Violence Against the Elderly and the Senior Citizens Act, 2007

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The ‘cause of the elderly’ merited a national event and various state events to attract attention to the special needs of our elders. India has the second largest elderly persons, but we as a society find no time for them. Research says number one priority of senior citizens is physical security, of body and possessions. We even let the ‘World Elder Awareness Day’ just slip by (Kiran Bedi, 2009).

India is growing old. The stark reality of the ageing scenario in India is that there are 71m Older persons in India and the number is expected to rise to 173 m by 2026 and 326m by 2050 (2001 Census report). As the 21st century arrives the growing security of the older persons in India is visible. With the elders living more due to life expectancy on the rise, from the present 65yrs to 71yrs by 2026 (2001 census report), the households are getting smaller and congested where they are co-residing. Marginalization, isolation and insecurity are felt among older persons due to generation gap and change in life style is causing immense stress. Not only this, there is now a growing realization among the older persons that they are more often being perceived by their children as a burden (Bambawale, 1997). This creates a breeding ground for the elderly being subjected to violence and abuse.

Elder abuse and mistreatment of older people through a manifestation of timeless phenomenon of interpersonal violence is now achieving due recognition in developing countries like India. Though there is no systematic collection of statistics but crime records, journalistic reports and gerontological research has gained public attention only recently. Till the last quarter of the 20th century this sensitive issue had remained only a clandestine matter.

Research has shown that elderly are a victim of violence in India both in the rural and urban areas (Rao, 2005). Keeping in mind the present scenario,

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the present paper is aimed to discuss the various types of violence the elderly are being subjected to and the preventive measures sought after by the Govt. of India (G.O.I.), with special reference to the Senior Citizens Act, 2007. The paper is being discussed in four sections which are as follows:

Section I – Pertains to the types of violence the elderly are being subjected to with reference to a study conducted by the National Institute of Social Defence and HelpAge, India.

Section II – Highlights the various preventive measures and schemes undertaken by the G.O.I. for their upliftment.

Section III – An attempt has been made to highlight the major provisions of the Senior Citizens Act, 2007 and its key issues and analysis.

Section IV – Deals with the suggestions and concluding remarks.

METHODOLOGY

SECTION – I

Study Conducted By the National Institute of Social Defence

This study was conducted in all four regions of India. It indicated that a feeling of loneliness was the most common social problem found among elderly from all the regions. Unemployment, unfulfillment of basic needs and no source of income were other problems found to be universally prevalent among the older persons in all the four regions. Lack of adjustment, no source of income, non-fulfillment of basic needs, alcoholism/drug addiction and chronic illness were the major problems reported in the Kolkata household survey. However, the problem of abuse in Imphal regions were found to be significantly higher. Orthopedic and ophthalmic problems were very high in the elderly from northern and southern regions of the nation (NICE, 2008).

Older Persons Property Victimisation Survey

Research carried out by Helpage, an NGO, working for the elderly, revealed that there are number of complaints of older parents being physically abused within the family. The survey covered 2,000 respondents aged between 65 and 91, living in 50 colonies across Delhi. Only 402 seniors agreed to speak on record. The rest were fearful of lodging complaints because they were afraid their children might take revenge on them. “Physical frailty and emotional dependence on the abuser” were cited as the most common reasons for not going to the police. The survey pointed out that there is a huge pressure on them to part with possessions/property. If they refused they were subjected to physical injury, verbal abuse and, in extreme cases, food was denied to them. They were kept in forced isolation. Besides often being victims of crime (Sehgal, 2008).
Types of Elder Abuse

The following are some of the types of abuse, which elderly are subjected to, found in research studies conducted on elder abuse in overseas and in India.

**US Select Committee on Ageing – 1981**

- **Physical abuse**: Violent acts that result in bodily harm or mental distress, e.g., assault and unjustified denial of elder’s rights, sexual abuse, restrictions on freedom of movement and murder.
- **Psychological abuse**: Provoking of the fear of violence, or isolation, name-calling, verbal assault or threats of placement in nursing home.
- **Violation of rights**: The breach of rights that are guaranteed to all citizens by the Constitution.
- **Negligence**: The breach of duty or carelessness that results in injury or the violation of rights.
- **Financial exploitation**: Theft or conversion of money or objects of value belonging to an elderly person by a relative or caretaker accompanied by force or misrepresentation.
- **Self-neglect**: Self-inflicted physical harm and the failure to take care of one’s personal needs.

**Srinivas (1996):**

- **Physical abuse**: At least one act of physical violence e.g., injuries, sprains, malnutrition, no care or treatment in ailment, etc., perpetrated against the elder since the respondent turned 60 years of age.
- **Verbal abuse**: Insulted, sworn at or threatened at least 10 or more times in the preceding year.
- **Material abuse**: Theft or misuse of money or exploitation of financial resources of the elderly by any of his/her family members at least once the respondent had turned 60 years
- **Neglect**: The deprivation occurred 2 or more times in the preceding year, of some assistance that the elderly needed for important activities of daily living.

Though nationwide and cross regional estimates of elderly being violated are not much available so far, however a study conducted in three villages in Andhra Pradesh revealed that 40 out of 1000 elderly have experienced physical and verbal violence (Rao, 1995). Srinivas & Vijayalaxmi (2001), in their study on a sample of 140 elderly found that 81 % were subjected to verbal violence, 37% to material violence, 53% to neglect and 23% to physical violence. The study found that the most likely victims of violence were the widowed women, elderly with poor economic background and dependents.
Violence and Conflict Resolution

As of violence in the institutional settings in India, the only study which is qualitative in nature found that total 10 inmates of an Old Age Home in Chandigarh, five cases of economic dependency led to harassment and maltreatment and subsequently were forced to seek institutional care (Madhurima, 1989). According to National Sample Survey Organization Report (NSSO, 52nd round, 1996), the incidence of violence and abuse among rural elderly females in Andhra Pradesh, Assam, Bihar, Tamil Nadu and West Bengal were reported more than 10% of the elderly who had problems in adequately meeting at least one basic need in comparison to Punjab, where it was only 3 percent.

SECTION – II

Preventive Measures and Schemes Undertaken by the Govt. of India

This section highlights the preventive measure taken by the Govt. of India to reduce this menace. The measures taken are as follows:

1. Article 41 of the Indian constitution directs, “the state shall within the limits of its economic capacity, develop and make effective provision for securing the right to work, to education and to public assistance in case of the unemployed, old age, sickness and disablement and in case of underserved want.

2. Legislative Provisions such as section 125 of Criminal Procedure Code (Cr PC) and the Hindu Adoption and Maintenance Act, 1956 require the maintenance of older parents without any means to be supported by their children having sufficient means.

3. National Policy for the Older People (NPOP, 1999). The National policy seeks to assure the senior citizen that they will not live unprotected, ignored and marginalized. It contains such welfare measures as financial security, health care, shelter, welfare, protection against abuse and exploitation, opportunities for productive empowerment. Its major provisions being:
   (a) To promote health and welfare of senior citizens (i.e., 60yrs of age and above) in India.
   (b) To make provisions for their own and spouses old age.
   (c) To provide protection against abuse and exploitation and also provides services which can improve their quality of life and make them independent.

4. Integrated Programme for Older Persons – It is a scheme that provides financial assistance upto 90% of the project cost to NGO’s (as on the 31st March, 2007) used to establish and maintain old age homes, day care centers, medicare units, etc. (NPOP, 1999)
5. *Other Programmes* of the G.O.I include:

- Schemes for assistance to the Panchayati Raj Institutions, Voluntary Organizations, SHGS, and N.G.Os.
- National Mental Health Programme – focuses on needs of senior citizens who are affected with diseases like Parkinson’s disease, Alzheimer’s disease, etc.
- To name a few more are Annapurna, National Old Age pension scheme, rebate on Income Tax, education, air fare, railway, etc.
- National Housing Bank - a reverse mortgage scheme in which a Senior Citizen who owns a house can avail of a monthly stream of income against mortgage of the house.
- The Development, Welfare and Research Foundation (DWARF) has been successfully working on bringing awareness on the ‘Role of Assistive Technologies in the prevention of Crimes against the Elderly’.
- In India help lines for older people have been set up in a number of towns like Chennai, Delhi, Hyderabad, Kolkata, Mumbai with the assistance of the N.G.Os and Help Age India.
- Indira Gandhi National Old Age Pension Scheme (19th Nov, 2007) – Proposed to include all persons over 65 years. Falling under the B.P.L. Category. The coverage expanded from 87 lakh to 157 lakh beneficiaries. The Govt. proposed to allocate Rs. 3,443 cr in 2008-09 against 2,392 cr in 2007-08.

Programmes at the State Level (A Few Recent Ones)

- The Age Well Foundation, Mumbai established an employment exchange five years ago which has over 33,000 registered silvers from across India and has placed about 3,500 seniors in small and medium enterprises as finance and administrative personnel.
- The Second Career Centre of Age Well Foundation in Hyderabad used a novel approach. It made a presentation to the managing committee of Andhra Pradesh chamber of commerce in an effort to reach out to 500 companies. Through the centre, 12 out of 200 registered Senior Citizens have got placements as accounts and administrative personnel (e.g., a 67yrs old banker was re-employed).

**SECTION – III**

*The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*

A draft bill in the Parliament initiated by the Ministry of Social Justice and Empowerment attempts to mandate the care of elderly citizen’s in law and envisions the establishment of tribunals to ensure functioning which was formally
passed by the G.O.I on the 5\textsuperscript{th} of December, 2007 (but leaves many questions unanswered).

**Highlights of the Act**

- The Act seeks to make it a legal obligation for children and heirs to provide for compulsory maintenance (i.e., food, clothing, housing, medical treatment) protection, welfare of senior citizens so as to secure a life of dignity, peace and welfare measures to be undertaken by the state.
- Senior citizens who are unable to maintain themselves shall have the right to apply to a maintenance tribunal (to decide the level of maintenance) seeking a monthly allowance from their children/heirs (max monthly allowance of Rs. 10,000/- month).
- Punishment for not paying the required monthly allowance shall be Rs. 5000 or up to 3 months imprisonment or both or could be disinherited from the property bequeathed to them.
- In cases in which more than one relative will inherit the property of a senior citizen each relative will be responsible to pay the maintenance fee in proportion to the property they will inherit.

**Key Issues and Analysis - Pitfalls**

- 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.
- The Act does not address the needs of the senior citizens who do not have children or property.
- Only parents may appeal (biological, adoptive and step) against the decision of maintenance tribunal. Neither childless Senior Citizens nor children can do so.
- State governments may establish Old Age Homes and prescribe standards for services provided by them. The Act however does not require them to do so, nor is it mandatory for the states to set up Old Age Homes.
- Relatives are obliged to provide maintenance to childless senior citizens. (Relative is someone in possession of or would inherit a senior citizen’s property). As wills are changeable, it is unclear how one would determine who would inherit the property after death.

**Other Provisions**

- The state govt. may establish and maintain at least one Old Age Home in a district with a minimum capacity of 150 senior citizens.
- The state govt. shall ensure that govt. hospitals and those funded by the govt. provide beds for all senior citizens as far as possible. Every district hospital shall also earmark facilities for geriatric patients.
• The state govt. is responsible for publicizing the provisions, as well as ensuring that govt. officers undergo periodic sensitizations and awareness training or issues relating to the Act. (District Magistrate would be responsible for implementing the provisions).

Even though the provisions of the Senior Citizens Act, 2007 has not yet been implemented in more than half of the states in India but it is heartening to know that Punjab has become the fifth state in the country after Tripura, Maharashtra, Goa and Himachal Pradesh to enforce this Act. But as in the case of every law, much will depend on how sincerely and seriously it is implemented. The state should strive to inculcate right impressions in the minds of children right from school so that they can treat their parents as an asset and not a burden. (Chandigarh Tribune – 24th Jan, 2009).

SECTION – IV

Nothing is complete without valuable suggestions, thus, some priceless suggestions are being highlighted, as below:

1. Sensitization of younger persons through creative use of media e.g., to commemorate the World Elder Abuse Day 2008, Senior Citizens Bureau launched a book titled “Bridging the gap” which is likely to be an eye opener to the younger generation.

2. Utilization of the productive potential and experience of the elderly in various education institutions, administrative jobs (as done in Hyderabad & Mumbai).

3. Counseling of older people to aid them to adjust to the needs and changed circumstances of the younger generation bridging generation gap.

4. More active involvement and participation of primary health care workers.

5. There should be strict vigil on the embezzlement of funds allocated for the welfare of the elderly.

6. Opening of more employment exchanges and construction of more Old Age Homes – as according to the data available in 2005 there are hardly 1081 Old Age Homes in India with Kerala topping the list having 186 homes (Govt. of Kerala, 2005).

The Erosion of moral values and the fabric of society have relegated religion and relationships into the background. The State Govts., Central Govts. and NGOs are duty bound to see that the law (such as the Senior Citizens Bill. 2007) is implemented in letter and spirit and that the elderly are not left in the lurch. As its said, ‘friends are an aid to the young to guard them from error; to the elderly, to attend to their wants and to supplement their falling power of action, to those in the prime of life, to assist them to noble deeds.’
REFERENCES


Census of India, (2001). Govt. of India.


