

Legal Framework of Senior Citizens Act, 2007 in India

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Abstract: The fact is that India has the second largest elderly persons, but the family members or society have no time for them. Today, elder abuse in India has become a major problem especially in metropolitan cities. The census report of 2011 highlights the fact that households are getting smaller and congested where older persons are thought to be a burden on the family. In case of working families the whole scenario is critical and it is a key issue of debate in the modern society. It is often heard that elders are abused and mistreated by their family members particularly after the age of 65. Recent studies have indicated that the elderly are a victim of violence in India. That is why the government of India took a preventive measure and passed the Senior Citizen Act, 2007. The present research paper makes a review of legal framework of Senior Citizen Act 2007 in India.

Keywords: Senior Citizens, Elder Abuse, Indian Culture, Tolerance, Preventive Measures.

Introduction: Actually, India has a rich culture which has always been respectful and supportive of elders. Elder abuse was never considered as a problem in India. It was always thought of as a western problem. However, the rapid urbanization has been bringing changes in the social structure in India. Joint family system is breaking down. Traditional values have been declining considerably. A child used to learn at home in a joint family civic virtues of love, co-operation, obedience, tolerance, discipline and renouncement, which enabled the child to grow up as a good citizen. It is no longer happening. Due to the said changing social structure in India, elderly in India no longer receive care and respect within families. Many of them silently suffer abuse at the hands of their progenies. Disrespect, neglect and physical and verbal abuse have become common features. Therefore, most of the social activists played a vital role and keeping their demand in view the Government of India framed Senior Citizen Act, 2007 and tried to implement it with full letter and spirit.

However, we cannot deny the fact that there was no special act or legislation for elderly people in India to provide them security and safety in case of mistreatment by their family members. A survey was conducted in Delhi covering 2000 elderly people between the ages of 65 to 90 years living in 50 colonies across Delhi. Only 20 percent of the senior citizens agreed to speak the truth and rest of them were fearful of lodging complain against their children (R. Sehgal: 2008). The survey pointed out that there was a huge pressure on elderly aged people and they could be subjected to any physical injury, verbal abuse and in some cases they could have to live without food and clothes. They were totally isolated and were victims of crime by their family members. To conclude, most of the studies conducted on elder abuse in India point outs that these people have to suffer from physical abuse, psychological abuse, negligence, breach of trust and their rights, financial exploitation, etc. in the present social scenario in different parts of India.

Legal Safeguards for Senior Citizens: Today nobody can deny the fact that elderly aged people in India are still suffering and victimized by their families. Nevertheless, we cannot ignore the fact that the government of India has taken some preventive measures to provide a safety and security to senior citizens. Some of the legal safeguards for senior citizens in the Act are as under:

1. Article- 41 of the constitution ensures that the state shall provide assistance to elderly people in case of unemployed, old age, sickness, disability, etc.
2. Integrated Program for Older Persons provides financial assistance to NGOs who maintain old age homes, day care centers and Medicare units for older persons.
3. National Mental Health Program focuses on needs of senior citizens who are suffering from the diseases like Parkinson and Alzheimer.
4. Section- 125 of the CPC and Hindu Adoption and Maintenance Act 1956 require the maintenance of older parents by their children.
5. The Development, Welfare and Research Foundation (DWARF) is playing an important role to bring awareness among the old aged people to prevent crimes against them.

6. The government has provided rebate on income tax, education, railways and started National Old Age Pension Scheme.
7. The government has setup help lines in metropolitan cities for the safety and security of senior citizens.
8. The National Policy for the Older People, 1999 seeks to assure the senior citizens that they will be protected and will not live ignored by their family members or government. This policy has made some major provisions to promote health and welfare of senior citizens including their protection against abuse and exploitation.

Senior Citizens Act, 2007: This Act is a landmark in the history of rights for senior citizens in India. The Ministry of Social Justice & Empowerment initiated a draft bill to mandate the care of elderly citizens. However, there was no special legislation for senior citizens till 2007. Nevertheless, the government of India was making many efforts to provide them security and safety. Now, it was felt that these initiatives were not sufficient and here it was an urgent need to frame a law for the protection of senior citizens' rights. Therefore, on 3rd March, 2006 Ms. Sushma Swaraj of BJP tried to introduce a Bill titled as Senior Citizens (Maintenance, Protection and Welfare) 2006, but the Bill could not proceed further. Thereafter, the Government of India, through its Ministry of Social Justice and Empowerment, introduced the Bill on 9th March, 2007, titled as 'The Maintenance and Welfare of Parents and Senior Citizens Bill 2007' in Lok Sabha. The basic objective of this Bill was to provide effective remedies for the maintenance and welfare of Parents and Senior Citizens. Thereafter, the above referred bill became the Act, after getting an ascent of the President of India on 31 December, 2007. After all, on the completion of legal formalities the Act was implemented in the whole country.

Provisions of the Act: Most of the scholars assume the fact that in the perspective of human rights implementation for the elderly aged people, the Senior Citizen Act, 2007 is a milestone and it is descriptive and conveys that the parents and senior citizens are required to be maintained by their children. This Act is applicable to all citizens of India irrespective of their religion and citizens of India outside India who has attained 60+ years of age but at

same time no age criterion has been mentioned about parents. This Act has only 32 sections and it ensures that maintenance of aged by their family will be a matter of right for the parents and it will be the duty of the children to maintain their parents. The Senior Citizens Act-2007 has the following basic provisions:

- It seeks to make a legal obligation for children and heirs to provide for compulsory maintenance, protection, safety and security of senior citizens.
- It basically provides for the maintenance of parents and senior citizens and the definition of maintenance covers all basic necessities and requirements of life.
- It also includes childless senior citizens who can claim maintenance from relative who is legal heir of that senior citizen and who is in possession of or would inherit his property after his death.
- Under the provisions of this Act, the State Government has to constitute the Tribunal according to the Act and maintenance proceedings are required to be adjudicated by the Tribunal exclusively which is presided over by an officer not below the rank of Sub Divisional Officer of a State.
- According to the Act, the Tribunal has all the powers of the Civil Court and shall be deemed to be designated as Civil Court.
- Under the Act maximum maintenance allowance may be prescribed by the State Government and which shall not exceed the ten thousand rupees per month.
- It empowers the State Governments to establish and maintain old age homes at assessable places with at least one in each district, which shall have minimum of 150 senior citizens, who are indigent.
- It also makes some special provisions for medical care of senior citizen. Its Section-20 gives some specific instructions to Government Hospitals in the matter of health of senior citizens.
- It gives directions to the State Governments to take every measure to ensure that, the provisions of this act are given wide publicity through public media to bring awareness about the act.

- It provides that if parents or senior citizens are abandoned with an intention by a person who has to take care and protection then said person is punishable with imprisonment, which may extend to three month or fine, which may extend to Rs. 5,000/- or both.
- The Act also provides and ensures that senior citizen is now protected from all sides and every offence cognizable and bail able.

Shortcoming of the Senior Citizens Act: A large number of scholars and social activists have analyzed the implementation and effectiveness of this Act. They have concluded that the Senior Citizen Act, 2007 has paved a way to the welfare of the elderly aged people but there are some drawbacks. It is unclear whether the creation of maintenance tribunals will ensure financial independence for senior citizens or whether parents will likely take their children to the court to obtain a maintenance allowance. Moreover, the act does not address the needs of the senior citizens who do not have children or property. Only parents may appeal against the decision of maintenance tribunal, but childless senior citizens cannot do so. It is not also mandatory for the state to setup Old Age Homes. The provisions of the Act have not yet been implemented in more than half of the states which is a cause of concern. Now it is suggested that it is legal as well as moral duty of children to provide better living conditions to their elders. Moreover, to make the Act more effective some drastic changes should be done in the existing legal framework of the Act.

Conclusion: To conclude the discussion, we can point out that the Senior Citizen Act, 2007 appears to have taken adequate care, to safeguard the rights of the senior citizens. But, still the government has to adopt suitable mechanism to create awareness among the public regarding Act. It can be done only through wide publicity with the help of mass media and social media. It is suggested that the Maintenance Tribunal should be manned by person having proficiency in law and sensitize towards the problems of senior citizens. In order to implement the act more effectively and render justice freely and speedily, the Central Government should come forward to remove the above referred drawbacks. Moreover,

here it is urgent need to do the counseling of the older people to aid them to adjust to the needs and changed circumstances of the younger generation bridging generation gap. There should be strict vigil on the embezzlement of funds allotted for the welfare of the senior citizens. The NGOs who run over old age homes, should be strictly controlled and supervised under governmental mechanism. In essence it is the duty of all state governments, central governments and NGOs to implement this Act in letter and spirit. However, there may be some problems in its better implementation. Nevertheless, we should not forget that we would also get old at some point in life. Therefore, it is our moral duty to provide better safeguards to our senior citizens.

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