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GOLDEN YEARS: ROLE, CHALLENGES AND RIGHT OF ELDERLY PEOPLE

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ABSTRACT

The elderly population is a vital part of our society, contributing their wisdom, experience, and knowledge to shape our communities and families. However, despite their valuable contributions, elderly individuals often face numerous challenges that threaten their well-being, dignity, and human rights. As the global population ages, it is essential to recognize the importance of protecting the rights and dignity of elderly persons. This article aims to analyse the right of elderly persons. The elderly face a range of issues, including social isolation, discrimination, financial insecurity, healthcare concerns, and elder abuse. These challenges are often exacerbated by inadequate laws and policies, lack of awareness, and insufficient support systems. We must address these issues to ensure that elderly individuals can live with dignity, respect, and security.

Key words: history, role, challenges, right, senior citizen

Introduction

An essential aspect of human life is ageing. It is a priceless collection of rich life experiences. The term "old age" typically refers to the last stage or portion of a person's life. Age is the outcome of a natural process. It's an inevitable, unpleasant, and trouble-filled stage of life.

It's funny that everyone aspires to be young rather than elderly and live a long life. Ironically, aging is inevitable no matter how unwanted it is. All of us must confront the joys and sorrows of life. The life pattern is completed in old age. It has its joys, though they are not the same as those experienced by children and young people.

One can never lose a good deed. A person who seeds kindness receives affection and one who sows courtesy reaps friendship. Being looked after is typically the focus of life. The lessons frequently centre on compassion, nurturing, and care. Many people do not want to take care of

the elderly especially when they are ill. They typically struggle with a great deal of mental and physical issues. The elderly needed a lot of attention. The aim of elder care should be to provide the parents with the greatest possible care while also being aware of their evolving requirements. It is difficult to let go of someone we love, even while caring for them is not simple. The majority of individuals look after the elderly, either because they have to or because no one else can. It takes a lot of patience, empathy, and understanding to care for the elderly.

Kindness is what motivates us to care for the elderly. We taking care of them and spending time with them can teach you a lot. We acquire knowledge and wisdom as they possess far more than we do. Their life experiences have given them a great deal of wisdom. We feel appreciative. It makes us smile, and I'm sure it makes them smile too. We learn about values, morality, and ideals that we can cultivate within ourselves. We pick up lessons from them on how to give, forgive, accept, love, support, and overcome obstacles in existence. We gain a thorough understanding of a set of guidelines that we might establish for ourselves as we go along.¹

Parents and the elderly get comfort and security from conversation. It relieves them of their hopelessness, melancholy, loneliness, and annoyance. We will never truly know how much it means to them to have someone look out for them and be there for them, but their eyes and hearts give out happiness and thanks. It naturally gives them vitality.

Taking care and welfare of the elderly improves their self-confidence. It also provides us with self-knowledge and our identity. It develops potential and renews the self-esteem of our family. It rewards us in many ways. It is said that humanity plays a crucial role in taking care of the elderly. It also enhances our quality of being humane. Most people do care for and welfare of the elderly and old parents as it is the right thing to do. However, caring for the elderly should come from our hearts and minds. After all, we are all bound to complete the cycle of life and face old age. We would all want someone to care for us.

Taking care and welfare of the elderly improves their self-confidence. It also gives us our identity and self-awareness. Our family's potential is developed, and their self-esteem is restored. It benefits us in numerous ways. It is claimed that humanity is essential to caring for

¹ Dr.J P Arya, care and welfare of elderly and parents: Socio Legal Aspects, volume 6, 2020, <https://thelawbrigade.com>

the senior citizens. It also improves our humaneness of us. The majority of people take care of their elderly and elderly parents because it is the morally proper thing to do. Nonetheless, we should care for the elderly with our hearts and minds. We must all eventually reach old age and complete the circle of life.

Everyone would want someone to look out for them. The Great man of his time, Tia Walker rightly said, "To care for those who cared for us is one of the highest honours".²

Historical Background Of The Position Of Senior Citizen.

Phrases such as "Matru Devo Bhava" and "Pitru Devo Bhao" in Sanskrit express the feelings one has for their parents. In the past, parents were held in high regard and revered as living gods and goddesses. However, currently because of many issues and the nuclear family structure, these elderly parents are burdened by their son(s) or daughter(s). This has led to a transfer of duties from family members to the state or federal government. Therefore, from the standpoint of human rights, we must assist them in making their lives distinguished, honourable, and joyful as well as give them the confidence to make improvements to their lot in life. Undoubtedly, the government has enacted various laws, assistance programs, and policies for the aged.

Before they were refused to create an Act, the lawmakers reportedly considered carefully before introducing several bills. There was no unique or distinct legislation until 2007 for Senior Individuals. Nonetheless, the government is working to draft a special law to control and regulate significant issues facing senior citizens. The Senior Citizens (Maintenance, Protection and Welfare) 2006 Bill was attempted to be introduced by Ms Sushma Swaraj of the Bharatiya Janata Party on March 3, 2006, however, it was not able to move further. Thereafter, the Government of India, through its Ministry of Social Justice and Empowerment, through then Minister, Smt. Mira Kumar introduced the Bill on 9th March 2007, titled "The Maintenance and Welfare of Parents and Senior Citizens Bill 2007" in Lok Sabha. The primary goal of the 2007 Bill was to offer practical solutions for senior citizens' and parents' welfare and maintenance. The aforementioned law was elevated to the status of an Act on December 31, 2007, by the President of India. Nevertheless, even after the aforementioned legislation has been in effect for more than seven years, we continue to encounter many issues and substandard

² Dr.J P Arya, care and welfare of elderly and parents: Socio Legal Aspects, volume 6, 2020, <https://thelawbrigade.com>

living conditions for the elderly population in India³.

However, it's not a given that the joint family arrangement came from India. It is said that the establishment of this institution resulted from the Aryans' dispersal around the globe. Almost everywhere in the globe, there are institutions comparable to ours. As we have previously learned, in ancient Roman society, the eldest male family member had the highest power and had the right to make all decisions when it came to running the family business.

The joint family system emerged when the pastoral era ended and people started leading settled lives that involved tilling the land, building houses, and preserving their cultural heritage. Communication and travel challenges forced every one of the family's members to reside together and work together in the family's trade or agriculture.

In addition to these factors, the notion of kinship and the emphasis on ancestor worship in religion contributed to the joint family's development as a sophisticated institution that met the material and spiritual demands of the numerous family units that made up the society. While the joint family system has vanished in other areas of the world, it is still in place in India despite the severe constraints brought on by urbanization and industrialization.

In the past, upon reaching 50 years of age, a person was required to relinquish the duties of a "Grihastha" and transition to the third stage of human existence, referred to as "Vanpristha." This stage involved dedicating the following 25 years of one's life, through mana, vachana, and karma, to the selfless service of suffering humanity and the greater community in exchange for the benefits one had received from society during the previous 50 years.

The joint family arrangement has existed in India for a very long period. The father is regarded as the family's head. A combined family includes his wife, sons, daughters- in-law, and grandkids.⁴

The elder family members were highly respected in antiquity and the Middle Ages. With their peers, they felt at ease. Their amusement came from their grandchildren's antics. They were in

³ your article library, <http://www.yourarticlelibrary.com/family/significance-of-joint-family-system-in-india>

⁴ publish your article, <http://www.publishyourarticles.net/knowledge-hub/essay/an-comparative-essay-on-joint-family-vs-nuclear-family-system>

charge of the household's finances. However, as towns and cities grew, the gap between the older and younger generations grew significantly.

In India, the joint family structure offered "social security" to every member. In addition to caring for the elderly, it also attended to the sick, jobless, widows, and orphans. Within a combined family, the elders held great regard and their decisions were definitive.

In antiquity and the Middle Ages, the more senior members were held in high regard. They took care of their household's finances while unwinding with their counterparts and amusing themselves with the antics of their grandchildren.

The members of the joint family are well aware of each other's responsibilities and rights. Every family member carries out certain tasks that help the other members and the family as a whole. Every member of the family simultaneously benefits from specific contributions made by other family members. As a result, one simultaneously fulfils obligations and enjoys certain rights. A system of reciprocal rights and obligations keeps family members united as a close-knit community. The term "Karta" refers to the head of the joint family. The family's head seems to have had total authority over the people and assets of the family.

Nonetheless, there is a friendly relationship between the head of the household and the other subordinates. The head of the family has absolute power and serves as the family's trustee. However, because of the effects of, the joint family system has experienced significant upheaval, urbanization, westernization, industrialization, and modernization. The elderly members of the family have been significantly impacted by this. All of the issues they are currently dealing with are a result of the joint family's breakdown.

The elderly living in cities are more likely to be affected by this shift since the infrastructure frequently isn't able to meet their needs. This is because urbanization and industrialization have contributed to these changes in societal patterns. Inadequate housing drives the impoverished to reside in slums that are marked by deplorable physical conditions, low-income levels, a high percentage of rural migrants, high rates of unemployment and underemployment, an increase in criminal activity, alcoholism, mental illness, and other personal and social problems, as well as a complete or partial lack of community and public facilities like drinking water, sanitary conditions, planned streets, drainage systems, and access to reasonably priced

healthcare. A rising percentage of slum dwellers who relocate to metropolitan regions in quest of better prospects are likely to be old. While rural India still supports families in their later years, the effects of globalization have affected many lives, causing some to migrate with their children to cities or overseas.⁵

Role Of Elderly In Indian Society

The old proverb "Matha, Pitha, Guru, Daivam" perfectly captures the revered status that Indian customs and culture bestow upon the elderly. Parents, teachers, and mothers are revered and regarded as being second only to God. Being respectful and giving respect to elders is ingrained in Indian customs and culture. The Rajasthan High Court underlined in **Deepak Sharma v. State of Rajasthan**⁶ the significance of idioms in an Indian's life about the elderly. Wherein the court held that traditional norms and values of Indian society cast a duty upon the son to look after his parents. It was further held that it is not a social obligation but a day-to-day idiom in the life of an Indian and that idioms cannot be ignored. The court added that idioms are ingrained in the blood and veins of Indian progeny by inculcating values in the son from the day he is born. The importance of the aforesaid idiom was reiterated by the Kerala High Court in **Jayasree v. State of Kerala**⁷ and Another wherein the court held that in a country like India where there is a culture to respect mother, father, teacher and God in that order of preference a lot of respect was given earlier to the mother and father. The court lamented the present trend among the younger generation to neglect and avoid their parents and grandparents. The characteristic sociological feature of Indian society and culture down the ages has been the joint family system. The joint family system is a traditional institution in India, defined by Karve as a group of people related by kinship, living together, sharing common property and worship. Henry Maine also defined it as a group of ancestors adopted sons, and relatives connected through marriage. This social institution originated with the settling down of Aryans and was prevalent in ancient societies like Rome, where the eldest male member held authority. Although it has disappeared in other parts of the world, it continues in India despite modernization and urbanization. The joint family system has several merits, primarily acting as a social security net for the elderly, providing food, shelter, protection, and social security from cradle to cremation. It serves as a social insurance company for the aged, ensuring their

⁵ publish your article, <http://www.publishyourarticles.net/knowledge-hub/essay/an-comparative-essay-on-joint-family-vs-nuclear-family-system>

⁶ Deepak Sharma v. State of Rajasthan, (2014) 4 SCC 488

⁷ Jaysree v. State of Kerala, AIR 1976 SC 2351

needs are met. This traditional system is essential in Indian society, particularly for the elderly, as it provides a sense of belonging, care, and support, which is essential for their well-being and dignity. The joint family system is a vital aspect of Indian culture and tradition, and its preservation is crucial for the benefit of the elderly and society as a whole.

The traditional joint family system in India has undergone significant disintegration, paving the way for the rise of nuclear families. Sociologists have identified various factors contributing to this transition, including education, industrialization, urbanization, changes in marriage systems, and legislative measures such as the Child Marriage Restraint Act, the Hindu Marriage Act, and the Kerala Joint Hindu Family System Abolition Act. Additionally, democratic ideals of freedom and independence, particularly for women, decline in religious beliefs, individualism, economic independence and emancipation of women, decline in birth rates, divorce, and parent- youth conflict have also played a role. As a result, nuclear families have become the norm in India, characterized by autonomy and independence from elder control, comprising a husband, wife, and their children. This shift reflects a significant transformation in Indian society and culture, moving away from traditional joint family values. The prevalence of nuclear families has led to a more individualistic and independent way of living, with a focus on personal goals and aspirations. While this change has brought about benefits such as increased freedom and autonomy, it also poses challenges such as decreased social support and increased isolation. Nevertheless, the rise of nuclear families in India marks a significant milestone in the country's social and cultural evolution.

Importantly, the elderly received respect and decency under the joint family arrangement. The joint family structure was a great way for generations to live together and unite, and it provided the elderly with a secure environment with enough protection. Most significantly, the eldest member of the family was typically the respected head of the household. Thus, this social structure ensured that the elderly would always be treated with dignity and respect.

Recent ethnographic research, however, has shown that even the elderly who live with their sons and families are ignored and that the joint family system is a mirage. The Kerala High Court very succinctly expounded the essence of Indian culture vis-a-vis the aged in *Janardhanan and Another v. Maintenance Tribunal Appellate Authority District Collector, Pathanamthitta and Others* as follows,

“Every other culture may respect the old, but the Indian culture venerates them.”

Role Of Elders In Kerala Society

Kerala, since ancient times, was an integral part of the Indian sub-continent sharing a common history and culture and Kerala's history is essentially a reflection of Indian history and culture. Nonetheless, Kerala's culture and social structure have endured over the millennia with certain distinctive features like the Marumakkathayam, polygamy, and joint family systems. The Marumakkathayam system, which is a distinctive delicacy of Kerala, was a distinct social structure and family life system that developed in Kerala. Marumakkathayam is a matrilineal method of inheritance. The mother, her brothers, her younger sisters, and her offspring all lived together as a Tharavadu under this system. Typically, the eldest brother served as the family's head and manager of the estate, known as the "Karanavan." In this technique, ancestry was determined via the mother. As a result, under this social structure, every family member descended from a common female ancestor lived under one roof as a single unit known as "Tharawad," with the senior male. Despite not having any authority over the shared family property, the member-managed the assets as the "Karanavan." This system said that property belonged to the female line of descent and that the "Karanavan" could not alienate the "Tharawad" without the approval of all Tharawad members. The property was joint property and there was no individual ownership. As there were family members of various ages to take care of, living among generations was the largest security and safety net for the elderly in Kerala and provided elder care for the combined family. Furthermore, there was a culture in the family to respect the elderly since the oldest male member was designated as the "Karanavan" due to age. However, the Joint Family System Abolition Act of 1975 officially ended the joint family system in Kerala, opening the door for the expansion of nuclear families. The breakdown of the joint family system led to the collapse of the family, which served as the main caregiver support system.

Rights Of Elderly Persons

The elderly are a vulnerable group that faces various atrocities, despite being entitled to human rights like any other individual. Their rights are often overlooked and ignored, leading to a lack of recognition and understanding. It is essential to acknowledge and address the human rights of senior citizens, including the right to life and dignity, healthcare, social security, freedom from discrimination, participation, and access to justice. Recognizing and respecting these

rights is crucial to ensuring the well-being, dignity, and quality of life of senior citizens. This requires a shift in focus to address the needs and concerns of this neglected population, creating a society that values and supports its elderly members. By doing so, we can promote a more inclusive and compassionate society that honours the contributions and experiences of older adults.⁸

Problems Faced By Elderly Persons

The journey of life is marked by various challenges, and the elderly face a culmination of problems in their later years. While it's difficult to generalize their issues due to diverse backgrounds, there are common problems that many elderly people face. These problems vary across different settings, such as urban vs. rural areas, family structures, economic sectors, and social classes. Additionally, the challenges differ for those who have recently entered old age and those who have crossed their 80s. Despite these variations, there are common issues that many elderly people encounter, including economic, medical, familial, and social problems.

(1) Economic Problems:

Elderly persons in India face significant economic challenges, particularly those in the unorganized sector who have no pension to rely on. Even those in the organized sector face financial difficulties due to reduced income and rising living costs. Many elderly people are forced to work beyond retirement age to survive, and poverty makes it difficult for them to access necessities like food, shelter, and medical care.

(2) Medical Problems:

The elderly face various medical challenges, including geriatric care, which is a neglected area in India. Health insurance coverage is limited, and many physicians lack knowledge of geriatric care. Elderly people suffer from age-related health issues like dementia, psychosis, and physical decline, making them dependent on others for support.

(3) Familial Problems:

Changes in traditional family values and norms have led to a gap between the old and young, causing tension and conflict. Elderly people face abuse, ill-treatment, and neglect from younger family members, and are often made to work hard despite their physical limitations. Quarrels

⁸ Naveena Vargheese, Human Rights Of Elderly Persons, <https://nhrc.nic.in>

with in-laws are also a common problem.

(4) Social Problems:

Old age is no longer revered in today's society, and elderly people face social discrimination, ill-treatment, and abuse. They are often neglected in public places and suffer from a lack of security and meaningful social roles. The fear of death and loss of authority can lead to feelings of worthlessness and even suicidal tendencies. Deficiencies in old age homes and elder care institutions further exacerbate their problems.⁹

Constitutional law

The Constitution of India has several provisions that aim to ensure the well-being of older persons. These provisions include Entry 24 in List III of Schedule VII, which deals with labour welfare, including old age pension. Additionally, Items 9, 20, 23, and 24 in the State List and Concurrent List relate to old age pension, social security, and social insurance, further emphasizing the importance of supporting older adults.

Article- 38. State to secure a social order for the promotion of the welfare of the people

- (1) 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 the institutions of the national life.
- (2) The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities, and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations

Article -41. Right to work, education, and public assistance in certain cases -

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, education, and public assistance in cases of unemployment, old age, sickness, and disablement, and in other cases of undeserved want.

Article - 42. Provision for just and humane conditions of work and maternity relief - The State shall make provision for securing just and human conditions of work and for maternity relief.

⁹ Dr.JP Arya, care and welfare of elderly and parents: Socio Legal Aspects, volume 6, 2020, <https://lawbrigade.com>

Article - 46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes, and other weaker sections - The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Article - 47. Duty of the State to raise the level of nutrition and the standard of Living and improving public health - The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

Under these Articles, the Ministry of Social Justice and Empowerment launched the National Policy for Older People, in 1999 to help senior citizens with health care, tax exemption, pension schemes, land grants, setting welfare funds, counselling facilities, etc. Various steps taken under this policy can be summarized as follows:

- ‘Annapurna Scheme’ was launched for those elderly who were unable to take care of themselves. As per this scheme, the destitute elderly will be given ten kilograms of free rice or wheat through the public distribution system.
- Establishing a ‘pension fund’ for those who were serving the unorganized sector.
- Setting up of re-employment centres for people above the age of sixty years.
- Providing air and rail tickets at concessional rates for senior citizens.
- Sections 88 B, 88 D, and 88 DB of the Income Tax Act 1961 provide exemption in tax rates for senior citizens.
- To provide benefits to Elderly citizens, Life Insurance Corporation has come up with various schemes such as Medical Insurance Yojna, Jeevan Akshay Yojna, Jeevan Dhara Yojna, Senior Citizen Unit Yojna, etc. Some other schemes protecting the rights of senior citizens launched were, Scheme of Integrated Programme for Older Persons (IPOP), the Indira Gandhi National Old Age Pension Scheme(IGNOAPS), and the National Programme for the Health Care for the Elderly (NPHCE)¹⁰.

¹⁰ Dr. J.N Pandey, Constitutional Law Of India,57th edition, Central Law Agency, 2020

Conclusion

As we navigate the complexities of ageing in India, it's essential to recognize the valuable contributions of elderly people, address the challenges they face, and uphold their constitutional rights. The elderly have played a vital role in shaping our society, contributing to our cultural heritage, and guiding future generations. Despite their significant contributions, they often face numerous challenges, including social isolation, health issues, and financial insecurity.

To ensure that their golden years are truly filled with dignity, respect, and purpose, it's crucial to implement policies and programs that cater to their needs. This includes providing access to healthcare, social support, and financial security. Additionally, we must work towards creating a society that values and respects its elderly population, recognizing their wisdom, experience, and contributions. By upholding their constitutional rights, we can empower elderly people to live with dignity and purpose. The Indian Constitution provides various provisions to protect the rights of elderly people, including the right to life, equality, and social justice. It's essential to raise awareness about these rights and ensure that they are implemented effectively.

