

# Constitutional and Legal Framework of Senior Citizens

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## ABSTRACT:

One of the important components of social and individual life of people is their age factor. Children of age zero to fourteen basically depend on their parents for living, studying and developing in every aspects of life. Whereas, details of age fifteen to fifty nine are independent and they are economically active too. Likewise, senior citizens of age sixty and above are both independent and dependent. Thus, children and senior citizens are called dependent population. Dependent population in general don't involve in economic activities. So, they need some sort of care by other people. In this regard the additional support and care may be taken as burden by family members and thus senior citizens may face various problems in their rest of life. Hence this paper attempts to analyze the various issues and constitutional framework for the senior citizens.

**Keywords:** People, parents, citizens, support, burden.

## Objectives of the Study

1. To find out the main issues faced by the senior citizens.
2. To find out the main provisions of DPSP(Directive Principles of State Policy)
3. To discuss about the legislations and policies protecting the rights of senior citizens.

## I. INTRODUCTION

India is considered as one of the world's oldest cultural civilization, with the most diverse population. The population differs and is defined in terms of culture, customs, language, physical features and genetic architecture. Elders and the reverence for elders is one of the major components of Indian culture. It is rightly said that the best classroom in the world is at the feet of an elderly person as the meaningful lessons of life are pursued from her/him. Having an elder at home is a blessing

for the family. Unfortunately, in contemporary lifestyle, many people look at them as a curse. Elders are considered as a burden by many, though an integral part of our culture yet are one of the most vulnerable members of the society, who sadly have to depend on their families for essentials and support. The condition of the elders is deteriorating with the changing pattern of life. Abuse and neglect of the elders is a common social problem internationally and even in India. In India, 8% of the population was recorded 60 years and above in 2011 census and it is expected to increase its share to 12.5 % to 20% by 2026 and 2050 respectively. With such a demographic transition in India, there are growing concerns against the elders and there is a big question as to their safety and security. Hence, there is an urgent need to focus on the aspects pertaining to abuse of the elders and ensure safety and security of the older people. There is also a need to rethink on the existing legal framework for the older people and establish a mechanism which can help to reduce the growing abuse against the elders and protect their interests and rights. Hence this paper attempts to analyze the constitutional framework for the senior citizens.

## Issues faced by the Senior Citizens

Old age is a stage in life where people require mental, physical as well as social support. It is at this stage in life where older citizens feel lonely and helpless and are the most vulnerable as they are ignored and overlooked and hence feel completely disowned. The older people face many issues when they are unable to take care of themselves. Following are some of the issues which elder people most commonly face.

### a) Economic Problems

Senior citizens do not have sufficient means of livelihood. The economic dependency of senior adult females is higher. Senior citizens

usually face difficulties to provide themselves with basic means for a livelihood due to financial crisis, which forces them to undergo the predicament of work and earn even at their declining years.

#### b) Health Issues

Senior citizen mainly suffer from health issues brought about due to age. Many a times they are left uncared and unattended. They also face many social and psychological issues which lead to an adverse impact on their health.

#### c) Family Challenges

The generation gap generally leads to conflicting views in the family. The younger generation fail to understand the needs and wants of the elderly people in their family. The elders fail to receive the respect they deserve from the younger members of the family, which causes a feeling of loneliness among the older people.

#### d) Legal Issues

The senior citizens are many a time unaware of their legal rights and the mechanism to get the remedy. Further, the policies and schemes initiated by the Central Government and State Government are unknown to them. Lack of physical and monetary support, incapacitates them to manage the legal battles they are entangled into and fight against the injustice.

### Legal Framework of Senior Citizens under Constitution:

After understanding the concept of issues faced by the elders, it is important to be acquainted with the legal framework mechanized for them. There are few constitutional provisions and laws which offer protection to safeguard the rights of senior citizens and prevent their abuse. Part IV of the Constitution. i.e. the Directive Principles of State Policy (DPSP) is one such framework that seeks to protect the interests of the older. Furthermore, although not explicitly stated as a Fundamental Right, the judiciary reads the rights of the elderly as a facet of Article 21 of the Constitution. Below are such provisions ensuring safeguard to the older:

#### Provisions under DPSP

1. **Article 38 (1):** Article 38(1) enjoins, “the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice social, economic and political, shall inform all institutions of the national life”. It further stipulates that that

the State should endeavour to minimize the inequalities in status, facilities and opportunities.

**Article 39(e):** Article 39(e) requires the State to secure that, –“ the health and strength of workers, men and women and children of tender age are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their area of strength”. To achieve these goals, the State provides pensions as a monetary benefit to former employees so that they can live a meaningful life with dignity.

**Article 41:** Article 41 provides 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 public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want”.

### Legislations and policies protecting the rights of Senior Citizens:

#### Hindu Adoption and Maintenance Act, 1956

The act empowers elderly people with a legal right to claim maintenance from their children. It further stipulates that it is the responsibility of a person to maintain their old aged parents in the event they are unable to maintain themselves. It is important to note that the said law of 1956 is applicable to Hindus only. Similar laws are found in Muslim laws, Christian laws, and even Parsi laws.

#### The Code of Criminal Procedure, 1973:

The Criminal Procedure Code is a secular law which is applicable to every citizen of the country. Section 125 of the Criminal Procedure Code allows maintenance to parents and wife which indirectly covers the interim maintenance of elder parents ensuring the economic security of the elders. To claim maintenance under this law, it is necessary to prove that the parents are neglected and do not have sufficient means of income to maintain themselves.

#### The Maintenance and Welfare of Parents Act, 2007:

Up until 2007, there was no special or separate legislation exclusively addressing the issues faced by elders. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 seeks to make it a legal obligation for children and heirs to provide sufficient maintenance to senior citizens, and proposes to make provisions for state

governments to establish old age homes in every district.

#### **National Policy for Older People, 1999:**

- The Policy was launched by the Ministry of Social Justice and Empowerment in the year 1999 to improve the situations of the older citizen of the society. This policy was established in pursuance of Article 41 of the Constitution which mandates the state to look after the well-being of the older person. The National Policy seeks to assure older persons that their concerns are national concerns and they will not live unprotected, ignored or marginalized. The goal of the National Policy is the wellbeing of older persons. It aims to strengthen their legitimate place in society and to help them to live the last phase of their life with purpose, dignity and peace. The policy provides that the State will extend support in terms of financial security, health care, shelter, welfare and other needs of older persons, provide protection against abuse and exploitation, make available opportunities for the development of the potential of older persons, seek their participation, and provide services to improve the quality of their lives.

#### **Indira Gandhi National Old Age Pension Scheme:**

Ministry of Rural Development of India has introduced Indira Gandhi National Old Age Pension Scheme (IGNOAPS) under the National Social Assistance Programme (NSAP) in the year 2007. This scheme provided central assistance by providing pension of Rs. 200/- per month to persons above 60 years of age and Rs. 500/- per month to persons above 80 years of age who belong to households below the poverty line. The State Government is also under the obligation to provide benefits to the senior citizens. Accordingly, the State Government of Maharashtra, under Shraavanbal Seva Rajya Nivruttivetan Yojana provides Rs. 400 to the citizens who are eligible for the scheme

#### **National Programme for the Health Care for the Elderly:**

The National Programme for the Health Care for the Elderly is an articulation of the International and national commitment of the Government as envisaged under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), National Policy on Older Person (NPOP) adopted by the Government of

India in 1999 and Section 20 of “The Maintenance and Welfare of Parents Act, 2007” dealing with provisions for medical care of Senior Citizen. The main objective of the programme is to provide preventive, curative and rehabilitative services to the elderly persons at various level of health care delivery system of the country.

**A Central Sector Scheme to improve the quality of life of the Senior Citizens:** The main objective of the Scheme is to improve the quality of life of the Senior Citizens by providing basic amenities like shelter, food, medical care and entertainment opportunities and by encouraging productive and active ageing through providing support for capacity building of State/ Union Territory, Governments/Non-Governmental Organizations (NGOs)/Panchayati Raj Institutions (PRIs) / local bodies and the community at large. This scheme was revised in 2018 to improve the conditions of the senior citizens. This scheme was implemented to undertake various programmes to ensure that the senior citizen gets the basic needs including proper health care.

## **II. CONCLUSION:**

Senior Citizens are the most experienced people and should be given a higher status in the society. Considering the conditions of the older citizens in our society, there is a need to serve the elders in a holistic manner which can help them to live their life in a dignified manner. Many NGOs and institutions are working for the benefits of the senior citizens and spreading the awareness relating to the abuse of elders. It is important to note that when the old people become infirm, it is due responsibility of all the members of the family and our society to take proper care and help them to lead a normal life. The younger generation of the family needs to realise and acknowledge the sacrifices made by their elders to make them who they are today. Hence, when the older people become weak, the younger members need to look after all the needs and wants of them. Even though there are many laws and policies which protect the rights of the senior citizens and prevent their abuse but the current positions of the older population is not in a good state. The Government has also been constantly endeavouring to alleviate financial infirmity by implementing various monetary policies which can facilitate the senior citizens to lead a normal life. It is crucial to understand that it is the moral and social duty of every member of the society to prevent actions which lead to abuse of the elder citizens and help them in every aspect of

their life. It is the time that we need to look back and follow the traditional norms and ethical practices because with the changing modern and fast-moving life the traditional practices are getting vanished there by endangering the very base of humanity. . Hence, we need to protect the rights of the elders and help them to lead a respectful life.

#### REFERENCES:

- [1]. <https://www.helpageindia.org/wp-content/uploads/2018/06/ELDER-ABUSE-IN-INDIA-2018-A-HelpAge-India-report.pdf>
- [2]. <https://www.un.org/en/observances/elder-abuse-awareness-day/background>
- [3]. [https://www.who.int/violence\\_injury\\_prevention/violence/status\\_report/2014/methodology/GSRVP\\_survey\\_glossary\\_of\\_key\\_terms.pdf](https://www.who.int/violence_injury_prevention/violence/status_report/2014/methodology/GSRVP_survey_glossary_of_key_terms.pdf)
- [4]. <http://legislative.gov.in/sites/default/files/coi-4March2016.pdf>,  
<http://legislative.gov.in/actsofparliamentfromtheyear/hindu-adoptions-and-maintenance-act-1956>,
- [5]. The Hindu Adoption and Maintenance Act, 1956 (Act no. 78 of 1956), s.
- [6]. <http://legislative.gov.in/actsofparliamentfromtheyear/maintenance-and-welfare-parents-and-senior-citizens-act-2007>.