

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**

[ISSN 2581-5369]

Volume 5 | Issue 3

2022

© 2022 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at the **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

The Senior Citizens of India: Laws, Rights, and Welfare

SHRADDHA TRIVEDI¹

ABSTRACT

The following research paper aims to put forward the issues, rights, and laws related to the elder population of our country i.e. the citizens who are above the age of sixty. One might wonder who exactly is considered a senior citizen in India. Well, The word or terminology “senior citizen” refers to any individual who has aged beyond the age of sixty years, simply they can be either sixty or above sixty. People sometimes consider this term derogatory or patronizing however in a workplace this term generally means someone with a lot of work experience or someone knowledgeable. However, the term “elderly” may refer to someone who is at an advanced stage in the life of someone whose health has become fragile or is considered to be dependent on someone for their daily activities. These elderly constitute a major chunk of our population but are often left out and ignored. This research paper talks about the major issues faced by the elders, the various forms of abuse faced by them and the reasons behind these issues, and the remedies. It also discusses the role of gender and how gender can be an important distinctive factor. It also explores the various laws and policies enacted by the government in order to bring about a change, and also how these laws work and their various aims and purposes.

Keywords: *elders, rights, issues, society, abuse.*

I. INTRODUCTION

As it is rightly said by Martin Luther King Jr, “we are not makers of history, we are made by history”. A country's past experiences, trials, and tribulations are what make the country and its people who they are, similarly, the senior citizens of a country, society, and family hold a lot of value as they directly influence the new generation in terms of values, morals, ethics, etc. These senior citizens with age, gain lots of experiences and expertise and can guide their families or help them go in the right direction and also give them knowledge about their culture and social identity.

The development in the healthcare system of India has been drastic and grown rapidly, this has also been facilitated by the growth of technological sciences in the medical and healthcare

¹ Author is a student at Kalinga Institute Of Industrial Technology, India.

fields. India currently, is going through urbanization and is also now the fastest growing economy in the world this has brought a lot of changes in the daily lives and lifestyle of the people, nuclear families are more common nowadays and the younger generation of the family usually pursues their studies away from home, this leaves the senior citizens alone, with no help or someone who takes care of their needs. ²These senior citizens are also sometimes financially not independent and are dependent on their children or other family counterparts.

Age proportion of senior citizens in India

Due to the advancements in health and medical technologies, an individual now has 20 more years to live in comparison to the death rate 50 years ago. In the case of India, As indicated under the Population Census of the year 2011, almost hundred and four million senior citizens who were aged 60 years; under which, fifty three million are women and fifty one million are men. Also according to a census report delivered by the UN Population Fund and some Indian organizations like Help Age India, proposes that quantity of old people relied upon to go up and develop to hundred and seventy three million by 2026.

II. ELDER ABUSE IN INDIA

Abuse is often used as an umbrella term, it constitutes basically anything that violates a human being's rights or violates them physically or mentally. Similarly, Elder abuse can be described as any sort of physical, mental, emotional, or psychological abuse toward the elderly by trusted individuals in such manner that causes any harm or distress to the elderly. Some specific types of abuse faced by the elderly include:

1. Active neglect occurs when the caregiver intentionally neglects or overlooks the basic needs of the elderly they are responsible for. The caregiver is therefore deliberately failing to perform their caregiving responsibilities. This might include deprivation of basic needs or abandonment etc.
2. Passive neglect: occurs if the caregiver unintentionally neglects or overlooks the needs of the elderly. This might happen due to insufficient knowledge about caregiving responsibilities.
3. Physical abuse: this can include anything which causes intentional bodily harm, pain, or injury to an elder. This can consist of beating, slapping, burns, etc.

² Dr. Rajesh Kumar, *Rights of Senior Citizen - The Maintenance and Welfare of Parents and Senior Citizens Bill*, 2007, (February. 29, 2022, 10:04 AM), <https://www.legalserviceindia.com/article/1170-Rights-Of-Senior-Citizen.html>

4. Disrespect: this can be described as a form of “maltreatment”, disrespect can be done by verbally disrespecting the elderly by patronizing them, calling them names, cursing or humiliating them, or causing any psychological or mental anguish.
5. Financial abuse: it can happen if the elders in a household are financially dependent on their children or other family members and these family members fail to support them or fulfill their basic financial needs. It also happens when cash or possessions in terms of property are stolen from the senior citizens. It can also include stealing their retirement/social security funds or changing the will written by the elders for ownership of their possessions.
6. Abandonment: this usually happens when a caregiver doesn't provide the elders with attention, interaction, or warmth and leaves them feeling undesired, stressed, or fearful. Abandonment can also mean disowning the elderly from the family as the caregiver sees them as a liability and doesn't want to or doesn't have the time to care for them.

(A) Issues faced by elderly women

Financial Hardships or financial abuse turns out to be the more common denominator concerning women of the lower socioeconomic groups as they are not financially independent and have not received proper or any education to make them financially stable. They are also often void of any resources or freedom to be independent and make something out of them and are expected to only take care of the family and learn household chores. This practice often can lead the elderly to be dependent in the forms of financial or physical dependency on their children.

Emotional neglect however concerning the higher socio-economic groups of the society women can face emotional neglect, abandonment, or loneliness. In this case, the elderly are not void of financial stability but are often void of the emotional support of a caregiver. Older people often can't perform certain tasks on their own and need help and in this case since the caregiver is their children get detached from the family or move away from their home to start their own life and earn a living, or for education, the elders can often feel a sense of loneliness.

(B) Issues faced by elderly men

Men usually belonging to the middle or lower-income range of the society face financial problems as after retirement they are dependent on their children. In India only a limited group of people are eligible for a pension which makes it even harder for the elderly to actually retire, the requirement is that the recipient should be below the poverty line and must not have any

resources to financially support them by their family members or anyone else.³ However in the case of the higher-income range strata of the society men experience the same issues as women which is related to emotional abuse, abandonment, loneliness, or disregard.

Constitutional rights and provisions of the elderly

As stated under the Article 14⁴ of the Indian constitution rights to work, education, and public assistance under some specific cases: these cases include citizens of old age, disability, sickness or unemployment. Under these scenarios, the government within its economic and developmental capacity makes adequate provision in order to or help to secure the well-being of these groups.

Article 46⁵ refers to the promotion or upliftment of economically, financial and educational interests of the lower strata or the weaker sections of the society. It states that the government shall provide special economic provisions for the vulnerable groups in our society and safeguard them from exploitation or injustice of any kinds.

III. LEGAL PROVISIONS

The ethical obligation or duty to take care of their parents is perceived by all individuals. Most definitely, the position and degree of this obligation change from different sections of our society.

(A) Under Hindu Law

Section 20 of “Hindu Adoption and Maintenance Act”, 1956⁶ states several provisions in order for the upkeep of elders and senior citizens. This maintenance acts provisions are provisions which create a moral or essential obligation amongst the younger generation to take care of the older generation related to them, the obligation of sons to take care or maintain their elderly parents with the help of their income, earnings were even recognized in older texts and it was a personal legal obligation on the part of the young which was in turn enforced by the state. This law however is not only limited to sons it can apply to daughters as well. However, the parents who are unable to maintain themselves due to no financial sources or are independent on their children to sustain themselves are entitled to seek an amount of maintenance in the form of money under this act.

³ Rakesh kumar, *Senior Citizens - status in India*, vikaspedia, (February. 29, 2022, 10:04 AM), <https://vikaspedia.in/social-welfare/senior-citizens-welfare/senior-citizens-status-in-india>

⁴ INDIA CONST. art. 14, cl. 1

⁵ INDIA CONST. art. 46

⁶ Hindu Adoption and Maintenance Act, 1956, No. 78, Acts of Parliament, 1956.

(B) Under the Muslim law

If the Children of the elderly are in good economic conditions they will undoubtedly have an obligation to maintain with their elderly parents. However, even if a son is not financially stable or is living under stressed conditions is obligated to take care of his mother, if the mother herself is not financially stable. A child, who however poor, is procuring or earning a little, will undoubtedly have to support his father who doesn't earn anything. Under the Hanafi regulation, parents and grandparents in unstable financial or needy conditions are entitled to upkeep from their kids and grandkids that have the financial means to do so.

(C) Senior citizens and welfare act, 2007 ⁷

It was also established under the Government of India and was first initiated under the organization of Social Justice and Empowerment, however this, obligation or form of maintenance was to be paid through a system of monthly allowance. Under which the children had to pay a monthly sum of Maintenance including clothing, food, a place to live, medical treatments if required, etc.

The Code of Criminal Procedure

Before 1973, there were absolutely no written or legalized provisions for the elderly under the code of criminal procedure in India, however, Sec. 125 of the Code of Criminal Procedure finally stated that It is a fundamental right of the parent or any senior citizen, to get a form of maintenance if they are not financially stable and that if the parent proves that the other if the other party has adequate sources or financial support or also had a sense of disregard or neglectful to their parents or related senior citizens and are refusing to take care or maintain the parent who in turn is unable to maintain themselves financially or even physically. It also states that the daughters of the family also have an obligation to take care of their parents even when they get married.

IV. INITIATIVES BY THE GOVERNMENT**(A) National Policy for Older Persons on January 13, 1999**

This policy aimed to improve the quality level or comfort of the life of the senior citizens, Under the provisions of this policy, the government aims to extend support to the elderly in terms of food security, shelter, health care, financial support, providing them with opportunities for their development, and also protect them against abuse and exploitation.

⁷ Senior citizens and welfare act, 2007 No, 56 , Acts of Parliament, 2007 (India)

Some of the fundamental goals of this policy included:

- (i) Setting up of a system of pension in order to enhance security for the seniors working under the unorganized sector, or the ones who came under the below the poverty line.
- (ii) Establishment of old age homes for the elderly in every 34 districts,
- (iii) Employment agencies for senior citizens above the age of 60 years,
- (iv) Discounts for travel: 30% for railway services 50% for Airlines services of India.
- (v) Making geriatric care compulsory in public hospitals for the elderly.

(B) National Council for Older Person

The National Council for Older Person which is also known as the “age well foundation” was first set up by the Ministry of Justice and Empowerment this initiative aimed for providing some basic fundamental rights some of them including:

1. To take opinions and surveys of the aged on measures and provisions which can make life easier for them and help them live more comfortably.
2. Sensitize school children on the topic of the elderly and how to respect them and take care of them.
3. Setting up a 24-hour helpline for the elderly, and discouraging the notion of social exclusion.
4. This policy also encouraged a system of funds (PF) or provident funds and encourages making the taxation policies related to the elderly more sensitive in nature.
5. The policy also states a high priority for the healthcare of the older people

Several schemes are also provided by the life insurance corporation of India (LIC), which aim to benefit the elderly. Jeevan Akshay Yojana,, Jeevan Dhara Yojana, where some of the many schemes included for the wellbeing of the senior citizens. How these schemes work – the elderly will have to pay a Single Price also known as a single purchase price in order to purchase an Annuity. The LIC will then pay a regulated sum of money on a regular distributive basis for the rest of the individual’s life.

(C) Annapurna Yojana

This plan was launched by former Prime Minister Atal Bihari Vajpayee, this plan aimed to benefit the aged by the following provisions:

1. Unattended or financially unstable elderly people will be provided with 10 kg of ration on a regular monthly basis.
2. Its propose was also to build housing for the poor and allot or provide almost ten percent of the houses built by the government for the senior citizens of rural or poor areas and the people with low incomes.
3. The layout or the blueprint of these homes and colonies were made with the notion of mobility of the elderly and keeping their physical health in mind. As older people walk slow and get tired easily the housing colonies where designed in a way which facilitated the elders.

V. CONCLUSION

To conclude, Senior citizens are the roots of the Country and the history and without honoring history a new future can be built. Their contributions are paramount to the nation. However, there are various problems faced by the elderly in our nation, like no proper care or no sufficient, proper or good medical facilities, negligence on the part of family members, etc. The government has implemented various programs, schemes, and projects in favor of the senior citizens of the society. However nothing can replace a sense of humanity amongst the people, people need to educate themselves and understand the perception of others and try to understand their issues and help them instead of seeing them as a burden.

VI. REFERENCES

1. Dr. Rajesh Kumar, Rights of Senior Citizen - *The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007*, (February. 29, 2022, 10:04 AM), <https://www.legalserviceindia.com/article/1170-Rights-Of-Senior-Citizen.html>
2. Rakesh kumar, *Senior Citizens - status in India*, vikaspedia, (February. 29, 2022, 10:04 AM), <https://vikaspedia.in/social-welfare/senior-citizens-welfare/senior-citizens-status-in-india>
3. INDIA CONST. art. 14, cl. 1
4. INDIA CONST. art. 46
5. Hindu Adoption and Maintenance Act, 1956, No. 78, Acts of Parliament, 1956 (India)
6. Senior citizens and welfare act, 2007 No, 56 , Acts of Parliament, 2007 (India).
