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HUMAN RIGHTS OF THE ELDERLY PEOPLE IN INDIA- A STUDY

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ABSTRACT :

Elderly people or Oldage is an indispensable stage of life of a human being which a man cannot refute except untimely death. The childhood and Elderly people are natural reliant conditions of life where children depend on parents and vice-versa. The concept of nuclear family affected this usual cycle resulting in misbalance of the normal life of elderly people by defeating thousand years old practice of India where parents are treated as a pious form of God. Nowadays, the parents are becoming burdensome for their child whenever they lost their strength to work and earn. Available legal, social, moral and governmental norms are analyzed in this article to find out the possible ways by which elderly people's human rights are infringed and they bound to suffer pain and agony. The article also reflects the available laws, policies and guidelines for the protection of the human rights of elderly people in India.

KEYWORDS : Oldage person, Human Rights, Protection, Abuse.

INTRODUCTION:

Over the past several decades a massive change has taken place in a key demographic area of the planets human population- AGE. History of mankind has been always marked with high birth rates and also high death rates. But the trend changed to lower birth rates and lower death rates due to medical, scientific reasons and now one out of every ten people on the planet is now 60 years of age or older . If the current trend of lowering birth rates and lowering death rates continues by the year 2050 one out of five people will be aged 60 years or older and by 2150 one out of every three people will be aged 60 years or older. So the oldest old one the most rapidly expanding segment of the elderly population.

SUPPORT SYSTEMS:

Many governments have support systems in place for elderly persons such as social security and free or discounted medical care etc., However many of these systems were built on the premise that there will always be fewer older persons than younger or middle aged individuals at one time. Because of declining death rates, this presumption can be abetted . But the fact is when the companion in the ratio of the old with that of supporting systems existing, they are not directly proportional.

In other words the olders-person and supporting system ratio is declining and in more or less developed regions it is further less. The ability of the societies and governments to care for their aging populations is still lessening in case of poor countries. These demographic trends create unique challenges for all people particularly for the governments of the nation states around the globe.

Their position

Elderly individuals are often subject to discrimination and abuse because they are perceived as easily taken advantage of there is also a prevalent belief among many, that elderly persons are worthless in today's fast-paced, globalized and increasingly industrialized world.

Obviously with the number of elderly people on earth at any one time rising rapidly, there is an increased urgency to address the rights and roles of elderly persons in our world. Are senior citizens an asset or liability family situations and financial position do play a part in influencing the lives of elders. Some senior citizens have the right attitude, take things in their stride, plan well their post retirement life and keep their body and mind in reasonable good health. They largely have a positive approach there are others who take a dim view of life and think of retirement as something of a punishment. While the optimists keep themselves busy with productive work, the pessimists become dejected, feel neglected and find fault with every one.

Some elders are fortunate to live with their children or live within their reach in the same city/town. They lead a relatively peaceful life. The longer the distance, the greater their feeling of insecurity and loneliness. The pangs of separation and fear of loneliness on the other hand, increase if the children live abroad. Thus the elders' lives are situation dependent. The answer to the question are senior citizens an asset or liability to the society according to my opinion there are an asset if they have the right attitude to life. The present day elders truly represent the generation of the pre-independence era known for a value based life. As most senior citizens are highly experienced they can contribute tremendously to the welfare of society. In the same way elders have the responsibility to guide the youth and instill the much needed confidence in them. A great opportunity lies to convert these elders into a national asset.

SOCIAL SAFETY:

The absence of safety net for the elderly has exacerbated the problem. Traditionally the joint family in India took care of its elderly. These traditional care arrangements have been lost in the context of rapid urbanization and migration of people from rural to urban and from urban to foreign countries. In the absence of such community support in the form of kinsmen or the extended family and an inability to continue to earn their living, the elderly are often rendered destitute, if not financially from a pragmatic perspective. While these problems plague most traditional societies that are in transition, their rapidly enlarging scope and scale, demand and necessitate an urgent response from policy makers.

POLICIES OF GOVERNMENT OF INDIA:

Population ageing has emerged as the grand challenge of this century for policy makers, care providers and society as a whole. In 1961 the population of the elderly was 24 millions 1981-43:1991-57 Millions, 2001-77 millions. The proportion of the elderly in the total population also rose from 5.63 percent in 1961 to 6.58% in 1991 and to 7.5% in 2001.

India has thus joined the rank of 'graying nations' with over 7% of its population in the 60 plus. Report of the United Nations has predicted that India will have 198 millions 'Old' 60 plus people in 2030 and 326 million in 2050 currently there could be around 100 millions' senior citizens' in India.

The Government of India supported actively by civil society, unveiled its national policy on older persons (NPOP) over 50 years after independence. This is a comprehensive document covering every aspect of the elders' life, with a clear cut action plan. It proposed a role for the state in the elder care, health, shelter, financial security and protection against abuse. It recognized the need for affirmative action favoring the elderly viewing them as national resources and creating opportunities for their development. This action plan also recognized that training, empowerment and partnership with elderly were important in providing equality and dignity to all groups of elderly.

Unfortunately NPOP awaits complete implementation and much of its promise remained unfulfilled. This prompted the Government of India to seek its revision to suit contemporary needs. Another important aspect which has to be taken into consideration is

- Two thirds of the elders live in rural areas
- In that nearly half are women
- Out of whom over half are widows
- Two thirds of all elderly persons are illiterate and dependent on physical labour
- 90 percent of whom exist in unorganized sector with no regular source of income
- 1/3rd live below poverty line.

To sum up majority of Indian elders are in potentially vulnerable situations without adequate food, clothing and shelter. So providing health care that passes the Five "A" Test to such a large vulnerable group is a challenge to be faced.

LAW AND THE ELDERLY:

Traditional norms and values of the Indian society laid stress on providing care for the elderly. However due to withering of the joint family system, a large number of elderly are not being looked after by their family, consequently many older persons particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is need to give more attention to the care and protection for the older people. In order to provide simple, inexpensive and speedy provisions to claim maintenance to parents a legislation called 'The Maintenance and welfare of parents and senior citizens Act-2007 has become passed by Government of India.

Though a provision is there under the code of criminal procedure code, the procedure is time consuming as well as expensive. And so this Act has been made to provide speedy remedy to the elderly.

The Act does not use the word 'The elderly people' it used the phrase 'parents and senior citizens'. A senior citizens, including a parent includes a person who is unable to maintain from his own earning or out of the property owned by him and the Act gives him a right to claim maintenance against children to maintain in order to live a normal life. If the children are residing out of India, the summons shall be served by the Tribunal through the authority as recognized by central Government of India.

Under the Act the Central Government is empowered to review the power of the state Government to make rules for providing maximum maintenance, the scheme for management of oldage homes including standards and various types of services like medical care, entertainment etc. In addition the state Government is authorized for making comprehensive action plan for providing protection of life and property of senior citizens.

Every officer working under the Act is public servant under section 21 of Indian penal code. The civil court is not having power to issue injunction in respect of anything which is done or intended to be done under the Act no suit, prosecution, or other legal Central Government, State Government or the local authority or any officer of the Government in respect of anything which is done in good faith or intended to be done in pursuance of this Act. Finally the central Government can issue directions for implementing the provisions of the Act.

CONSTITUTION AND THE ELDERLY:

India as a welfare state has launched planned development programmes to eradicate poverty, improve the lot of weaker sections and lead the country to economic prosperity. The India development report 2002 noted that we have a large number of antipoverty programmes as well as pension programmes and public hospitals to provide for safety net. A welfare society has to provide these safety nets. The frames of the constitution of India has made these safety nets to be included in the constitution in the form of social security provisions.

The concept of the welfare state become the lodestar of the constituent assembly of India. It made its impact upon the orientation of the leading lights of the Assembly who wanted to secure 'justice- social, economic and political' for all citizens of the republic. The framers of the constitution were very clear in their minds that without social and economic democracy, political democracy had no meaning in a poor country like India. Social security in the initial years was laid down during the first three five years plans. While the first and

second five year plans had provision of social security measures for industrial workers, the third five year plan recognized the needs of the old who had no support: But the onus to carry out welfare activities was left to local bodies and voluntary organizations. Without any plan allocations. Though the fourth five year plan (1966-70) made a provision for an outlay of Rs 40 Million for the benefit of old persons and disable it remained unutilized. The fifth five year plan recognized the need of having a social security system for the disadvantaged aged and the handicapped but again this was left to the discretion of the state Governments. This fifth five year of independent India was a land mark in the progress towards the formation of welfare state in india due to its special thrust to make the maximum possible dent on low and poverty whilst ensuring that the country simultaneously progresses towards economic independence.

The General Assembly of the U.N. decided in resolution 33/52 of 14 Dec 1978 to convene 'a world assembly on Ageing' in 1982 in Vienna. The purpose of the Assembly was to provide a forum to launch an International Action programme aimed at guaranteeing economic and social security to older persons as well as opportunities to contribute to national development. The Vienna assembly increased the awareness of the growing problems of the elderly. As a result the central Government started giving grants to voluntary organizations for carrying out welfare programmes aimed at helping the elderly. As a consequence the final sixth plan document for the first time recognized the aged as a vulnerable group for whom welfare programmes were required. The seventh and Eighth finance commission allowed some funds for the states for giving old age pensions.

SCHEMES BY THE INDIAN GOVERNMENT;

The Government of India did not ignore the fact that the condition of the elderly in the informal sector is worsening rapidly. So it introduced centrally funded pension programme was included in the central budget for 1995-96. And also this is a step taken by the central Government in the fulfillment of Article 41 and 42 of the constitution



Since 1991 the first day of October has been observed as international day of older persons and 1999 was observed as the international year of the older persons. The Indian Government announced the National policy of the older persons in 1999. Which was an extension of U.N. convention on Ageing , Vienna 1982. This National policy emphasizes that the aged should have access to adequate food, water, shelter, clothing and healthcare, have the opportunity to work, and access to other income generating activities have access to appropriate educational and training programmes and be able to live in environments that are safe and adaptable to personal preferences. The policy also asseenes that coverage under old age pension scheme for poor persons will be significantly enhanced with the objective of covering all those below the poverty line. They must also be able to live in dignity and security, free from exploitation and physical or mental abuse.

CONSTITUTIONAL PROVISIONS FOR THE ELDERLY:

Historical and geographical factors have been responsible for the build of the constitution, which is the largest constitution in the world. The framers of the constitution were keen to preserve the democratic and ethical values to which the Indians had attached the highest importance in their struggle for freedom. But they

were also keen to make provisions considered to be necessary in the light of the social and economic backwardness of certain sections of society. This constitution is of socialist character which spells out the aspiration of the people to secure to all citizens, social, economic and political justice. This also affirms a determination to secure liberty of thought, expression, belief, faith and worship and equality of status and opportunity and to ensure, dignity to the individual constitution is not to be constituted as a mere law, but as the machinery by which laws are made Article 41: The state shall within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want.

Keeping this directive mind the Government of India enacted a law for ensuring dignity to the elderly called the maintenance and welfare of parents and senior citizens Act-2007. Describing ageing as a major challenge and the need to give more attention to the care and protection of the elderly and to maintain the dignity of the elders as an individual.

Directive principles of the Indian constitution. The Directive principles as stated in Article 37 are not enforceable in any court of Law. But Directive principles impose positive obligations on the state "What it should do". The Directive principles though mentioned as unenforceable but is considered to be fundamental in the governance of the country and the state has been placed under an obligation to apply them in making laws. The courts however cannot enforce a directive principle as it does not create any justiciable right in favour of any individual. Directive Principles aim to create social and economic conditions under which the citizens can lead a good life. They also aim to establish social and economic democracy through a welfare state. The directive principles though not justiciable are fundamental in the governance of the country. It shall be the duty of the state to apply these principles in making Laws. Besides, all executive agencies should also be guided by these principles. Even the judiciary has to keep them in mind in deciding cases

CONCLUSION

It may be conclude by saying that the problem of the elderly must be addressed to urgently and with utmost care. There is urgent need to amend the Constitution for the special provision to protection of aged person and bring it in the periphery of fundamental right. With the degeneration of joint family system, dislocation of familiar bonds and loss of respect for the aged person, the family in modern times should not be thought to be a secure place for them. Thus, it should be the Constitutional duty of the State to make an Act for the welfare and extra protection of the senior citizen including palliative care. Last but not the least apart from political will in favour of the protection of oldage people a strong and sensitive civil society is to be shaped so that the value based social responsibility of individual as well as of society at large can be created to prevent the pollution of our strong Indian values where parents are consider as God in mortal form.

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