach pita tamayva"

In old age physical strength deteriorates, mental stability diminishes so socio-medical problems increase and they need legal remedies.

Aim and object:

. To find out problems faced by elderly person.

. To analyze the dignity of senior citizen in the human rights perspective.

. To study legal protection available for senior citizen

. To study welfare schemes for senior citizen

Rights of Senior citizens and Human Rights: Human beings are rational beings. They by virtue of their being human possess certain and inalienable rights which are commonly known as human rights, since these rights belong to them because of their very existence, they become operative with their birth. Human Rights, being the birth right, are therefore inherent in all the individuals' irrespective of their caste, creed, religion, sex and nationality. These rights are essential for all the individuals as they are consonant with their freedom and dignity and are conducive to physical, moral, social and spiritual welfare. They are also necessary as they create an environment in which people can develop their needs and provide suitable conditions for the material and moral uplift of the people. Because of their immense significance to human beings: human rights are also sometimes referred to as fundamental rights, basic rights, inherent rights, natural rights and birth rights.

According to section(i)(d) of the protection of Human Rights Act 1993, human rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the international covenants and enforceable by courts in India.

According to Universal Declaration of Human Rights, the expression 'human rights' denotes all those rights which are inherent in our nature and without which we cannot live as human beings. Old age people have been one of the numerous oppressed, supressed and unheard sections of the society. They are unaware about human rights

Problems of Senior Citizens:

a) **Transformation of Joint family into Nuclear family: -**

The elderly persons joint family system has withered away, and is unfortunately replaced by a nuclear family, and such a transformation has its own problems because 'united we stand and divided we fall', both husband and wife go for work, no one is there to take care they become burden on family as we know thatthey need family supportat this age, but they are shifted to old-age Home, or live alone

b)Economic Problems: As far as this problem is concerned, it is basic of all issues faced by the elderly.The dependence of the old on others, financial problem arising out of reduced income, the financial problems are not independent but very much interdependent. In other words, problems in one area contribute to problems in other areas. To take an

[1](See situation Analysis of the Elderly in India, Central Statistics office, Min. of Statistics and programmed Implementation, Govt. of India, June 2011[1]

2(The old age law in India: An overview Nyaya Deep Jan 2015)

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example if a person has a problem of failing health, he must spend more on medicine and this adds to his financial problem. The failing health of an individual may make him more irritable and thus make his family members more annoyed. The economic viability of sons and total dependence of poor parents on their sons and daughters has brought in economic crisis in the family relations.[2]

The increased cost of living, heavy medical care expenditure of elderly persons has further aggravated the problem of maintenance of the parents.

The risks of being dispossessed always stays with all senior citizens. The defrauding agents vary in each relationship. The defrauders could be one's own children, relatives or intermediaries in the market dealing with transfer of land, investment of money resources and manipulators of gold etc

c) Physiological Problems: As a person starts to grow old various changes within him occur i.e. the physiological changes. These changes are that of behaviour and attitude and therefore they suffer various physiological problems of strength and stamina, lack of concentration in work which becomes more severe as the aged grow older. When they face various problems like failing of hearing power, loosing eye sight, diminishing energy, forgetfulness, unsure steps etc.

d) Problem of Illness: It is often claimed that ageing is accompanied by multiple illnesses and physical ailments. Besides physical illnesses, the aged are more likely to be victims of poor mental health, which arises from senility, neurosis and extent of life satisfaction[3]

Neglect abuse and violence take away a senior citizen right to live in dignity theyare under threat from forces that are beyond their control. They are vulnerable likely to be exploited by others because their own helplessness. Those who have power over them subject them to physical and or mental abuse.

Constitutional Provisions for protection of rights of Senior Citizens:

a) Right to Equality: Article 14 declares that "the state shall not deny to any person equality before the law or the equal protection of the laws with in the territory of India. Articles 14, 19 and 21 of the Constitution of India are described as "Golden Triangle". Equality before law which enshrined in Article 14 of the Constitution but reality is that they don't get equal treatment from their family members as well as from state. There is a need to protect the human rights of the elderly and have gender just laws and policies to ensure adequate economic and social protection during disability and old age, especially where the aged lack adequate family support. They do not need our pity, but the understanding love and care of their fellow human beings, they do not spend the twilight years of their life in isolation, pain, and misery.

(b) Right to Freedom (Articles 19): -The freedom of speech and expression which flows as a natural right which is protected by national and international instruments. As Article 19 of the Universal Declaration of Human Rights expressly provides that everyone has the right to freedom of opinion and expression. Senior citizen is suppressed, oppressed by the family members. But they don't raise their voice than what is the use of this right

(c) Right to life and Personal liberty: Article 21 guarantees protection of life and personal liberty. This Article is contemplated among all Human Rights, the most cherished right is the Right to Life and Personal Liberty protected by Article 21 of the Constitution.[4] Everyone has a right to live at an adequate standard of living and should have basic facilities of health, shelter, including food, clothing, housing and medical care and necessary social security, as senior citizen are living miserable life in their own home or in old age homes. Due to unawareness they don't take the benefit from free legal aid provided by this article.

(d)Directive principles of state policy: Human rights which could not be ensured for the citizens at the inception of the constitution itself, have been embodied while they are not justifiable per see they have been declared as "Fundamental in the governess of the country and it shall be the duty of the state to apply these principles in making laws". Article 37 shall not be enforceable by any court but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. Entry 24 of Concurrent List of VII schedule is for the welfare of elderly persons. This provision empowers to both governments-Central and States- to enact laws and policies for the welfare of elderly. Article 39(e) directs the State to direct its policy towards securing the "health and strength of workers men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength".

Article 41 of the Indian Constitution states that, 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. Article 46 says that the State shall promote with special care the educational and economic interests of the weaker sections of the people and shall protect them from social injustice and all forms of exploitation. Article 47 has imposed a duty on the State to raise level of nutrition and standard of living and to improve public health. Breaking up of the joint family system, changing of day to day lifestyle and the lack of social and moral support worsen the health and nutritional problems of the elderly.[5]

(e) Right to Constitutional Remedies - Article 32 is itself a Fundamental Right. It is the very soul of the Constitution without which the Constitution would be a nullity. Article 32(1) guarantees the right to move the

[3](Materials presented in this section are adapted from Kart, Metress, and Metress (1988)

[4](Articles 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by the law.)

[5]. (Tenth Five Year Plan 2002-2007, Vol. 2, Planning Commission, Government of India)

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Supreme Court by appropriate proceedings for the enforcement of the Fundamental Rights conferred by part-III of the Constitution.

Legislative Protection for Senior Citizens:

Personal laws including the Hindu Adoptions and Maintenance Act, 1956 recognise duty of the children to maintain their aged parents and the right of the parents to maintenance. Section 125 of the Criminal Procedure Code, 1973 specifically provides for maintenance from children, if parents are unable to maintain themselves but cases are rarely filed by parents due to love and affection, fear of stigma and time and money required for the legal proceedings. Parents who wish to seek maintenance have to apply under provisions of the Criminal Procedure Code. The Cr.P.C. 1973, being a secular law, governs person belonging to all religions and communities. Daughters, including married daughters, also have a duty to maintain their parents.

The Maintenance and Welfare of Parents and Senior Citizens Act

De facto, there are just a few legislative, administrative, and other measures aiming at ensuring dignity of the aged. But honest implementation of the existing laws and policies is lacking. Though there are provision in Law, but they are on paper even some of elders are not knowing all these provisions, which are for their welfare, however, these legislative and administrative provisions are a small drop in front of the vast population of elderly. Thus, keeping all this in mind, the government realized the need for certain provisions and Acts that could safeguard the rights of the elderly in our nation, Aging is a natural process, and senior citizen suffers from some physical, and mental problems due to old age. Thus, they need someone to take care and support them financially if they aren't able to earn. Therefore, Ministry of Law and Justice drafted a legislature titled 'The Maintenance and Welfare of Parents and Senior Citizens Act' (hereinafter referred to as the Act), and it was published on December 31, 2007. In India, there are laws to protect and promote the human rights and fundamental freedoms of elderly people, to which they are unaware.

National Policy for Older Persons 1999

1. The Government of India approved the National Policy for Older Persons on January 13, 1999 in order to accelerate welfare measures and empowering the elderly in ways beneficial for them. This policy included the following major steps.

(i) Setting up of a pension fund for ensuring security for those persons who have been serving in the unorganized sector,

(ii) Construction of old age homes and day care canters for every 3-4 districts,

(iii) Establishment of resource canters and re-employment bureaus for people above 60 years,

(iv) Concessional rail/air fares for travel within and between cities, i.e., 30% discount in train and 50% in Indian Airlines.

(v) Enacting legislation for ensuring compulsory geriatric care in all the public hospitals.

2. The Ministry of Justice and Empowerment has announced regarding the setting up of a National Council for Older Person, called age well Foundation. It will seek opinion of aged on measures to make life easier for them.

3. Attempts to sensitise school children to live and work with the elderly. Setting up of a round the clock help line and discouraging social ostracism of the older persons are being taken up.

4. The government policy encourages a prompt settlement of pension, provident fund (PF), gratuity, etc. in order to save the superannuated persons from any hardships. It also encourages to make the taxation policies elder sensitive.

5. The policy also accords high priority to their health care needs.

6. According to Sec.88-B, 88-D and 88-DDB of Income Tax Act there are discount in tax for the elderly persons.

7. Life Insurance Corporation of India (LIC) has also been providing several schemes for the benefit of aged persons, i.e., Jeevan Dhara Yojana, Jeevan Akshay Yojana, Senior Citizen Unit Yojana, and Medical Insurance Yojana.

8. Former Prime Minister A.B. Bajpai was also launch 'Annapurna Yojana' for the benefit of aged persons. Under this yojana unattended aged persons are being given 10 kg food for every month.

9. It is proposed to allot 10 percent of the houses constructed under government schemes for the urban and rural lower income segments to the older persons on easy loan.

10. The National Social Assistance Programme 1(NSAP) is a welfare programme

11. Indira Gandhi National Old Age Pension Scheme (IGNOAPS).

12. Indira Gandhi National Widow Pension Scheme (IGNWPS) etc.

In this research paper the laws for old age are analysed to a great length to focus what are their legal needs. While emphasizing on where the law needs to improve or where a new law is needed to help the present condition of elderly. The idea of old age does not terrify any individual.

Conclusion: As per thisresearch articleI come to conclusion that honour and respect towards senior citizen is declining day by day. Modernization and rapid urbanization are playing crucial role in this concern. Elderly persons, are considered as nuisance in the family. They are unable to get adequate care amenities because of migration of their children. De facto, there are just a few legislative, administrative, and other measures aiming at ensuring dignity of the aged. But honest implementation of the existing laws and policies is lacking. In India, elder generations are not aware of their human rights due to high prevalence of illiteracy and lack of awareness.

Suggestions:

1. There is need to make amendment in constitution for senior citizen by insert Article 51AClause (L) as Fundamental Duties of all citizens to take care of senior citizens
2. Moral values and value based education is need of the day.
3. Duty of the family to take care of their elder member otherwise they should punish under non bailable offence

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