

## *Editorial*

### **Laws Related to the Geriatric Age Group**

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In India, the problems of the elderly citizens were not serious in the past. This was because the numbers were very small and most of the elderly people were provided with social protection by their family members due to our culture. A senior citizen is the one, who is 60 years or above by age or all parents having children above 18 years of age. But with the recent socio-economic changes, ageing of the population is becoming a problem. This requires consideration before it becomes critical.

Nowadays, the majority of elderly citizens need social, economic and health support. With increasing age, getting old is a natural process and is a part of life. It makes our body more weak and vulnerable to disease. It makes the person dependable on others. Dignity of senior citizens should be withheld and it seems a great challenge to Government.

There is increasing population of the elderly persons over the years. In accordance with the UNESCO estimates, there were 599 million number of the aged (60+) in 2005. The figure may be double by 2025. It is predicted that the world may have more senior citizens than young people by 2025 and the number may even cross the two billion mark by 2050. In India, the population of elderly people was 2 crores in 1951, which was increased to 7.2 crores in 2001 i.e. about 8% of the total population was above 60 years. By 2025, the figure may exceed more than the 8% mark.

They are very experienced & proficient people, but old age makes them less efficient and sometimes non-functional, too. Hence, proper laws need to be enacted for them, so that they can live, the last phase of their life with peace, respect & dignity. The government has launched many schemes and policies for elderly persons to promote the health, well-being and independence of elderly citizens around the country.

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Various provisions are as follows:

1. Relevant Constitutional Provisions.
2. Legislations.
3. Various policies and programmes of Central Government for Elderly People
4. Some other important activities
5. Specific Measures / Schemes implemented by Punjab Government

### **Rights of the Elderly in India:**

Various rights given to the senior citizens of our country are as follows:

#### **I. Constitutional protection:**

Requirements are stated in the Constitution of India regarding senior citizens in the nation. Directive principles of state policy states about these provisions. Article 41 and Article 46 are the constitutional provisions for senior citizens. Though directive principles are not enforceable under the law, but it creates a positive obligation towards the state while making any law. For making any law, directive principles mentioned for the elderly people should be given due consideration.

#### **Article 41 of the Indian constitution:**

Article 41 of Directive Principles of State Policy is relevant to Old Age Social Security. According to Article 41 of the constitution of India, “the state shall make effective provision within the limits of its economic capacity and development, 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.”

Every citizen has the right to work till certain age of his very own life. They cannot be asked to retire from doing their work whether in the private or the public sector.

The Forty-first amendment in constitution of India provides for the increased age for retirement of a chairman and its members under public service commissions from 60 years to 62 years. This was done by amending Article 316(2) of the

Constitution which provides for the appointment and term of office of members. But, further extension may not be possible as it may not allow the young ones to showcase their work and talent due to lack of opportunities.

#### **Article 47 of the Indian Constitution:**

Article 47 of the constitution of India provides that the state owes its primary duty in regard to the raising of the level of nutrition and the standard of living of its people and improvement of public health.

#### **II. Legal protections:**

Looking after & providing for their “basic needs & demands” in life, is not only a legal responsibility but also a moral commitment. Personal laws in every religion have been enacted for the children to take care of their parents.

#### **Hindu Laws:**

Under the Hindu Personal Law, every Hindu has a commitment to take care of their venerable parents, who are not able to look after themselves. It is a legal bond/duty of the son to provide basic amenities to their senile parents, It is the responsibility of the daughter to support her parents who are not able to sustain a living, out their own or maintain & preserve their property. This is the first act related to the personal law which urges an obligation on children to look after their parents.

#### **THE HINDU ADOPTION AND MAINTENANCE ACT, 1956,**

It is an obligatory duty to maintain an aged parent under section 20 of this act.

#### **Maintenance of children and aged parents —**

(1) According to these provisions of this section 20, during his or her lifetime, a Hindu is bound to maintain his or her legitimate or illegitimate children and his or her aged or infirm parents.

(2) A legitimate or illegitimate child, till he/she is minor, may claim maintenance from his or her father or mother.

(3) The obligation of a Hindu person is to maintain his or her aged or infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of his or her own earnings or other property. In this section, a childless step-mother is included as “parent”.

Hence, every elderly Hindu parent has a right to be maintained by his or her son or daughter provided that they are unable to maintain themselves, out of their own earning or property.

#### **Muslim Law:**

Muslim law makes it compulsory for a man to produce and yield his father, mother, grandfather and grandmother.

According to Tyabji, both the son and daughter have obligatory duty to provide maintenance to their aged parent. Maintenance shall be due to a relationship within a prohibited degree of relationship.

According to Mulla, the children are pledged to allocate & distribute basic needs to their parents who are unable to make a living themselves.

Under the Shia law, parents, and grandparents shall be supplied & furnished equally and are supposed to be extended an equal proportion of care, affection & attention.

#### **Christian and Parsi Law:**

There is no such personal law bestowed upon Christians and Parsis, to make obligation to supply basic necessities to their parents. But, if parents desire or covet to seek aid & assistance from their children, they can apply through the Criminal Procedure Code.

#### **Under Section 125 of Criminal Procedure Code, the elder parents can claim maintenance from their children.**

Criminal Procedure Code, being a secular law which is pertinent & significant with no boundaries. This does not impart justice to a specific strata of

the society and is relevant to every individual of the nation. To seek redressal under this law, it is essential to prove that, grey-haired & old parents are being abandoned & forsaken and do not have the effective means of revenue to care & look after themselves.

Section 125 of the Criminal Procedure Code makes it a compulsion for children (including a married daughter), to look after his/her guardian.

#### **The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007:**

This bill made an attempt to legalize to provide for their parents & senior citizens in the family by their children & heirs. The bill states “children” as sons, daughters, grand-sons and grand-daughters. “Parents” term included the biological, adoptive or step-parents.

This bill also allows State Governments to build recreational homes for the aged, with a minimum capacity of 150 elders for the forsaken senior in every district. The State Government may also build a maintenance tribunal in every district under which every senior citizen can claim their right of maintenance, seeking monthly allowance from their young juniors or heirs. The appellate tribunal may also be set up in every district.

#### **The bill issues Rs10,000/- which shall not exceed as a monthly allowance to the elderlies from their successors and if they fail to pay the allowance, they are liable for 3 months of imprisonment or Rs5000/- or both.**

The bill allocates to maintain elder/aged parents upon:

- i. **Children.**
- ii. **Heirs.**
- iii. **Children residing abroad.**

#### **III. Conclusion:**

These law, focuses on imparting justice & providing welfare and reliability of the senile of the nation. They should be economically sound enough to live with grandeur. Children tend to abandon

their parents when they turn old & move towards a very crucial phase in their life, it is that phase of their life where they need all the love, affection & attention with basic needs of their life being met. Many cases have been noticed where the parents are abandoned & forsaken in the old age homes by their heir. Keeping record of all such cases, the Government of India for the welfare of the senior citizens implicated these provisions. Implication of these laws made it necessary for the children to look after their guardians. Both sons and daughters are under this bond & law. Earlier, it was not a legal commitment but a moral responsibility.

But due to increasing modern & western trends in the country, **“The Parents and Senior Citizens Bill”** was drafted in the parliament to ensure basic rights of the aged by their heirs. Penalty & Disciplinary measures are stated under the same bill, failing to abide by the norms & provisions of the bill. **Still, we being in the ‘21<sup>st</sup> century-the so called modern age’ there stands no solid laws for the betterment & welfare of the senior citizen, under which their rights cannot be curtailed,** it is essential for The Government of India to enact & implement amendments & legislations for the betterment & all round welfare & development of the senior citizens of our country.

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