

**DE JURE NEXUS LAW JOURNAL**

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**SENSE OF SECURITY AND HUMAN RIGHTS OF OLDER PERSON**

*Nurturing is not complex. It is merely being tuned in to the thing or person before you and offering small gestures toward what it needs at that time.*

- Mary Anne Radmacher

**Introduction**

According to Article 25 of the Universal Declaration of Human Rights: “Everyone has the **right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age** or other lack of livelihood in circumstances beyond his control.”

Ageing is an inevitable part of one’s life cycle. It is a process every individual goes through in their life and every phase of life brings with it its own problems and challenges. According to the 2011 Population Census there are nearly 103 million senior citizens (above the age of 60) in India. This number is expected to increase three times to over 319 million by 2050.

This article highlights the challenges faced by senior citizens and the various laws and policies for the protection of their human rights both nationally and internationally. The article then goes on to discuss the importance of sense of security and safety in the life of an elderly person.

## **Challenges Faced by Older Persons**

The growing population of older persons face a number of challenges which are as follows:

1. Economic challenges – Due to loss in employment there is economic instability and dependence.
2. Physical and Physiological challenges – These include medical and health problems due to old age. It also includes the problem of a healthy home environment.
3. Psychological and Social Problems – This includes social interactions and friendly environment to deal with psychological problems such as loneliness and depression.

The World Health Organisation (WHO) has defined elder abuse as “a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older/senior person”. In 2016 a report published by the International Network for Prevention of Elder Abuse (INPEA) mentioned India to be the leading Asian country in terms of exploitation and abuse of elderly people. During the present time of the Covid-19 pandemic such instances have only increased owing to the lockdown and also older persons are more vulnerable to this disease.

“I have no space for me in the house, which I have built with my own hard earned money. My daughter-in-law has occupied entire house gradually and forced me to stay at my daughter’s house. Whenever I go to my house, she misbehaves with me. I am fed up with the harassment. That’s why I prefer to live in my daughter’s house” said Prabhakar Varma a 75 year old Electrician from Chennai

“I have been facing emotional as well as physical harassment for many years. My son, daughter-in-law & grand-children keep me locked from outside whenever they go out. Sometimes, even for long hours I have to live in prison-like conditions. They take away all my pension money as well” said Charles Joe an 81 year old from Mumbai, Maharashtra.

## **Laws and Provisions to Protect Rights of Older Person in India**

### **Constitution of India**

The Directive Principles of State Policy (DPSP) enshrined in Chapter IV of the Constitution of India provides two articles (Article 41 and Article 46) which can be implemented in the interest of the older people in the society.

Under Article 41 of the Constitution it is stated that “The State shall within the limits of its economic capacity and development, make effective provision 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”.

Article 46 of the Constitution states: “The State shall promote with special care the educational and economic interests of the weaker sections of the society and in particular of the Scheduled Castes and Scheduled Tribe and shall protect them from social injustice and all forms of exploitation”.

While these two articles direct the government to take action, they are not enforceable in a court of law.

### **Hindu Personal Law**

Under Section 20 of the Hindu Adoption and Maintenance Act, 1956 children are legally bound to maintain their parents. This applies to both sons and daughters of parents who are not supported financially from any other source. This Act derives its origins from ancient Hindu texts where children are given the command of maintaining their aged parents.

### **Muslim Personal Law**

The Muslim Law also obligates children to maintain their parents. According to Mulla's Principles of Mahomedan Law:

1. Children in easy circumstances are bound to maintain their poor parents, although the latter may be able to earn something for themselves.
2. A son though in strained circumstances is bound to maintain his mother, if the mother is poor, though she may not be infirm.
3. A son, who though poor, is earning something, is bound to support his father who earns nothing.

Under the Hanafi Law, parents and grandparents are entitled to maintenance from both sons and daughters. However the children must have the means to maintain and support them.

## **Christian and Parsi Personal Law**

There are no provisions for maintenance of aged parents in these communities and they have to seek recourse under the Code of Criminal Procedure (CrPC).

## **The Code of Criminal Procedure (CrPC)**

Section 125 of the Criminal Procedure Code provides for the maintenance of parents along with wife and children. The monthly allowance to be provided will be decided by the Magistrate as he deems fit. It is important for the children to have sufficient means to support his parents. This law applies to every citizen irrespective of their religion and includes son, unmarried daughter and married daughter.

## **Government Protection**

1. The National Policy for Older Persons was sanctioned by the Government of India in 1999 with the aim of empowering elderly people and to ensure their welfare through various measures. The steps undertaken by the policy are as follows:
  - i) Ensuring the security of the people working in the unorganised sector by setting up a pension fund for their retirement.
  - ii) Every 3 to 4 districts old age homes as well as day care centres would be set up.
  - iii) Creating employment opportunities for people above the age of 60 years by establishing resources centres and re-employment bureaus.
  - iv) Concession in railway and airways fares for travelling inside and outside states. (30% discount on railway fares and 10% discount on Indian Airlines)
  - v) Geriatric care to be made mandatory in all the government hospitals through a proper legislation.
2. The Ministry of Justice and Empowerment that looks after the welfare of all senior citizens declared the setup of a National Council for Older Person. This council, known as Agewell Foundation would be tasked with the duty of establishing measures for the welfare of old people through consultation with them. Over the years, Agewell Foundation has through its various surveys and reports contributed to the cause a lot.
3. Spreading awareness among the children and youth and encouraging them to be sensitive towards older people both in their family and outside their family. Establishing a twenty four hour help line to control and reduce the social exclusion and isolation of the elderly.

4. To save retired and old people from economic adversities, the policy suggests settlement of pension, provident fund and gratuity. It also suggests a less burdensome taxation policy for the elderly.
5. Making medical and health care needs of senior citizens a priority.
6. Section 88B, section 88D and Section 88DDB of the Income Tax Act provide discount in the tax collected from elderly people.
7. Life Insurance Corporation of India (LIC) also provides various schemes and policies that are beneficial for senior citizens. A few examples of these policies would be Jeevan Dhara Yojana, Jeevan Akshay Yojana, Medical Insurance Yojana, Senior Citizen Unit Yojana, etc.
8. Atal Bihari Bajpai, the former Prime Minister of India had launched the “Annapurana Yojana” for helping senior citizens by providing those elderly people 10 kg food per month who did not have the support of anyone.
9. A suggestion to assign 10% of homes constructed under various government schemes to elderly people from the lower income groups on easy and feasible loan rates.
10. The Maintenance & Welfare of Parents and Senior Citizens Act was passed in 2007 and it is a legislation completely dedicated to ensure that the rights of senior citizens are protected and their welfare is ensured.

### **International Policies and Conventions:**

#### **Vienna International Plan of Action on Ageing**

The Vienna International Plan of Action on aging was introduced in the year 1983. The Plan of Action directs the state to do the following:

1. To improve and implement at the local, national and international level policies and programmes intended to develop the lives of the elderly people and to enable them to enjoy their life in peace with a robust sense of security and well-being.
2. Analyse and understand the impact of old age on economic and social development and also the effect of development on the lives of older people and then controlling any adverse effects through suitable measures and policies.

#### **UN General Assembly Proclamation on Ageing**

In 1992 after years of debate and deliberation on this topic, the United Nations (UN) General Assembly came up with the Proclamation on Ageing. The Proclamation aims to achieve the following:

1. Making suitable national policies and programmes for old persons as a part of all the advancement strategies.
2. Increasing the role of governments, private sector and other voluntary non-government organisations through extended support through various policies.
3. The old and new generation work together to bridge the gap between old traditions and new economic, social and technological developments.
4. Taking care of older women with respect to the challenges of their gender.
5. Providing proper support and recognition to older women for the important role they play in the welfare of the society.
6. Encouraging older men who in the years they had to provide for their family failed to inculcate any hobbies cultural skills or emotional intelligence, to do so now.
7. Ensuring involvement and participation of elderly people in the society and community awareness programmes.
8. Family members should be encouraged to support and care for their parents and other old people as much as they can.

### **Madrid International Plan of Action on Ageing**

In 2002 the Madrid International Plan of Action on Ageing was adopted. This was done from the view point of understanding the twenty first century threats and challenges faced by the increasing population of old people and responding to them effectively. The Plan of Action recognised the top three high priority areas which are as follows:

1. Persons and development;
2. Advancing health and well-being into old age and
3. Ensuring enabling and supportive environments.

### **Sense of Security of Older Person**

The sense of security and safety felt by an old person has a huge impact on their emotional and mental well-being. A number of factors contribute to their sense of security. These factors are as follows:

1. Sense of control they feel towards their own life
2. Emotional and financial care from their family and friends
3. A safe and secure home and society environment
4. Their physical as well as mental health including sleep habits

Gerontologists prescribe several methods to enhance the sense of security of elderly people. The following are the methods suggested:

1. An everyday schedule – The familiarity and consistency of a fixed schedule and daily routine boost an old person's sense of security and their confidence. Changes can distress them and increase their tension. Deviating from their routine can also disrupt their normal sleep schedule.
2. Socialising and regular visits from family and loved ones – Regular contact with family and friends helps senior citizens to feel more secure and stable. This is a very vital factor in order to avoid problems like loneliness, depression and other negative effects on their mental health.
3. Taking safety measures at home – It is said that a person behaves just like a child in his or her old age. The way houses are baby proofed for kids, it is also necessary to ensure that the environment at home is safe, secure and stable for older people to prevent incidents like falling and tripping.
4. Security system at home – If an older person is living alone away from his or her family, a modern home security system can be useful to ensure the safety and well-being of your loved one. An alarm system should be in place in case they are unable to reach their phone in order to call for help.
5. Regular doctor appointments, timely check-ups and prescription administration – Regular doctor appointments are necessary for not just physical health but also mental health. It is also important to ensure that medicines are being given on time and as directed. It should be seen to that medicines are not falling short in case of an emergency.

## **Conclusion**

To sum it up the human rights of senior citizens have been neglected for a long time now and they need to be addressed on an immediate basis. Sense of security is vital for all human beings and especially for older people as they are at a stage in life where they are physically

frail and mentally weak. While provisions and laws are present to secure their rights, they need to be strengthened as highlighted by the older abuse rate of our country. Their rights should be imbibed within the ambit of the fundamental rights guaranteed under the Constitution of India. Our country has a rich history in which the joint family system has flourished and family members from all generations have lived in harmony and co-operation. However, the twenty first century has seen the younger generation separating from the joint family system and settling in the structure of nuclear families. This has resulted in elders being deprived of family care and support. Not just this, the younger generation is growing increasingly insensitive towards older people, treating them disrespectfully and making fun of their age and weaknesses. This insensitivity is a growing cause of concern and should be tackled by parents through inculcating right values at a young age and encouraging awareness programmes at school.

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