



Research Paper

Constitutional Arrangements for Elderly in India

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Abstract:

The Republic of India is governed by the Constitution of India, which was adopted by the Constituent Assembly on November 26, 1949 and came into force on January 26, 1950. The Constitution of India seeks to protect the fundamental, political and civil rights of the people. It also embodies the basic governance structure of the country. The Constitution of India provides for a Parliamentary form of Government, which is federal in structure with certain unitary features. Well-being of older persons has been mandated in the Constitution of India. Article 41, a Directive Principle of State Policy, provides that the State shall, within the limits of its economic capacity and development, make effective provision for securing the right of public assistance in cases of old age. Social security has been made the concurrent responsibility of the Central and State Governments. Present paper is an attempt to find out various constitutional arrangements that is made for elderly in our society. The paper is based on secondary dataset.

Keywords: Constitution, Fundamental, Elderly, Society, Secondary etc.

Received 01 May, 2022; Revised 10 May, 2022; Accepted 12 May, 2022 © The author(s) 2022.

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I. Introduction:

In the past few decades, care and wellbeing of elderly has emerged as a major concern for the governments and policy makers all around the world. Laws and regulations relating to the care and protection of the elderly are international issues but most of the developing countries have no specific laws for the elderly. Argentina was the first country to raise the issue of ageing in 1948 and presented a draft declaration on old-age rights to the General Assembly and subsequently, in 1950 a report entitled "Welfare of the Aged: Old Age Rights" was published. Since then, several nations have formulated and implemented policies and programmes for the aged population as per their situation and needs. A combined effort to give population ageing a worldwide concern has become a reality only on 14th Dec 1978, when the General Assembly of the United Nations decided to convene a world assembly on ageing in 1982 in Vienna known as Vienna Plan. The UN adopted the principles of independence, participation and care for the elderly in the meeting of general Assembly in 1991. The United Nation encouraged the member nations to incorporate these programs in their national programs for the elderly.

The second Assembly on ageing was held at Madrid in Spain in 2002 with the objective to guarantee economic and social security of older persons (Chattopadhyay, A. 2004). The Madrid International Plan of Action recommended 117 plans with three priorities for the betterment of old age population. The priority areas are (a) development with a focus on empowerment and set a target that at least 50 people's elderly must be covered under adult literacy program by 2015, (b) Better and within reach medical care with an emphasis on HIV/AIDS and (c) An improvement in housing and living condition.

The present paper is an attempt to find out all legislation provision that are made by policy maker for protect elderly rights. Elder population is now a big concern for all countries either it is developed or developing and under developed. In India, we have a very strong cultural and traditional ethics so our elderly needs no such type of attention till now. But in the era of modern globalization, the things are changing day by day. Our elderly feels insecure in terms of all social, Economic and other aspects related to their old age. Now its time to give them some kind of legal protection so that this age groups feels secure and they also can enjoy their last phase of life.

Database:

The paper is based on the secondary data. The author made a little effort to find out some legislation provision that are for our elderly population.

II. Methodology:

The paper is based on the theme on availability of literature regarding elderly issues and concern. A small effort is made to find out various laws regarding elderly population so that they can feel secure and enjoy their remaining life. The data was taken from reports and publication. All the related laws are compiled in a manner so that everyone can understand.

Elderly Care in Pre-Independence Period:

Care for elderly has been on agenda since long back. During the colonial period, the British policies dealing with social issues, thought about the institutionalization and legislation has to be introduced in India. The British government established laws related to security in old age such as pensions and funds for the workers in formal employment sector (Gokhale, S.D. 2003). Four major pieces of legislation were introduced from the 1870s to 1940s and were administered by the Royal Commission on Civil Establishment. The pension system for government employees was created in 1881 by Royal Commission on Civil Establishment.

The Workman's Compensation Act (WCA, 1923):

The British were concern about the health and care of elderly and accordingly enacted a law to provide compensation to all the workers irrespective of wage. This scheme was limited to some occupational diseases contracted by workman during the course of their occupation. The amount of compensation payable to dependents has been stated in the Schedule IV (Section 3). The issues of social security become more important during the early 1940s. The Adarkar Commission report was submitted on August 15, 1944 to outline the foundation for a social security scheme based on several principles. The Adarkar Commission report laid the basis for the creation of various retirement income scheme and other social welfare programmes after independence of India in 1947. The health insurance scheme proposed by the commission materialized in the scope of the Employees State Insurance Act of 1948 and was thoroughly amended in 1966 (Liebig, P.S and Rajan, S.L., 2003).

After Independence:

First world assembly on ageing was held in 1982 and the adoption of international plan marked the path of formulation of the national policy for the elderly in India. India is a country which has made legal provisions for the safety, security, integrity and respect of the elderly population. Part XIV and, Article 309 of the Constitution of India, set forth recruitment and condition of service, including compulsory retirement at age 60 or 65 years for both state government and central and employees respectively. With respect to pensions the state legislations alone have the authority to make amendments to any legislation.

Government of India introduced various schemes and initiatives to promote and protect the welfare for the elderly. These initiatives include financial assistance for the construction of and maintenance of old people's homes and non-institutional services to the elderly (Krishnaswamy, B. and Venkataraman, K., 2008).

The Hindu Adoptions and Maintenance Act, 1956, section 20(3) provides for maintenance of aged or infirm parents. This is re-enforced by the maintenance and social welfare for parents and senior citizens act of 2007 which is more inclusive.

The Indian Government introduced a comprehensive programme for care of elderly and called it as National Social Assistance Programme (NSAP, 1995). The NSAP had three major components (1) The National Old Age Pension Schemes (NOAPS) (2) The National Family Benefits Scheme (NFBS) (3) The National Maternity Benefit Scheme (NMBS).

4 National Old - Age Pension Schemes (NOAPS, 1995):

On August 1995, the Government of India announced the National Old- Age Pension Scheme for the poor. The Scheme covers those aged 65+ who are landless, destitute and or have no regular means of subsistence. The beneficiary under this scheme gets an amount of Rs. 75 per month as old age pension. The NOAPS is implemented in the states and union Territories through Panchayat and Municipalities. The National Old Age Pension Scheme has been renamed as Indira Gandhi National Old Age Pension Schemes (IGNOPS) in 2007 and the amount of pension has been increased to Rs. 200 per month in 2007 with a provision that the state Governments may contribute over and above to this amount.

A few of the states have just revised the amount of pension by Rs. 275 in Gujarat, Rs. 300 in Delhi, Rs. 400 in West Bengal and Rs. 500 in Goa. In Rajasthan, the amount of pension is Rs. 100 for females aged 55+ and males aged 58+, 200 for those aged 65+ and Rs. 300 for destitute couples (Help-age India, 2002). It covered

all persons over 65 who were living below the poverty line. Under NFBS an amount of Rs. 10,000/- are provided as Central Assistance to the households below the poverty line.

Employees Family Pension Schemes (1971):

The scheme provides for a substantial long-term protection to the family of the employees who die in services. The minimum amount and the maximum amount of pension are Rs. 250 and Rs. 750 per month respectively. If a member of the family pension schemes dies after seven years of reckonable services the widow gets family pension. The members of this scheme get two types of benefits in family pensions, life assurance benefits and retirement-cum-withdrawal benefits. The Government of India has well taken care of the role of elderly in freedom movement. As a mark of respect, a pension scheme for freedom fighter was introduced in 1972 for and about 1.5 lakh freedom fighters. **Sainik Samman Pension Scheme (SSPS)** provides for a monthly pension of Rs. 3,600 (Rajan, I., 2001) for the elderly.

National Policy on Older Persons (NPOP 1999):

Before the introduction of NPOP, the focus of the government was providing financial and social security to the employees only. Realising the financial hardship of unemployed old people, India has developed a strategic financial security plan for them. It addressed all the elderly with a focus on old age pension plan for the elderly poor. Government of India announced the National Policy for Older Persons in 1999 to reaffirm its commitment to ensure the well-being of the older persons in a holistic manner. Reiterating the mandate included in Article 41 of the constitution of India, the policy has brought the concern for older persons on top of the National Agenda. This Policy seeks to move away from stereotyped welfare programmes and looks at ways to empower the aged. The Ministry of Social Justice and Empowerment has been designated as the nodal ministry to co-ordinate all matters relating to the implementations of the policies (Clause 92). It has set up a National Council for Older persons (Clause 95), a separate Bureau of Older person to look into the problem of the elderly persons (Clause 92).

National Council for Older Persons (NCOP, 1999):

National Council for Older Persons (1999) envisaged under section 95 of the NPOP, 1999 was established by the Government of India in May 1999 (Nayar, P.K.B, 2003). The Major Objective of the NCOP are,

- Provide feedback to government on implementation of the NPOP as well as on specific program initiatives for the senior citizens.
- Advocates the best interests of the older persons.
- Lobby for the concession of older persons.

Annapurna Scheme (1999):

The Government of India introduced a food security scheme for elderly called **Annapurna** in 1999. This scheme provides food security to the older persons, who though eligible, have remained uncovered under NOAPS. Under the Annapurna scheme, 10 K.G. of food grains are provided to the beneficiary every month at no cost.

Maintenance and Welfare of Parents and Senior Citizens Act: (MWPSA, 2007):

The Maintenance and welfare of parents and senior citizens Act, 2007 was enacted in December 2007 to ensure need-based maintenance for parents and senior citizens of country. The Act has seven chapters. First chapter relates to title, extent and comments etc. The second chapter deals with the "Maintenance of Parents and Senior Citizens".

III. Conclusion:

The unconditional respect, power and authority that elders enjoyed in India particularly in rural traditional Indian families are gradually being eroded in recent years. Poverty and so-called modernization are blamed for it. Ageing is the normal progress of life and death is the inevitable conclusion. Ageing results in the progressive peaking of a man's physical, social and psychological attributes and culminating with end either slowly or suddenly. Ageing population needs some kind of security in terms of their emotional values, property issues, social structure and health matter. It is very important for them that they have some legal provision so that no one can harm their dignity. Another important issue is the awareness regarding these laws and formulation. A majority of the old age are unknown from all legislation till now. Efforts should be made for elderly so that everyone have some idea about their legal life also.

The central and the state governments have formulated various rules and regulations for the protection, care and wellbeing of the elderly. Since the issue of elderly is largely related to the family, the governments alone cannot tackle the problems. It is family only which have to come forward and extend a worm hand to the elderly. The role of NGOs in creating awareness is of paramount importance. The senior citizens are

a treasure but at the same time fragile. They should be handled carefully and emotionally. They are not commodity and should not be weighted in money terms only.

References:

- [1]. **Abrams, D. et. al. (2009):** "Attitudes to Age in Britain, 2004- 2008", Department for Work and Pensions, Research Report, No. 599, Norwich, United Kingdom. <http://research.dwp.gov.uk/asd/asd5/reports2009-2010/rrep599.pdf>.
- [2]. **Agewell Research & Advocacy Centre (2009):** "Study of Role of Older Persons in Democratic Process", Agewell Foundation, New Delhi.
- [3]. **Agewell Research & Advocacy Centre (2009):** "Status of Older Persons in NuclearFamilies in India", Agewell Foundation, New Delhi.
- [4]. **Banjare, P. & Pradhan, J. (2011):** "Self rated Poor Health and Socio-economic Inequalities among Indian Elderly".
- [5]. http://www.skoch.in/images/stories/knowledge_repository/governance/self_rated_poor_health_socio_economic%20_pallavi_banjar_e.pdf.
- [6]. **Bansod, D.W. & Paswan, B. (2011):** "Health Status of Elderly in Rural Maharashtra: Do Socio-Economic Differentials Matter?" in S. C. Gulati (Eds.) Population, Health and Human Resources in India's Development, Academic Foundation, New Delhi.
- [7]. **Census of India (2011):** www.censusindia.gov.in.
- [8]. **Chattopadhyay, A. (2004):** "Population Policy for the Aged in India", Economic and Political Weekly", Vol. 39, No. 43, pp. 94-96.
- [9]. **Gokhale, S.D. (2003):** "Towards a Policy for Ageing in India", Journal of Aging and Social Policy, Vol. 15, No.2/3, pp. 213-214.
- [10]. **Liebig, P.S., Rajan, S.I. (2003):** "An Ageing India: Perspective, Prospects and Policies", Journal of Aging and Social Policy, pp. 229-230.
- [11]. **Krishnaswamy, B. & Venkataraman, K. (2008):** "Ageing in India", Journal of Springer Science, Vol. 32, pp. 258-268.
- [12]. **Rajan, I. (2001):** "Social Assistance for Poor Elderly: How Effective", Economic and Political Weekly, Vol. 36, No. 8, pp. 613-617.