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ABUSE OF SENIOR CITIZEN IN INDIA

A SOCIO LEGAL CONCERN

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Abstract

Elder abuse is now widely acknowledged to be a widespread and worsening issue that urgently calls for the attention of social welfare organizations, health care systems, lawmakers, and the general public. With a focus on prevention, we present an overview of global issues pertaining to elder abuse in this article. Elder abuse includes social, financial, psychological, and physical abuse as well as the violation of an individual's rights. In this article we have discussed the laws and policy which prevents the rights of elders. Here, we've given a general summary of the elder abuse problem worldwide with a prevention-focused approach. Awareness of elder abuse by professionals working in home care is essential, because the failure to detect abuse can interfere with intervention and in some case lead to death. Abuse can take many different forms, such as separation from friends and social events, humiliation, routine victimization, scapegoating, and more. Many people believe that elder abuse happens in nursing homes or skilled nursing facilities. While some abuse does exist in these facilities, the majority of elder abuse, neglect and exploitation, occurs in the home itself. the victims are the one that are tortured by their love ones.

Key Terms- Elder abuse, Verbal abuse, depression, self-neglect, physical mistreatment

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What Turns A Perfectly Normal And Healthy Relationship

Into An Abusive One In Later Years?

'Elder Abuse' is an issue one often refrains from talking about or acknowledging that it exists. Over the past few years HelpAge India has been conducting detailed surveys to understand this growing crime against India's elders, by getting the elder perspective, their understanding and experiences. The survey hopes to ascertain what the youth think of Elder Abuse – does it at all happen, what makes it happen, who or what causes it and what can any of us do to help/prevent abuse. Nationally, 73% of the youth admit that Elder Abuse exists.

83% perceive that identifying Elder Abuse in the neighborhood is not difficult. The youth experience of coming across 'instances of Elder Abuse' is as high as 32.5% among relatives, followed by 21% friends and 20% neighbors. The Youth perception and elder reality is very different when it comes to who the abuser is. While 24% of the Youth perceive the Son as an abuser, the Elder experience blames the son in 59% of cases.

The daughter-in-law remains the primary abuser be it Youth Perception or Elder Reality. The youth feel that the topmost form of abuse they have come across in their experience is 'Using Abusive Language and talking rudely to an elder' followed by 43.1%, who feel it is giving the elder 'the silent treatment, isolation and emotional abuse. Delhi alone beats the national average in 'Using Abusive Language and talking rudely to an elder' with 77% Youth stating it to be the most common form of abuse they have come across. While financial reasons are the most perceived factor causing Elder Abuse, the youth are stressing only behavioral solutions for families to prevent abuse, with the top measure being 'Family spending adequate time with the elders' followed by 'Elders opinions given due importance'.

Most of the abusers were rated by respondents as of sound mind as well as sound health, so clearly Elder Abuse was intentional and voluntary. Youth advocate living in large joint families as a measure to prevent Elder Abuse, in today's social scenario of a rising graph of nuclear families. Nationally, nearly 60% Youth are willing to take direct action if they come across a case of abuse by talking to the abuser asking them to change their behavioral pattern

and talking to the abused, asking them to fight back.

Parents and Senior Citizens Act - is a bill that makes it a legal obligation for children and

legal guardians to provide maintenance to older adults. Senior citizens can apply for a monthly allowance from their children, in case they are not able to support themselves. The punishment could be paying a fine of Rs.5000 or three months in prison or both.

Parents and Senior Citizens Amendment) Bill 2019 which aims to provide for the maintenance and welfare of parents and senior citizens for ensuring their basic needs, safety and security, establishment, management, and regulation of institutions and services, and rights guaranteed under the Constitution.

Are Current Laws Sufficient?

If we talk about the punishment in regards to the violation of these laws then it is quite clear. The lawmakers need to understand that this problem is not confined to lower income families, who will stop abusing their parents after being charged an amount of Rs. This problem is prevalent in upper class families also for whom the payment of such fines is just a cakewalk. The provisions of the bill of 2019 were quite good and appreciable but the problem remains the same, which is regarding the punishment of such an act and also the bill is only being approved by the cabinet and is yet to be passed in the parliament. It is not that no bills have been passed by the parliament or the government during the pandemic, it is just the matter of priority. It is very much clear that elder abuse is not considered a very big issue in our country, neither by the government nor by the citizens, because if it would have been given importance then the bill could have been passed by the parliament but it has been more than a year the bill is yet to be passed in parliament.

The abuse can be of the following categories: This includes humiliation, habitual blaming, scapegoating, ignoring the elderly person, isolating an elder from friends and get together activities. This can include misuse of an elder person's bank details and monetary resources, stealing of cash, checks on the incomes, forging the signature of elders and engaging in identity theft. Such aspects can involve physical sexual acts along with activities such as showing an elderly person pornographic material, forcing the person to watch sexual acts, or forcing the elders to undress. These include acts such as improper healthcare services being provided, overcharging for medical care or services, overmedicating or under medicating, recommending unnecessary and fraudulent treatments for their illness, and other allied abuse.

issues Facing Senior Citizens

People in their later years of life require mental, physical, and social support. Older people are the most vulnerable at this time of life because they are disregarded and forgotten, and hence feel entirely rejected. When elderly persons are unable to care for themselves, they confront a variety of problems.

a) **Financial Issues:** The elderly does not have sufficient means of subsistence. Senior adult ladies are more economically reliant. Financial crises often make it difficult for senior persons to provide for their basic needs, forcing them to endure the process of downsizing.

b) **Health Concerns:** The majority of health problems that affect the elderly are caused by their age. They are frequently neglected and overlooked. They also deal with a variety of social and psychological challenges that have a negative influence on their health.

d) **Family Problems:** In most families, the generation difference leads to competing viewpoints. The younger generation is unable to comprehend the demands and desires of the elderly.

d) **Legal Concerns:** Many senior individuals are uninformed of their legal rights and the procedures for seeking redress. Furthermore, they are unaware of the policies and programmed implemented by the federal and state governments. They are unable to manage the legal challenges they are involved in and fight against injustice due to a lack of physical and financial assistance.

The Indian Constitution Provides Legal Protection Against Elder Abuse

After learning about the notion of elder abuse, its several types, and the problems that seniors confront, it's time to learn about the legal structure in place for them. There are only a few constitutional safeguards and legislation in place to protect seniors' rights and prevent their abuse. The Directive Principles of State Policy (DPSP), which is found in Part IV of the Constitution, is one such framework that tries to defend the interests of the elderly. Furthermore, the judiciary interprets the rights of the aged as a component of Article 21¹ of the Constitution, despite the fact that they are not officially listed as a Fundamental Right.

The following are examples of provisions that protect the elderly:

¹ Indian constitution

a) DPSP [6] provision:

Article 38(1)²: "The State should try to promote the welfare of the people by guaranteeing and safeguarding as efficiently as it may a social order in which justice, social, economic, and political, shall influence all institutions of national life," according to Article 38(1). It also states that the state should make every effort to reduce inequities in status, facilities, and opportunities.

Article 39(e)³: Article 39(e) mandates the state to ensure that –"the health and strength of workers, men and women, and children of delicate age are not exploited, and that people are not coerced to adopt avocations inappropriate to their area of strength by economic necessity." To fulfill these objectives, the state gives former employees pensions as a monetary reward.

Article 41⁴: "Within the limits of its economic capacity and development, the State shall make effective provisions 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," according to Article 41.

B) Laws and policies that protect the rights of the elderly

- **The Hindu Adoption and Maintenance Act** of 1956 is a law that governs the adoption and maintenance of Hindu children. The statute establishes a legal right for older persons to seek maintenance from their offspring. It goes on to say that it is a person's obligation to care for their elderly parents if they are unable to care for themselves. [8] It is vital to clarify that the mentioned 1956 rule exclusively applies to Hindus. Muslim, Christian, and even Parsi laws all have similar provisions
- **The 1973 Code of Criminal Procedure states:** The Criminal Procedure Code is a secular law that applies to all citizens of the United States. Maintenance to parents and wives is allowed by Section 125⁵, which indirectly covers the interim.

² Indian constitution

³ Indian constitution

⁴ Indian constitution

⁵ Criminal procedure code

- **The Parents' Maintenance and Welfare Act of 2007:** There was no particular or distinct legislation addressing the difficulties encountered by elderly until 2007. The Maintenance and Welfare of Parents and Senior Individuals Act of 2007 aims to make it a legal requirement for children and heirs to provide adequate care for senior citizens, and it recommends that state governments create old age facilities in each district.
- **National Policy for Older People:** The Ministry of Social Justice and Empowerment created the Policy in 1999 in order to better the lives of the society's senior citizens. This program was formed in accordance with Article 41 of the Constitution, which requires the state to care for the elderly. The National Policy aims to reassure older people that their problems are shared by the entire country, and that they will not be left alone, disregarded, or alienated. The National Policy's purpose is to improve the well-being of older people. Its goal is to assist people reclaim their rightful place in society and live out the rest of their lives with meaning, dignity, and tranquility. According to the policy, the State
- **National Old Age Pension Scheme of Indira Gandhi:** In 2007, India's Ministry of Rural Development launched the Indira Gandhi National Old Age Pension Scheme (IGNOAPS) as part of the National Social Assistance Programme (NSAP). This plan offered government help by paying a monthly stipend of Rs. 200 to those over the age of 60 and Rs. 500 to people over the age of 80 who lived in poverty-stricken homes. The state government is also obligated to offer older persons benefits. As a result, the Maharashtra State Government, through the Shraavanbal Seva Rajya Nivruttivetan Yojana, gives Rs. 400 to qualified individuals.
- **Health Care for the Elderly: A National Program:** The National Programme for the Health Care of the Elderly is a statement of the government's international and national commitments as outlined in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the Government of India's National Policy on Older Persons (NPOP) adopted in 1999, and Section 20⁶ of "The Maintenance and Welfare of Parents Act, 2007," which deals with medical care for Senior Citizens. The program's major goal is to offer older people with preventative, curative, and rehabilitative treatments at all levels of the country's health-care delivery system.
- **A Central Sector Scheme to Improve Senior Citizens' Quality of Life:** The Scheme's main goal is to improve the quality of life for Senior Citizens by providing basic necessities such as shelter, food, medical care, and recreational opportunities, as well as encouraging productive

⁶ National Programme for Organic Production

and active aging by providing support for capacity building of State/Union Territory governments, non-governmental organizations (NGOs), Panchayati Raj Institutions (PRIs), local bodies, and the general public. This programme was updated in 2018 to better the lives of older persons. This strategy was established to carry out a variety of programmes to guarantee that older citizens receive fundamental requirements, such as good health care.

Support By India's Judiciary In The Fight Against Elder Abuse

- **Surendra Narasgopnda Patil vs. Santosh Surendra Patil⁷**

In this case, the Court determined that it is the legal obligation of the parents to care for their children. The State Government was also ordered by the Court to serve as guardians for Senior Citizens and elderly infirm parents.

- **Sunny Paul and Others against. Delhi State NCT and Others⁸.**

The Delhi High Court has declared that children who assault their parents while living with them in their home can be removed. "As long as the parents have legal control of the property, they can evict their aggressive adult children," the court stated. The Delhi government was also ordered to amend rule 22 of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 and formulate an action plan to protect senior citizens' lives and property, as the Delhi government's rules, 2009 allowed a senior citizen to complain to district authorities to evict abusive children only from a self-acquired property, despite the fact that the Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 allowed a senior citizen to complain to district authorities to evict

- **Kirtikant D. Vadodaria vs. State of Gujarat⁹**

The Supreme Court ruled that under the Hindu Adoption and Support Act, 1956, aged and infirm parents have the same right to maintenance from their daughter as they have from a son.

⁷ 23 June, 2017

⁸ 3 October, 2018

⁹ 26 April, 1996

- **KashiRao Rajaram Sawai and Others vs. Vijaya Manohar Arbat¹⁰ .**

The Supreme Court correctly remarked that a self-sufficient married daughter is obligated to support a father or mother who does not have a son. In addition, the stepmother has the same right to maintenance as the father.

- Senior Citizen Advocates Service of **Jharkhand State of Jharkhand vs. Sansthan and Others¹¹** The High Court of Jharkhand ordered the state to establish Old Age Homes in each district of the state with immediate effect, as well as distinct lines at hospitals and other measures to make medical care more convenient for the elder

- **In the case of Dattatray Shivaji Mane v. Lilabai Shivaji Mane¹²**, Bombay High Court while highlighting the object of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Senior Citizen Act) held that the Act permits a senior citizen including a parent who is unable to maintain himself from his earning or out of the property owned by him and if such senior citizen is unable to lead a normal life to apply for such relief i.e. eviction under Section 4 of the Act not only against his children but also the grandchildren.

- **In the case of Senior Citizen Welfare Organization vs. The Uttarakhand High Court of Uttarakhand¹³**, while recognizing the failure of the State to maintain adequate old age homes for the senior citizens in the State has issued a slew of mandatory directions. And held Every Senior Citizen has the Right to Live with Dignity.

¹⁰ 1987 AIR 1100, 1987 SCR (2) 331

¹¹ 1 August, 2016

¹² 26 June, 2018

¹³ 12 June, 2018

Conclusion

Some of the changes are necessarily needed in the society which include increasing the awareness among elderly people regarding their rights and what relief they can get under different laws.

Elder abuse generally means either an act of commission or of omission which may be either intentional or unintentional. Abuse of elders generally results in unnecessary sufferings, injury, pain, loss or violation of human rights and a decrease in the quality of life for the elders.

Older citizens have the most life experience and should be accorded a better social standing. Given the state of our society's senior citizens, there is a pressing need to provide comprehensive services to them that would enable them to live a decent life. Many non-governmental organizations (NGOs) and institutions are trying to improve the lives of elderly residents and raise awareness about elder abuse. It is critical to remember that when elderly people become infirm, it is the obligation of all family members and our society to provide sufficient care and assistance so that they can live a normal life. The family's younger generation must understand and appreciate the sacrifices made. Their elders shaped them into the people they are today. As a result, as the elder members grow frail, the younger members must take care of all of their needs and desires. Even though there are many laws and procedures in place to safeguard senior people's rights and prevent abuse, the older population's current situation is not ideal. The government has also been working hard to ease financial insecurity among elderly folks by enacting different monetary policies that make it easier for them to live a normal life. It is critical to recognize that it is every member of society's moral and social responsibility to avoid elder abuse and to assist those who are abused. Every element of their lives revolves around them. It is past time for us to turn back and follow old standards and ethical behaviors, as traditional traditions are vanishing as a result of the changing contemporary and fast-paced existence, undermining humanity's basic foundation. As a result, we must safeguard the rights of the elderly and assist them in leading dignified lives.