

**RIGHT TO LIVELIHOOD OF ELDERLY PERSONS WITH SPECIAL REFERENCE TO
ASSAM**

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Society has changed and so has the societal norms. The traditional norm of the society has always considered family as an institution of love, respect and care which is rarely seen in the contemporary society. After the industrial revolution with most of the things undergoing a transformation, the concept of family has also changed. Due to the constant evolution of nuclear family, the elderly persons are now not being considered as a part of the family and therefore, the basic rights for which they are entitled is under serious threat. Livelihood can be referred to be a cumulative of numerous activities and basic necessities for ensuring a dignified life. The elderly persons in order to have a dignified life must be assured right to livelihood as a matter of primary right. In this paper an attempt has been made to analyze the different perspectives of the right to livelihood of the elderly persons in different states and cross-cultural perspective with the help of existing literatures, reports, newspaper articles etc.

Keyword: Livelihood, family, society, elderly persons.

INTRODUCTION:

Elderly persons can be defined as any person who is 60 years and above, elderly persons according to Merriam Webster's dictionary means being past or characteristic of later life. An elder person is a nomenclature used for a person who has attained huge experience of life. Though the United Nations are not having any specification of old age, but United Nations have agreed the cut off age of the elder persons to be 60 and above. While elder persons are usually determined by their biological changes which comes with grey hair, wrinkles on face but there are some disagreements between various countries on the age of elder persons. Senior Citizen has been elaborated under the Act of 2007¹, as a person, must be a citizen of India, who has arrived at the age of sixty years or above. The rise of older population at an alarming rate turns to be a serious challenge for the society as they are more vulnerable due to various factors such as ill health, poor socio-economic condition, lack of financial stability, among others.²

OBJECTIVE OF THE STUDY:

There are two main fold objective of the study they are:

- i) To analyse the Government policies in regard to right to livelihood to elderly persons
- ii) To find whether the elderly persons are ensured right to livelihood in the State of Assam.

METHODOLOGY

The methodology used to complete the work included a systematic review of relevant literature, an analysis of report, an analysis of statistics and newspaper article.

LEGAL STATUS OF LIVELIHOOD:

Livelihood can be considered to be a cumulative of numerous activities and basic necessities which is

¹ The Maintenance and Welfare of parents and Senior Citizen Act, 2007 (Act 56 of 2007) s.2(h)

² Stree Shakti- The Parallel Force report -- Innovative practices for care of elderly women in India: An initiative (2016)

essential for securing a dignified life. The status of right to livelihood in the Constitution of India is entrusted under Article 21 which guarantees one of the most important fundamental rights that of right to life and personal liberty. The meaning of the term “life” has been defined in the case of *Munn v. Illinois*³, it was held the term life denotes more than having mere animal existence. Thus, it can be said that the meaning of life is a very wider concept and it will include various essential facets within its ambit. Till 1960, the Supreme Court declined right to livelihood within the ambit of right to life. It was only in the case of *Olga Tellis v. Bombay Municipal Corporation*⁴, that a drastic change in the understanding of right to livelihood took place.

Elderly persons are mostly dependent on family which is known as a group of people who are related to each other entrusts some responsibility towards each other. The society has been constructed in such a manner that every member has a role to be played. Taking care of each other in a family is a moral and legal responsibility. This taking care is technically referred as ‘maintenance’, maintenance as the word stands for the money that someone gives regularly to another person to pay for the necessary things that the person needs. When a reference is made of the term maintenance two categories of people who evolve in the mind instantly is women and children. Another section of society which gets the least attention is the old, infirm parents and senior citizen who being physically, emotionally, financially challenged are badly in need of care and attention. Initially the law of maintenance was governed under the legislation of CrPC, 1898 under Section 488, but it did not make any provision to safeguard the right of father and mother. Then, subsequently Section 125 of Code of Criminal Procedure was introduced which included maintenance to parents as well. The inclusion of Section 125 of Code of Criminal Procedure, was not enough for the safeguard of the parents. The parents and senior citizens of a country deserves a better treatment ensuring maintenance thus accordingly a more comprehensive legislation, the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, this legislation came into force on 31st December 2007⁵. Some of the highlighting features of the Act includes:

- (i) The establishment of Tribunal under this Act to ensure maintenance of parents/ senior citizens by children/ relatives as a legal obligation.
- (ii) The Act interestingly states that if any property is transferred, then the senior citizens can revoke it in case of negligence on the part of the relatives.
- (iii) The Act provides for penalty for those who abandon the senior citizens.
- (iv) It further instructs for the establishment of Old Age Home for indigent senior citizens.
- (v) It also lays stress on the adequate medical facilities and security for senior citizens

But even after ten years the law of 2007 could not bring much change in the society. Some glaring cases of neglect and abuse on the parents and senior citizens is filed in the Supreme Court, High Courts and the Tribunal.

RIGHT TO LIVELIHOOD FOR ELDERLY PERSONS:

Livelihood for elderly persons is a basic necessity, every society must ensure this right to every elderly, there are some aged persons who have disability such as lack of physical strength and sickness which turns to be a limitation for them to work, the livelihood for the elderly is measured through the Global Age Watch Index,

The Global Age Watch Index which assesses the countries ranking wise for maintaining the social and

³ 94 US 11

⁴ AIR 1986 SC 180

⁵ Situation Analysis of the elderly in India, available at: http://mospi.nic.in/mospi_new/upload/elderly_in_India-pdf. (visited on January 31, 2022)

economic well-being of the elderly persons in 2015 ranked India 71 out of 96 with Switzerland (1), Norway (2) and Sweden (3), India was way behind even Sri Lanka (46), China (52), Bangladesh (67). This particular index measures four main parameters for assessment that includes income, health, education and aiding environment. India had their concern in all these four areas as the report verifies that with not up to the mark health facilities India ranked (87) in the list. In income security India again had a very disappointing position as it ranked (72), with the facility of pension to a meager (28.9%). Thus, it is clear that India is far away from its mission of becoming a good place to grow old.

RIGHT TO LIVELIHOOD FOR ELDERLY PERSONS IN ASSAM:

The State of Assam and its economy is fundamentally based on agriculture. As per the reports, out of the total workforce of the State more than 75 percent that is 54.6 of total workforce, either directly or indirectly is empowered by agriculture. Assam has over a huge number of elderly persons in the State, the Social Welfare Department with the support of the Ministry of Social Justice & Empowerment has initiated steps like⁶:

- Passing of The Maintenance of Parents and Senior Citizen Act,2007⁷
- Enacting the Maintenance of parents and Senior Citizen Act,2012⁸
- Constitution of the Assam State Policy for Senior Citizen,2016⁹
- Establishment of the Senior Citizen Welfare council to Monitor and advice the welfare of the stakeholders.

The positive attitude of the Government was continued and was seen as two old age homes specially for male and female has been constituted for ensuring institutional care of parents and Senior Citizens this is in addition to the various other homes which are run by various Non-Governmental Organizations (NGOs). Since quite a time the Ministry of social Justice and Empowerment, has been indulged in creation of different arrangements for betterment of senior citizens.

In addition to it, two Old Age Homes specifically for male & female has been set up for institutional care of parents and Senior Citizens beside various NGO run Homes. In this regard, The Ministry of Social Justice & Empowerment, Government of India, has also make provisions for Grants in Aid to Non-Governmental Organizations (NGOs) for running Old Age Homes, Day Care Centers, Mobile Medical Services and a Physiotherapy Center in the State of Assam. Moreover, the Health & Family Welfare Department, Govt. of Assam has also set up a Geriatric Ward in the Gauhati Medical College, Guwahati for the well- being of Senior Citizen.

The Assam Government¹⁰ has also given the legislative protection to senior citizens wherein if the earning young people fail take care of their elderly parents they will have to lose a part of their salary and the deducted amount of their salary will then be given to the parents by the State.

CONCLUSION: India is a country which has the longest Constitution in the India but even now in Chapter III of the Constitution which deals with fundamental right, we hardly find a mention about right

⁶<https://socialwelfare.assam.gov.in/portlets/senior-citizen%E2%80%99s-sector> (visited on 31/01/2022)

⁷The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted to provide financial security, welfare and protection for senior citizens. It requires children to provide maintenance for their parents, and the government to provide old age homes and ensure medical care for senior citizens

⁸ As per Section 32 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, every state Government is supposed to make rules, the Government of Assam on September 12, 2012 enacted the above rules to fulfill the objectives of the Act of 2007

⁹On June 06,2019, the Government of Assam enacted the Assam State Policy for Senior Citizens,2016 to develop a society for the elderly persons, to ensure the same the State must give financial support, provide health care, shelter, welfare and do the needful to fulfil the obligation as se by the Act of 2007

¹⁰<https://timesofindia.indiatimes.com/india/assam-law-may-give-monetary-cover-to-elderly/articleshow/57104373.cms> dated February 12,2018(visited on 31/01/2022)

to work and ensured employment. Till now, the Right to work has not been identified as a Fundamental right as affirmed by the Supreme Court in the famous case of Secretary, State of Karnataka v. Uma Devi¹¹, the Apex Court rejected the argument. Thus, in such situation if right to livelihood is also not secured for the elderly persons in the country at large and in the State of Assam particularly then it would be very difficult for the older population to imagine a dignified last innings in their life which would definitely be utterly depressing for human civilization. Deprivation of livelihood to the elderly persons would make life impossible to live.

SUGGESTION: The capacity to work along with life ensured with dignity are interrelated, the fact that elderly persons have to retire at the age of 60 or 65 years becomes a very depressing fact for them. There might be numerous elderly who even after their age of retirement may have the zeal to work and earn their livelihood. In this line a welcome step has been taken by Nightingale Empowerment Foundation, in Bengaluru. Mike Shah, Chairman of the Foundation said that among the numerous problems faced by the elderly persons one of the major problems faced by the elderly today is financial insecurity. About 88% of the elderly population of the country is not covered under any special social security schemes which has resulted in economic insecurity and dependence on their children for their survival. Lack of financial empowerment for the elderly person enhances their sufferings but in reality, many aged persons from the age group 60-70 are full of energy and zeal to work and earn their daily needs. The chairman stressed that the experience and skills of the elderly people can not only give them an independent existence but can also benefit the society in great deal. The elderly persons just because of their physical weakness does not lose their dignity and the Government must take some welcome steps for vocational training for elderly persons who are willing to do something for their livelihood.

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¹¹AIR 2006 SC 1806

11. Stree Shakti- The Parallel Force report -- Innovative practices for care of elderly women in India: An initiative (2016)

12. The Global Age Index was released by HelpAge International. It compiles data from the UN, World Bank, World Health Organization and other international agencies.