Laws for Elder lies in India: Its Applicability and Loop Holes

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Abstract: Ageing is a natural process but the perception of each stage of life is socially constructed. Even in a country like ours, where elder lies have always been given the highest status in the family is now seeing marginalization and exclusion of older persons because of rapid cultural and social change. Now, the issues of exploitation, discrimination, loneliness and harassment of elder lies are common in our culture. To tackle these issues, Indian government has been trying out ways in the form of policies, schemes and laws for older population. This paper critically analyses the laws and policies of Indian government, it highlights how these laws have lead to improvement of the status of older people in India and what all is been left to be still achieved. It also focuses on the political scenario of Indian society in relation to the increasing population of elder lies.

Keywords: Elderlies, India, laws

I. INTRODUCTION

One of the most significant demographic changes of the recent times is the rapidly expanding number of older adults in the world population- both in developing and developed nations. There has been a steady rise in the population of older persons in India. The number of elder persons has increased from 19.8 million in 1951 to 76 million in 2001 and the projections indicate that the number of 60+ in India will increase to 100 million in 2013 and to 198 million in 2030. The life expectancy, which was around 29 years in 1947, has increased manifold and now stands close to 63 years. Due to the progress in the field of science, the life expectancy of elderslies have increased to lot, which makes everyone to think about the generation constituting a large number of aged. The question now arises, that how the best care can be provided to this section of population so that there well being could be maintained and enhanced.

Indian family system has always resided on jointness. One important feature of Indian joint family is the tie between the generations; specially the bond between the grandparents and grandchildren, which has always been strong. The grandchildren develop great love and reverence for the grandparents. This bond helps in bridging the gap that might arise between the parent’s generation and grandparent’s generation due to various reasons. Family forms the basis of an individual at any age, family provides the individual the emotional, social, and economic support. The ability of the aged persons to cope with the changes in health, income, social activities, etc. at the older ages, depends to a great extent on the support the person gets from his/ her family members. This support, it may be said, is more culturally based rather than development dependent.

But In the modern times, the role of family has been undergoing significant changes. Even in traditional societies of Asia there is a visible change taking place so far as the role and function of family is concerned. The traditional joint family system is gradually making way for nuclear family mode. Family, nevertheless, occupies a unique place in the traditional as well as modern societies even today. It assumes diverse forms and functions that vary from region to region. In a society, as large and culturally diverse and complex as India, changes take place at different speeds and at different levels of population. As such, the directions and pattern of change tend to vary not only among different segments of society, but also in different kinds of family organizations, which vary considerably both structurally and functionally. Value of the elder lies forms certain core aspects in the constitution of India.

II. CONSTITUTIONAL PROVISIONS

In the Constitution of India, entry 24 in list III of schedule VII deals with the “Welfare of Labour, including conditions of work, provident funds, liability for workmen’s compensation, invalidity and old age pension and maternity benefits. Further, Article 41 of Directive Principles of State Policy has particular relevance to Old Age Social Security.” Item No. 9 of the State List and item 20, 23 and 24 of Concurrent List relates to old age pension, social security and social insurance, and economic and social planning.

Article 41 of Indian Constitution deals with the State’s role in providing social security to the aged. According to this article, “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 case of unemployment, OLD AGE, sickness and disablement and in other cases of undeserved want”: The Constitution of India (as on 1 June, 1996), Government of India.
The right of parents, without any means, to be supported by their children having sufficient means has been recognized by section 125 (1) (d) of the Code of Criminal Procedure 1973, and Section 20(3) of the Hindu Adoption and Maintenance Act, 1956.

Certain other important Bills and Acts:
Maintenance & Welfare of Parents & Senior Citizens Act, 2007 (Act 56) has been passed by Parliament and has been made law. It has far reaching effects on Senior Citizens of India. This Act includes the following aspects:-
- a) Senior Citizens can claim maintenance from children/grand children.
- b) Tribunal shall decide such claims expeditiously.
- c) Property of Senior Citizens shall be protected from forcible transfer.
- d) A Geriatric Ward shall be provided in every District Level Hospital.
- e) An Age Old Home shall be available in each District.
- f) Abandoning a Senior Citizen shall be punishable with imprisonment of 3 months or fine up to Rs 5000 or both.

III. CONCESSIONS AND FACILITIES GIVEN TO SENIOR CITIZENS
Government of India announced the National Policy on Older Persons in 1999 to reaffirm its commitment to ensure the well-being of the older persons in a holistic manner. Reiterating the mandate enshrined in Article 41 of the Constitution of India, the Policy has brought the concern for older persons on top of the National Agenda. The NPOP while promising to safeguard their interest in terms of financial security, health, legal, social and psychological security, also envisages a productive partnership with them in the process of development by creating opportunities for their gainful engagement and employment. The Policy also appreciates special needs of older persons and therefore lays emphasis on empowerment of community as well as individuals to adequately meet the challenges of the process of ageing.
The Government of India had declared the National Policy on Older Persons as early as 1999 covering all aspects required to be taken into account for real welfare of Older Persons. In principle the policy values an age integrated society. It endeavors to strengthen integration between generations, facilitate interaction between the old and the young as well as strengthen bonds between different age groups. It believes in the development of a formal and informal social support system, so that the capacity of the family to take care of senior citizens is strengthened and they continue to live in the family. The policy seeks to reach out in particular to the bulk of senior citizens living in rural areas who are dependent on family bonds and intergenerational understanding and support.

The focus of the policy:
1. Mainstream senior citizens, especially older women, and bring their concerns into the national development debate with priority to implement mechanisms already set by governments and supported by civil society and senior citizens’ associations. Support promotion and establishment of senior citizens’ associations, especially amongst women.
2. Promote the concept of “Ageing in Place” or ageing in own home, housing, income security and homecare services, old age pension and access to healthcare insurance schemes and other programmes and services to facilitate and sustain dignity in old age. The thrust of the policy would be preventive rather than cure.
3. The policy considers institutional care as the last resort. It recognizes that care of senior citizens has to remain vested in the family which would partner the community, government and the private sector.
4. Being a signatory to the Madrid Plan of Action and Barrier Free Framework it works towards an inclusive, barrier-free and age-friendly society.
5. Recognizes that senior citizens are a valuable resource for the country and create an environment that provides them with equal opportunities, protects their rights and enables their full participation in society. Towards achievement of this directive, the policy visualizes that the states will extend their support for senior citizens living below the poverty line in urban and rural areas and ensure their social security, healthcare, shelter and welfare. It protects them from abuse and exploitation so that the quality of their lives improves.
6. Long term savings instruments and credit activities are been promoted to reach both rural and urban areas. It’s necessary for the contributors to feel assured that the payments at the end of the stipulated period are attractive enough to take care of the likely erosion in purchasing power.
7. Employment in income generating activities after superannuation will be encouraged.
8. Support and assist organizations that provide counseling, career guidance and training services.

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7. Employment in income generating activities after superannuation will be encouraged.
8. Support and assist organizations that provide counseling, career guidance and training services.
9. States are advised to implement the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and set up Tribunals so that elderly parents unable to maintain themselves are not abandoned and neglected.

10. States set up homes with assisted living facilities for abandoned senior citizens in every district of the country and there will be adequate budgetary support.

The National Policy on Older Persons (NPOP) broadly undertakes the following to fulfill its major objectives:

A. Financial security

A major intervention required in old age relates to financial insecurity as more than two third of the elderly live below the poverty line. It would increase with age uniformly across the country. The following schemes have been started by the government:

- **Indira Gandhi National Old Age Pension Scheme**: Old age pension scheme covers all senior citizens living below the poverty line.
- The “oldest old” are covered under Indira Gandhi National Old Age Pension Scheme (IGNOAPS). They have been provided additional pension in case of disability, loss of adult children and concomitant responsibility for grand children and women. This would be reviewed every five years.
- **Income Tax**: Taxation policies would be sensitive to the financial problems of senior citizens which accelerate due to very high costs of medical and nursing care, transportation and support services needed at homes.
- **Microfinance**: Loans at reasonable rates of Interest are been offered to senior citizens to start small businesses. Microfinance for senior citizens would be supported through suitable guidelines issued by the Reserve Bank of India.

B. Health Security

The NPOP recognizes special health needs of the older persons to be met through strengthening and reorienting the public health services at Primary Health Care level, creation of health facilities through non-profit organization like trust/charity, etc., and implementing health insurance.

- Healthcare needs of senior citizens is been given high priority. The goal is good, affordable health service, heavily subsidized for the poor and a graded system of user charges for others. It has a judicious mix of public health services, health insurance, health services provided by not-for-profit organizations including trusts and charities, and private medical care. While the first of these are been promoted by the State, the third category given some assistance, concessions and relief and the fourth encouraged and subjected to some degree of regulation, preferably by an association of providers of private care.
- The basic structure of public healthcare is through primary healthcare. It has be strengthened and oriented to meet the health needs of senior citizens. Preventive, curative, restorative and rehabilitative services are been expanded and strengthened and geriatric care facilities provided at secondary and tertiary levels. This implies to much larger public sector outlays, proper distribution of services in rural and urban areas, and much better health administration and delivery systems. Geriatric services for all age groups above 60 --- preventive, curative, rehabilitative healthcare are been provided. The policy also strives to create a tiered national level geriatric healthcare with focus on outpatient day care, palliative care, rehabilitation care and respite care.
- Twice in a year the PHC nurse or the ASHA conducts a special screening of the 80+ population of villages and urban areas and public/private partnerships are been worked out for geriatric and palliative healthcare in rural areas recognizing the increase of non-communicable diseases (NCD) in the country.
- Efforts are been made to strengthen the family system so that it continues to play the role of primary caregiver in old age. This is been done by sensitizing younger generations and further would be done by providing tax incentives for those taking care of the older members.
- Development of health insurance is been given priority to cater to the needs of different income segments of the population with provision for varying contributions and benefits. Packages catering to the lower income groups are been entitled to state subsidy. Concessions and relief are been given to health insurance to enlarge the coverage base and make it affordable. Universal application of health insurance – RSBY (Rashtriya Swasthya Bima Yojana) will be promoted in all districts and senior citizens will be compulsorily included in the coverage. Specific policies will be worked out for healthcare insurance of senior citizens.
- From an early age citizens will be encouraged to contribute to a government created healthcare fund that will help in meeting the increased expenses on healthcare after retirement. It will also pay for the health insurance premium in higher socio economic segments.
• Special programmes have been developed to increase awareness on mental health and for early
detection and care of those with Dementia and Alzheimer’s disease.
• Restoration of vision and eyesight of senior citizens is been an integral part of the National
Programme for Control of Blindness (NPCB).
• Use of science and technology such as web based services and devices for the well being and safety of
senior citizens will from now on be encouraged and expanded to under-serviced areas.
• National and regional institutes of ageing are been set up to promote geriatric healthcare. Adequate
budgetary support will be provided to these institutes and a cadre of geriatric healthcare specialists
created including professionally trained caregivers to provide care to the elderly at affordable prices.
• The current National Programme for Health Care of the Elderly (NPHCE) being implemented in
would be expanded immediately and, in partnership with civil society organizations, scaled up to all
districts of the country.
• Public private partnership models will be developed wherever possible to implement healthcare of the
elderly.
• Services of mobile health clinics is been made available through PHCs or a subsidy would be granted
to NGOs who offer such services.

C. Recognizing Shelter as basic human need
The NPOP provides for earmarking 10 percent of the houses/housing sites in urban as well as rural areas for
older persons belonging to the lower income groups, special consideration to the older persons falling in the
category of Below Poverty Line (BPL) and destitute in housing schemes like Indira Awas Yojana, loans at
reasonable interest rates and easy repayment installments with tax relief for purchase of houses etc.
• Age friendly, barrier-free access are been created in buses and bus stations, railways and railway
stations, airports and bus transportation within the airports, banks, hospitals, parks, places of worship,
cinema halls, shopping malls and other public places that senior citizens and the disabled frequent.
• Develop housing complexes for single older men and women, and for those with need for specialized
care in cities, towns and rural areas.
• Promote age friendly facilities and standards of universal design by Bureau of Indian Standards.
• Senior citizens are been given loans for purchase of houses as well as for major repairs, with easy
repayment schedules.

D. Education/information needs
These needs of the older persons too have also got adequately reflected in the National Policy.
Education/information material relevant to the lives of older persons should be developed and made available
through mass media. Education, training and information being the important human requirement, the NPOP
provides for proactive role in ensuring the same by disseminating knowledge about preparation of Old Age. It is
also emphasized for schools to have programme on inter-generational bonding.

E. Welfare and Institutional Care
Institutional Care has been provided for in the NPOP as the last resort. The care in non-institutional set up i.e.
within family and the community needs to be strengthened and encouraged. This apart, the State should also
create infrastructure in partnership with voluntary organizations to provide for poor, destitute and neglected
older persons whose care cannot be ensured within the family. This is to be ensured through Old Age Homes
and other such institutional facilities that would be needed. Voluntary efforts needs to be encouraged for
creating facilities for day care, outreach services, multi-service citizen centers, etc.

F. Protection of Life and Property of Older Persons
The State is gearing up security network to save older persons from criminal offence and police is required to
keep friendly vigil. Early settlement of property/inheritance disputes is to be done, safeguards to protect them
from fraudulent dealings in transfer of property through sale/’Will’ are to be put in place and free legal aid and
toll free helpline services is to be placed across the country. Maintenance of elderly within family resorting to
(HAMA) 1956 etc., whenever needed is been ensured.
• Provision is been made for stringent punishment for abuse of the elderly.
• Abuse of the elderly and crimes against senior citizens especially widows and those living alone and
disabled are and would be tackled by community awareness and policing.
• Police is been directed to keep a friendly vigil and monitor programmes which will include a
comprehensive plan for security of senior citizens whether living alone or as couples. They would also
promote mechanisms for interaction of the elderly with neighborhood associations and enrolment in
special programmes in urban and rural areas.
• Protective services are been established and linked to help lines, legal aid and other measures.
The older persons become soft target for miscreants within and outside family. Disputes relating to maintenance and property and inheritance adds to their vulnerability. It is, therefore, necessary to ensure the safety and well-being of Older Persons through creation of necessary infrastructure and legal provisions. It is felt that it is high time to back the moral obligation of children to look after their parents in their old age by a legal obligation. India is moving ahead to safeguard and protect the Best Interest of Older Persons through Central Legislation, which is on the anvil, by

- Ensuring Care and Protection of Older Persons within the family
- Ensuring early settlement of maintenance claim through a Tribunal
- Prevention of destitution by enough Institutional facilities
- Provision for Old Age Homes covering all the districts to ensure that facility to accommodate 150 needy elderly in each of them.

**Helpline Services for Older Persons**
The State Government and Office of the Commissioner of Police in collaboration with NGOs have initiated special protective measures for safeguarding the elderly and one such innovative approach is “Helpline Services” in some big cities.

**G. Training of Human Resource to care for Older Persons**
The Policy lays emphasis on need for trained personnel/care givers. This envisages the training of human resource in the areas like specialization in Geriatrics in medical courses, special courses on Geriatric Care in nursing training, training of social workers specially for geriatric care and professional caregivers.

In the changing family context, role of professionally trained home carers become very crucial. Therefore, preparing a frontline cadre of care givers to ensure quality care at home as well as in the institutions is one of the important strategies. In order to meet this objective, Ministry of Social Justice & Empowerment launched the Project ‘NICE’ (National Initiative on Care for Elderly) through National Institute of Social Defence (NISD) an autonomous body of the Ministry of Social Justice & Empowerment in 2000. The NISD organizes one year P.G. Diploma Course and Six Month Certificate Courses under Project NICE to meet the demand for care givers. In addition, Short Terms Courses varying from 5 days to One Month are also organized for skill up gradation of Service Providers working in Old Age Homes, etc.

In the X Five year plan, NISD has so far organized 85 training programme and 2535 caregivers and service providers were trained

**H. Media**
The Policy enjoins upon media to take up a special responsibility for the care of older persons. Media is to play a role in identifying emerging issues and areas of action, dispelling stereo-types and negative images about the old age, maintaining restraint from creating fear psychosis by responsible reporting, promoting intergenerational bonds and informing individuals/families/groups with appropriate information on ageing process.

- Media has an important role to play in highlighting the changing situation of senior citizens and in identifying emerging issues and areas of action.
- Involvement of mass media as well as informal and traditional communication channels on ageing issues

**I. Welfare**

- A welfare fund for senior citizens is been set up by the government and revenue generated through a social security cell. The revenue generated from is been allocated to the states in proportion to their share of senior citizens. States may also create similar funds.
- Non-institutional services by voluntary organizations are been promoted and assisted to strengthen the capacity of senior citizens and their families to deal with problems of the ageing.
- All senior citizens, especially widows, single women and the “oldest old” are been eligible for all schemes of government. They are been provided universal identity under the Aadhar scheme on priority, so that they can easily avail these services.
- Larger budgetary allocations is been earmarked to pay attention to the special needs of rural and urban senior citizens living below the poverty line.

**J. Multigenerational Bonding: Future Perspective**

- The policy would focus on promoting bonding of generations and multigenerational support by incorporating relevant educational material in school curriculum and promoting value education. School Value Education modules and text books promoting family values of caring for parents would be promoted by NCERT and State Educational Bodies.
- Provide equal access to food, shelter, medical care and other services to senior citizens during and after natural disasters and emergencies.
- Enhance financial grants and other relief measures to assist senior citizens to re-establish and reconstruct their communities and rebuild their social fabric following emergencies.
The Policy declared the Older Persons as respected Citizens requiring strengthening of their legitimate place of Elders in the Society and to take all actions to help them to live their last phase of life with Purpose, Dignity and Peace. It recognized the Older Persons as a Resource of the Country. It sought the cooperation of all government & non-governmental Organizations including the most powerful tool for spreading awareness that is – Media.

**Some other SCHEME’S**

The Integrated Programme for Older Person is a scheme that provides financial assistance up to 90 per cent of the project cost to non-governmental organizations or NGOs as on March 31, 2007. This money is used to establish and maintain old age homes, day care centers, mobile Medicare units and to provide non-institutional services to older persons. The scheme also works towards other needs of older persons such as reinforcing and strengthening the family, generation of awareness on related issues and facilitating productive ageing.

Another programme of the government is the Scheme of Assistance to Panchayati Raj Institutions voluntary organizations and self help groups for the construction of old age homes and multi service centers for older persons. This scheme provides a onetime construction grant.

**Central Government Health Scheme** provides pensioners of central government offices the facility to obtain medicines for chronic ailments up to three months at a stretch.

The **National Mental Health Programme** focuses on the needs of senior citizens who are affected with Alzheimer’s and other dementias, Parkinson’s disease, depression and psycho geriatric disorders.

**Social security programmes at a glance:**

Social security programmes were launched, at the national level, in the 1980s with an old age pension scheme. Currently, there are four major national social security schemes:

- National Old Age Pension Scheme (NOAPS), which provides a pension to people above the age of 65 with no source of income or financial support. This has now been revised as Indira Gandhi National Pension Scheme.
- National Family Benefit Scheme, which provides Rs 10,000 to families living below the poverty line when their main earning member dies.
- National Maternity Benefit Scheme, which provides Rs 500 to pregnant women of families living below the poverty line.
- Rural Group Insurance Scheme, which provides a maximum life insurance of Rs 5,000 (now 30000) covering the main earning members of families living below the poverty line on a group insurance basis.

**New Schemes**

For the benefit of senior citizens government of India has proposed that:

- The National Housing Bank will introduce a ‘reverse mortgage’ scheme under which a senior citizen who owns a house can avail of a monthly stream of income against mortgage of the house. The senior citizen remains the owner and occupies the house throughout his or her lifetime, without repayment or servicing of the loan. Regulations are to be put in place to allow creation of mortgage guarantee companies.
- An exclusive health insurance scheme for senior citizens is to be offered by the National Insurance Company. Three other public sector insurance companies as mentioned in the Medical Insurance section are to offer a similar product to senior citizens.

These new developments for senior citizens are meant to get them on the path to a better, peaceful and financially sound life.

**Special Programmes/Concessions**

Special educational programmes for senior citizens are available in the fields of art, culture, health and education. Indian Federation of University Women's Associations is well known for arranging computer education and yoga programmes for older people. Non-government organizations or NGOs like Art India Foundation are involved in arranging painting programmes and pottery designing classes for senior citizens. Such activities help promote a healthy life. In this way, senior citizens can also put their free time to good use. Treatment programmes are medication processes that are adopted to cure a particular ailment. Central and State Government and other corporations also extend medical facilities to pensioners. These medical facilities help senior citizens lead a healthier and better life.

**IV. INNOVATIVE INITIATIVES OF NISD IN THE CHANGING CONTEXT**

**Community Training in Computer for Elderly**

"There is a foundational connection between information and social obligation, since the moral – and of course the political – need to pay attention to others depends greatly on our knowledge and information about them... More information in itself goes a long way to breaking that chain of apathy and indifference.” – *Amartya Sen, Nobel Laureate*

To foster active and productive ageing NISD (National Institute of Social Defence) has initiated a novel programme for the older people. It aims at imparting computer training to the elderly people. The success of a few trainings conducted earlier had left no doubt that older people not only love to learn at the ‘ripe age’ but
benefit from it. This programme is launched with a view to help Older Persons dispel their inhibitions to adopt to new technology and take advantage of IT enabled services like e-Ticketing, e-Banking, e-Business etc. By demonstrating that elders can use computers comfortably. It helps in countering the stereotypical mind-set and attitude on the one hand and instill confidence among elderly on the other. This is bound to go a long way in bringing a neglected segment of population in ‘digital mainstream.’

**Single Window System**

Facilities to disseminate information on various concessions/reservations/rebates provided to senior citizens by different Ministries of the Government of India is placed on the website of the Ministry of Social Justice & Empowerment. NISD has also taken such initiatives by developing a User Friendly Document on Geriatric Care. The information is also disseminated to the elderly through Helpline Services. Some of the NGOs such as HelpAge India have also brought out Senior Citizens Guide.

**Voluntary Bureau of Elderly**

Volunteers Bureau of Elderly is a network of elderly who could be available for different kinds of services on demand. The International Longevity Centre, Pune an NGO working for welfare of elderly has successfully used this concept over the years for gainful engagement of elderly post-retirement. The NISD in collaboration with them organized Workshops to showcase the successful models of Government and NGO interventions including the volunteers Bureau for winder replication and laying thrust on the concept of volunteerism, inter-generational bonding and successful experiences sharing.

**Inter-Generational Bonding**

Bridging the intergenerational gap is another innovative project has been pilot tested by the Ministry of Social Justice & Empowerment. The programme would be carried out for school children by creating awareness and sensitizing them on the issue.

**Innovative public training**

Creating broader awareness of the issues, available services, rights and redressal mechanisms are an important means to create an elderly friendly environment. NISD has taken it up in a serious manner and had developed a number of video spots to be aired on popular TV channels. It has developed an innovative ‘do-it-yourself’ publicity material like an interesting cataract awareness ‘wall hanging’. In addition, there are other useful publications and exhibits giving latest information about schemes, concessions, rights and available services for the elderly people.

**V. INITIATIVES BY OTHER ORGANIZATIONS**

There are a number of specialized NGOs coming up to join hands with the efforts of the government towards creating an elderly friendly environment in the country. The Senior Citizen Forums and Welfare Associations have been formed by the elderly themselves in various localities in Delhi. Senior Citizens Council, New Delhi has more than 500 members from all walks of life. They assemble at a Public Park everyday for an hour in the morning to attend religious discourses. The other activities of the Forum includes yoga, free health checkup camps, special care of senior citizens who were living alone. Helpage India is dedicated to the service of elderly and has more than 500 members from all walks of life. They assemble at a Public Park everyday for an hour in the morning to attend religious discourses. The other activities of the Forum includes yoga, free health checkup camps, special care of senior citizens who were living alone.

**Ending note**

With the help of all the above provisions and schemes, Indian government is trying to protect human rights of the senior citizens and trying to connect them with mainstream of the society, through this government of India is taking a step ahead towards welfare state and providing social justice to all citizens of the nation. But still the beauty of Indian culture lies in its close and caring relationships. All working cohesively to solve a problem faced by any one or more members of the family, is what works magic in keeping one tension-free, happy and contended even in today’s highly competitive environment. This is what, that accounts for the ray of happiness in our culture.

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