



Social Security Legislation In India For The Protection Of Rights Of Senior Citizens

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ABSTRACT: Elderly people are the part of vulnerable group and needed much care and protection like other persons in the group but they are continuously ignored by their children, relatives, and society and by the law makers too. They are not given as much care and protection as they needed. The term “Vulnerable group” is applied to the group of people (children, pregnant women, elderly people, malnourished people, prisoners, migrants and refugees, people who uses drugs and people who are ill or immune compromised etc) who due to factors usually considered outside their control ,do not have the same opportunities as others, more fortunate groups in society.¹ Hence senior citizens are the part of this group of vulnerable people and need proper care, protection and attention of all of us.

KEY WORDS: Social Security Legislation, Vulnerable Group, Maintenance, Welfare and Sexagenarian

INTRODUCTION

Our responsibility as a citizen is to address the inequalities and injustices that linger and we must secure our birthright freedom for all people

- Barack Obama

There are bunch of punitive and welfare laws especially for protection of children, women, physically disabled etc. but elderly people are ignore, let us understand this point of view, before 2007 there was no special law which deals with the rights and protection of senior citizens. For the first time government took a step to provide social security to senior citizens and parents at central level in the form of “The Maintenance and Welfare of Parents and Senior Citizens Act, 2007”. This law ensures that senior citizens and parents are not deprived of their basic needs when they lack the resources to fulfill them. Before this Act there was no such law which specifically deals with Senior Citizens. The Population Census 2011, shows that India has 104 million elderly people (60+years), constituting 8.6% of general populace. According to the ‘population Projections for India and States 2001 - 2026’, this would boom to 12.4% by 2026 and every 5th Indian may be a sexagenarian (someone who's between 60 and 69 years) in 2050 in comparison with one in 12 now. Therefore, by 2050, India might be in a similar situation in which today's developed world is in terms of the share of the older people (60+years), in populace. (Source: CRISIL; <https://www.pfrda.org.in>).

¹ Retrieved from <https://pallipedia.org/vulnerable-groups/>. Accessed on 31august, 2022.

The senior citizen faces a number of challenges and adapts to them to varying degrees. These problems range from the absence of a secure and sufficient income to support oneself and one's health, the absence of social security, the loss of social role and recognition, and the unavailability of opportunities for creative use of free time. The needs and problems of the elderly vary significantly depending on their age, socio-economic status, health status, living conditions and other similar characteristics.

EXISTING LEGISLATIVE PROTECTION AVAILABLE TO SENIOR CITIZENS IN INDIA

A. Constitutional Protection

- **Article 21**

Article 21 protects life and personal liberty of an individual and its scope is being continuously expanded by the judiciary day by day through various landmark decisions which gives protection to the senior citizens too with others for example right to social security² and the right to live with human dignity and reputation of a person is his valuable asset.³

- **Article 41**

Article 41⁴ of part IV of the Indian Constitution i.e. Directive Principles of State Policy has particular relevance to Old Age Social Security which says the State can make effective provision for old age for securing their right to work, to education and to public assistance in the case of their unemployment.

- **Article 309**

Article 309 of the Constitution stipulates that acts of the appropriate legislature may regulate the requirement and conditions of service of persons appointed to public services in connection with the affairs of Union or of any State. The governments concerned frame rules and regulations from time to time laying conditions of service including retirement/terminal benefits to its employees.

Entry 24 in List III of Schedule VII of Constitution of India 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.

- **State List and Concurrent List:**

Entry No. 9 and 42 of the State List and Entry Nos. 20, 23, 24 of Concurrent List relates to *old age pension, social security and social insurance* and economic and social planning.

B. Statutory Protection

There are a number of laws and measures for the protection of the senior citizens, for example pension scheme and these form part of the social security measures introduced through legislation which are as follows:

1. **The Pensions Act, 1871**

The Act,⁵ applies both to Union pensions and State pensions. According to the Dictionary⁶ pension is a sum of money paid regularly to a person who has retired or stopped working because of having reached a certain age. Age of retirement in India is in between 60 -65 years.

² Delhi Transport Corporation v. DTC Mazdoor Congress, AIR 1991 SC 101.

³ Sukhwant Singh v. state of Punjab, (2009)7SCC559

⁴ 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.

⁵ The Pensions Act, 1871

⁶ Cambridge Advanced Learner's Dictionary & Thesaurus

2. The Indian Succession Act, 1925

Section 42 of the Act provides that “Where intestate's father living.-If the intestate's father is living, he shall succeed to the property.”Section 43 says that “Where intestate's father dead, but his mother, brothers and sisters living” She shares the property of the intestate equally among the brothers and sisters and their children if they are living and according to Section 44 “Where intestate's father dead and his mother, a brother or sister, and children of any deceased brother or sister, living.” If the intestate's father is dead, but the intestate's mother is living, and there is neither brother, nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother. Section 46 if the intestate's father is dead, but the intestate's mother is living, and there is neither brother, nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

3. Employee's State Insurance Act, 1948

The employer, the State and the person concerned make contribution in order to provide for sickness, old age and other contingencies⁷.The objective of the act is to secure sickness, maternity and medical benefits to employees of factories and establishments and dependents benefits to the dependents of such employees.

Old Age Medical Care: Old age Medical care for self and spouse at a nominal contribution of Rs. 120/- per annum.

4. Employee's Provident Fund and Miscellaneous Provisions Act, 1952 (EPFMPA)

This Act proved a good step towards making of welfare provision for the life of an industrial worker after his/her retirement or to give the advantage to the dependents in case of early death. The provident Fund is an effective survivorship and old age benefit.

5. The Hindu Adoption and Maintenance Act, 1956

The Act lays down legal obligation on the children to maintain his/her aged or infirm parents. Section 20(3) of this Act deals with obligation of a Hindu to take proper care and maintain his/her aged or infirm parents if they are unable to maintain themselves out of their own earnings or property⁸.

6. The Hindu Succession Act, 1956

In case of the death of a son, the mother inherits the property of the deceased son along with other heirs. She inherits her share absolutely. The father inherits the whole property of the intestate son in the absence of any other heir.

7. The Income Tax Act, 1961

The Income Tax Act, 1961 provides income tax rebates in case of senior citizens which are as follows⁹:

- ◆ Higher Tax Exemption Limits
- ◆ Increased Deductions for elder people under Chapter VIA

8. Code of Criminal Procedure,1973

Section 125 of Code of Criminal Procedure (hereinafter referred as Cr. P.C. 1973) is made if any person having sufficient means neglects or refuses to maintain his father or mothers who are unable to maintain themselves.¹⁰

⁷ available at www.hivos.nl/dut/content.

⁸ Section 20 “Maintenance of children and aged parents”

⁹ <https://cleartax.in/s/budget-2018-impact-senior-citizens>

¹⁰ Section 125(1)(d), Code of Criminal Procedure, 1973.

9. The maintenance and Welfare of Parents and Senior Citizens Act, 2007

This Act provides for the fulfillment of these basic features:

- To set-up appropriate mechanism for providing need-based maintenance to the parents and senior citizens;
- To institutionalize a proper mechanism for protection of life and property of older persons;
- To manage better medical facilities to senior citizens so that they can live a healthy life
- To Setting-up old age homes in every district for the proper habitation of senior citizens.

FINDINGS & SUGGESTIONS

Older persons are considered as most revered members of the society in our country but treated otherwise when it comes to practical behavior with older people. Old age is a stage of life that every human being ultimately reaches and it is inevitable. In this time people dread old age but what the youth should be aiming is to create a world where people do not fear old age as a phase which they consider an inescapable prison but look forward to it as a phase of vacation where they can enjoy and have their loved ones to care of them after decades of having worked so hard and showered their loved ones with care and love. This aim cannot be achieved through administrative means only this requires the people of the society to understand the severity and urgency of the situation to be made known to the masses. The real solutions are not new laws and provisions, the real solution lies with the people themselves. If they start treating the old aged people as they deserve to be treated with respect and love then this problem will cease to exist. Thus on the bases of the above study and analysis of different law related to Senior Citizens we can conclude the following suggestions:

- Counselling of family members to understand the problems and mind set of elder and to behave them properly and accordingly.
- Helpline number/website for quick response of complaints and to support elder people on time.
- Awareness campaigns to aware public at large regarding rights of elderly.
- Time bound decisions to provide justice on time.
- Response system should be age friendly so that elder people may explain their problem properly without any hesitation.
- Value based education for the younger generation to change their attitude towards senior citizens.
- Promote awareness among elderly people the provisions of Maintenance and Welfare of Parents and Senior Citizens Act.
- Make health care facilitates more accessible to the elderly.
- Health insurance for the elder people and efforts should be made for free treatment to them.

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