

**RIGHTS OF ELDERLY PERSONS: A STUDY OF LAW  
AND POLICIES IN INDIA WITH SPECIAL  
REFERENCE TO LUCKNOW CITY**

**ABSTRACT**

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## ABSTRACT

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The subject of the study feel that old age is a period of rest and relaxation. However, in reality it is not so. Sometimes they are burdened by the family members and many times they are not able to relax as they desire. They also expect that old age is the time to get respect from younger generation, but in fact they are insulted. Elderly people expect the family to consult and get their opinion in each and every matters regarding major decision making in the house, but they are completely ignored. In the Indian society, traditionally the elderly people are respected and taken care of the many ways. Elderly people are considered as the treasure and backbone of society. Unfortunately, in our Indian society this scenario is changing. Elderly people in our society are sometimes viewed as nuisance and not valued the way they are respected traditionally. Elderly are verbally abused, neglected in their homes, in the society and their workplaces. Social isolation leading to loneliness is also, a main concern today. In present Indian society, nuclear families are growing and it is happening sometimes by choice, where the young couple decides to live their married life alone in the name and lust of modernism and sometimes by compulsion where earning member of family is bound to leave the home due to occupational needs and compulsion. In both the cases elderly persons with spouse or alone, are bound to live a lonely life. In first case, elderly persons are obviously ignored but in the second case they are not. But the consequences of both the situations are same i.e. loneliness. Though, the mental status of elderly persons in both the cases may vary. Sometimes both the situations can be under the category of ignorance from State's perspective as in both the situations senior citizens are abundant. It is also true that some elderly persons in rural and urban areas are totally neglected, mentally and physically abused are not getting two square meals a day. Here the role of State comes into picture.

Prof. Roscoe Pound defines "right" as an interest recognized, protected and enforced by law. Law is an instrument of social welfare. State and Society are composed of human beings. Primarily, human beings must be taken care of by their families. Families are consisted of children, parents and grandparents. In the present prevailing situation the situation of elderly persons has become very critical because young people now see senior citizen as a burden. As a result senior citizens are facing

number of problems like social, health and financial insecurity. This has compelled most of the elderly persons to depend on their savings or their provident fund and gratuity, whose value is shrinking by the day. This is getting aggravated in absence of effective safety nets for elders. Therefore, it has become necessary that the elders should be provided social security. The modern socio-economic system has made old age a serious and social problem, loss of gainful employment means reduction of status, loss of spouse may lead to loss of home and prestige once enjoyed as the head of the family. The loss of friends and diminishing energy also reduce social status.

India has traditionally enjoyed robust joint family system taking full care of elderly persons. However, with the fast changing socio-economic conditions, disintegration of joint family system and emergence of nuclear families, the old people are getting increasingly neglected, adversely affecting their care and dignity. It is, therefore, important that Government and the community play a proactive role in taking care of the elderly. As human being, there are many categories recognized by legal system. It includes child, woman, man, and specially senior citizens. With changing nature of society, protection of rights of elderly persons has been constantly burning and critical issue. The issues related to elderly persons are untouched and remained as silent process only. It needs to get clear platform and effective implementation of laws at municipal and international level.

Over the past 50 years, the population of India has roughly quadrupled, while the number of elderly Indians (60+) has climbed by more than four times. According to the 2011 census, 98.3 million Indians were above the age of 60. This number was expected to rise to 100 million that same year. In other nations around the world, it took almost a century for the number of elderly people to double; but, in India, this has happened in just 20 years. Today, the average lifespan has increased to more than 70 years.

On the one hand, the old population in India is expanding at the fastest rate in the country due to improved medical facilities, care, and family planning legislation. The global population will surpass two billion by 2050, with an older population than a younger one by 2025. By 2025, the proportion of old people in India would surpass 18 percent. However, the foundations of the traditional joint family structure have

been disintegrating quickly due to the rapidly shifting socio-economic landscape, industrialization, rapid urbanization, rising ambitions among young people, and the growing engagement of women in the labor. According to UN estimates, there will be 1.2 billion older people in the world in 2025, and by 2050, that number will rise to 2 billion. Moreover, two thirds of this population reside in developing nations. It is a significant difficulty, especially for emerging nations like India.

Human Right Regime came in India with the inauguration of the Constitution in 1950. Human Rights concept in traditional India is different from the modern understanding. There, the society acted as a guarantor, but today it is the state that maintains rights. Hence, in spite of emerging human rights consciousness, everywhere, there are violations. Violations are not from the state apparatus alone, violations took place at family, neighborhood, work place, and by various non-state actors like religion political parties and other ethnic and cultural groups.

In the Indian Constitution, the directive principle under Article 41 highlights the role of the State for the right to work, to education and to public assistance in old age, sickness and disablement. The Entry 24 of the Concurrent List of Seventh schedule is also directly related to welfare of elderly persons. This provision empowers both the Central and State governments to enact laws and policies for the welfare of the elderly. The welfare of labor is covered by the Indian Constitution, Entry 24, List III of Schedule VII, and contains terms related to work conditions, provident funds, and obligations for maternity benefits, invalidity and old age pensions, workmen's compensation, and liabilities. Moreover, item no(s) and item 9 of the State List. The Concurrent List's items 20, 23, and 24 deal with social security and insurance, economic and social planning, and old age pensions. Additionally, a number of articles, including 21, 38, 39, and 41 of Constitution of India among others, addresses social security policies and the advancement of senior citizens' welfare.

Similarly, the Sections 125-128 of Criminal Procedure Code 1973 are enacted to provide maintenance against those persons who neglect or refuse to maintain their dependent wives, children and parents who are unable to maintain themselves. Also, under section 20 (3) of the Hindu Adoption and Maintenance Act 1955, applicable for Hindus only, maintenance is provided to aged of infirm parents. Both male and

female children are under legal obligation to maintain their aged and infirm parents. Further, the obligation is personal and independent of possession of any property. According to Section 3 (b) of the Act, maintenance includes in all cases, provision for food, clothing, residence and medical attendance and treatment. Where such parents have more than one child, they are entitled to maintenance from any one or all. Section 20 (1) and (3) of the Hindu Adoption and Maintenance Act, 1956, as well as Section 125(1)(d) of the Code of Criminal Procedure 1973, acknowledge the right of parents who lack money to be maintained by their children who do.

But most importantly, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted on 31 December 2007, which makes it a legal obligation for children and heirs to provide maintenance to senior citizens. The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 has several financial implications for elderly parents; however, critics have pointed out that it can never be a substitute for the care given by an affectionate family member. The 2007 was approved by the Indian government by organizing it into 32 Sections by seven Chapters. Senior Citizens are included under Section 2(h). An Indian citizen who is sixty years of age or older is considered a senior citizen. It was passed in order to provide practical measures for the maintenance and well-being of elderly individuals and parents, as promised and acknowledged by the Constitution, as well as for things incidental to and related thereto.

India is moving ahead to safeguard and protect the best interest of older person through central legislation. 'Age well Foundation' has been set up to seek the opinion of the aged on measures to make life easier for them, quicker settlement of pension, PF, gratuity, etc. in order to save the superannuated persons from any hardships. According to Sections 88-B, 88-D and 88-DDB of Income Tax Act, there are discounts on tax for elderly persons. New provisions have been introduced so that the public distribution system would reach out to cover all senior citizens living below the poverty line.

There has been reportedly little progress in setting up a separate Bureau of Older Persons or an autonomous National Association of Older Persons, as laid down in the policy. The Ministry of Social Justice and Empowerment could not follow its

mandate to make a detailed review of the progress made in the implementation of the policy after every three years. The UN adapted the first International plan of action on ageing in Vienna in 1982, and took until 1991 for the general assembly to adopt the UN principle for older person and its four main themes Independence, participation, care, self fulfillment and dignity. Considering the magnitude of the problem the United Nations proposed a Draft Declaration on Old Age Rights in 1948. Again in 1969, this item was placed on the agenda of the General Assembly. In 1972 the Economic and Social Council (ECOSOC) of the UN deliberated on this issue at length but it could not be adopted. Human rights are universal, civil, political, economic, social and cultural rights belong to all human beings including older people. The provisions relating to the human rights of the aged which have been expressly or tacitly recognized under various international covenants, conventions and declarations.

The Universal Declaration of Human Rights, 1948 (UDHR) In order to protect human rights and fundamental freedoms of the aged person, the UDHR under Article 25 expressly provides that 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.

International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR) This covenant, which was adopted by the United Nations general assembly (UNGA) on 16 December 1966 and entered into force on 3rd January 1976, defines the economic, social and cultural rights. It authorizes the economic and social Council (ECOSOC) to monitor the implementation of its provision. The council established the committee on Economic, social and cultural Rights (CESCR) to assist it in its task.

International Covenant on Civil and Political Rights, 1966 (ICCPR) Definitely, the covenant does not give explicit recognition to the human rights and fundamental freedoms of the aged but indirectly it reveals the concern for the aged under articles 2,7,10 and 17.

Charter of Fundamental rights of European Union (CFREU) Article 25 and 34 of this charter explicitly provide for the recognition and respect of the rights of the aged. The charter provides that the Union recognizes and respects that's the rights of the elderly to lead a life of dignity and independence and to participate in social and culture life. It further provides that it recognizes and respects the entitlement to social security benefits and social service providing protection in cases such as old age.

Given the aforementioned information, protecting the rights of the elderly has drawn attention from all across the world. However, both wealthy and poor nations have made significant international progress in this area. Elder abuse is increasingly being seen as a criminal violation with harsher punishments and sentences around the world. Few "hate crime" legislation contain "elder abuse" as a component; instead, several have allowed for civil remedies for elder abuse, including costs, attorney's fees, and punitive and compensatory damages. In India, there are many laws, regulations, and programs aimed at protecting and promoting the wellbeing of the old, however there are still many senior human rights violations.

Ironically, because of their relative physical and psychological vulnerability, older generations in India are often unaware of their rights; as a result, their screams for assistance are often ignored and only a small number of elderly rights violations are reported. The alarming state of senior people's rights in the nation is evident from the steadily rising number of distress calls from the elderly.

Therefore, Keeping in mind the above problems and needs, the Government had adopted 'The National Policy on Older Persons' (NPOP) in 1999 to ensure food, shelter, financial security, health care, protection from abuse and exploitation etc. The Government of India has approved the National Policy for Older Persons (NPOPs) on 13 January 1999 in order to accelerate welfare measures and empower the elderly in various ways. The following are NPOP's main goals:

- a) To motivate people to save for both their own and their spouse's future needs.
- b) To motivate households to care for aging family members.
- c) To make it possible and encourage non-governmental and volunteer organizations to assist and enhance the care that families offer.

- d) To take care of and shield the elderly who are most in need.
- e) To give senior citizens access to quality healthcare facilities.
- f) To encourage study and establish training centers to instruct geriatric caregivers and others who plan senior citizen services.
- g) Raising awareness about older people in order to support them in leading independent and fruitful lives.

But In India, the appraisal of state and national initiatives for providing social security to elderly points to the serious lack of will to address their concerns. The National Policy for Older Persons (NPOP) 1999, the first policy on older persons formed by the Ministry of Social Justice and Empowerment, does not pay adequate attention to gender issues. In the NPOP 1999, the sections on healthcare, nutrition, shelter and education do not have any specific reference to women's situation. Problems concerning widows and destitute older women are not given due attention. The NPOP has also ignored time older populations that are poor and belong to the lower middle class family. In National Policy for Senior Citizens-2011, the gender-specific issues are mentioned, though not adequately. The NPSC-2011 has envisioned the elderly requirement in a better way; however, its finalization and effective implementation are awaited for betterment of the elderly.

#### **STATEMENT OF PROBLEM**

There are 81 million elderly persons in India. According to an estimate, nearly 40% of senior citizens living with their families are reportedly facing abuse of one kind or another. Although the Maintenance and Welfare of Parents and Senior Citizens Act that offers to punish children who abandon parents with a prison term of three months or a fine, the situation of those elderly affected, still remains grim in India. After being abused and abandoned they face various psychological, biophysical, financial and socio-cultural problems. For instance, they experience physical health related issues, mental traumas and abuse from others as well as their family members. Abandoned by their family and with no other place to go than the streets, they are exposed to dust and the vagaries of nature causing breathing difficulties as well as arthritic conditions. They are deprived of their hard earned land,

lack of shelter, psychological depression, absence of care and support. The hazards they face being on the streets include robbery, motor vehicle accidents, and sometimes even sexual abuse. Continuously pondering about their abandonment, they feel traumatized, which disconnects them from the rest of the society. Most important problem of all problems that they cannot get over is the feeling of being abandoned by those hands that they once fed. The present study titled “Rights of Elderly Persons: A Study of Law and Policies in India with Special Reference to Lucknow City” explores the biological, psychological and socio cultural challenges faced by the abandoned elderly. It also examines the reason for abandonment, as well as the issues and limitations pertaining to the legislations that hinder its effective implementation.

The human families as an association have their own traditions that differ from culture to culture. The oriental families especially Indian have a unique traditions, Despite wide range of diversities, the uniqueness is the noble institutional arrangement that ensure welfare, security and development of all the members of the family right from birth to death. The family, therefore has enormous potentials to take care of all the vulnerable including older persons. As a result there were no old age homes in India in the past. Ironically, in the modern period due to several factors, the structure, institutions and functions of the families are getting altered affecting the members especially the old aged persons who are forced to live in old age homes. The factor affecting such transition is that there has been a trend for the fast moving generation neglecting their parents and treating them with cruelty, even forcing them to part with their property before their death. This is happening in case of senior citizens having no children but depending upon their relatives, who are in care of their properties and may inherit them after their death, it is very deplorable. They are often abandoned after being deprived of their properties forcibly, thus being victims of neglect and torture. These incidents are on the rise rapidly not only in India but also abroad, for which the existing laws and social welfare measures and their implementation in India may not be adequate. This is also the problem in my research work and for which research has been done to find out probable solutions to the problem.

Also, the elderly population in India is continuously increasing and also the problems faced by these people are increasing simultaneously. The number of people

in old age homes is constantly increasing and also most of the parents are now deciding to live in old age homes rather than living with their children. Nowadays these people are facing the problems like lack of care, emotional support and economic support from the family etc. Our culture recognizes the status of the parents as that of God. A moral duty is put on the children to take care of their parents. But nowadays what we are observing in our society is that the children are not willing to take care of their parents, they do not want to spend money on them, they are treating their parents as aliens, and they do not want to share an emotional bond with parents. These children are forgetting that the foundation of their life is built up by the parents. They are forgetting their moral and ethical duties towards their parents. This is because of fast life, industrialization, money oriented minds, inflation etc. Children have no time to look after their parents because of their busy schedule and as a consequence of this situation the elders are getting neglected. At this age almost all the people need some kind of support. The modern world is probably characterized by a rapid rate of aging. Ageism comes up with different types of social problems. In the modern aging society, the circumstances affecting people and groups as they grow up are totally linked to the overall well-being of the society. In the community there is mounting facts that various effects of aging are neither inevitable nor irreversible. Problems related to the elderly include financial instability, poverty, victimization, isolation, and dependency, lack of access to appropriate health care and inadequate housing.

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## **REVIEW OF LITERATURE**

Census reports on India reveals that nearly forty percent of the old population face financial constraints and are living in poor status of these, around ninety percent belong to households engaged in the unorganized sector with no sustainable economic security. Available literatures on aged have also highlighted the economic insecurity as one of the major issues that the older persons face in the country. For instance, it's contended that economic insecurity is the main problem of old persons and that financial worries constitute a major dimension of suffering in their lives. Economic security includes ownership of income and property and participation in farm household activities while the lack of any of these can cause a sense of insecurity feeling among old people. A similar view point was put forth by arguing that as Indian society is characterized by low income levels, it was no wonder that many people would not have any independent source of income during their old age and hence would suffer from financial constraints. Economic insecurity therefore compels many to remain engaged economically even in later years. Therefore, most of the old, especially in rural areas, never formally retire from active work.

**Sarah Harper & George Leeson** in their study (2009) stated that most western style countries have aged continuously over the past century, the measure of ageing being an increase in the percentage of those over 60 years, and a decrease in those under 15 years. Europe reached maturity at the turn of the millennium, with older people than younger. By 2030 half the population of Western Europe will be over 50, 25% over 65, and 15% over 75. By 2030 one quarter of the population of the developed world will be over 65, and by the middle of the century this will have risen to one third. Yet while most interest has focused on the ageing of Europe, it is the Asian/Pacific region that is ageing most rapidly. By 2030 one quarter of the population of Asia will be over 60, and by 2040 Asia will be demographically mature, with more older than younger people. If we move from structural ageing to consider absolute numbers of older people, the dominance of the less developed regions, and in particular Asia, becomes even more apparent. Already two thirds of the world's older population live in less developed regions with the absolute numbers of older people in these regions doubling to reach some 900 million within 25 years. By 2050 two-thirds of the world's elders will live in Asia alone.

The study by **Sif Heide-Ottosen** and companions in their study “The Ageing Of Rural Populations; Evidence On Old Farmers In Low And Middle Income Countries” (2015) stated that, rural populations in low- and middle-income countries are ageing. There has been a universal trend of an increase in the proportion of older people and a decrease in younger people residing in rural areas. Asia is experiencing rapid rural population ageing. From 1990-2015, there was an increase of 2.2 per cent in the proportion of people over 65 living in rural areas, and a 9.6 per cent decrease in the proportion of children (under ten years). In sub-Saharan Africa, the same trend is evident, though less pronounced. Over the same 25-year period, the region saw a marginal increase of 0.5 per cent in the proportion of people over 55 years living in rural areas, and a decrease of 3.4 per cent in the proportion of children. Finally, Latin America has seen an increase of 2.7 per cent in the proportion of older people living in rural areas, and an 8.2 per cent decrease in the proportion of children.

**Dr. Lekshmi V Nair** and **Dr. Sonny Jose** in their study stated that long term living in institutions a study of old age care referred that in the new family culture accepts only the immediate members as members of the family and all the others are considered as members outside the family. The main reason for this is that economic recession and the economic orientation of the families which force them to keep the needs of the elderly at peripheral. It is calculated that average expenditure for middle class elderly will be around Rs.5000 a month excluding the rent and clothing. Of this amount major expenses are for food and medicine. The dependent category of the elderly are denied appropriate food and medicine. From the point of elderly this trend is an alien one which is shocking as they have grown up in a different environment and unable to adjust to pressure environment.

**Dr. Prafull Babanrao Chavate** in his study “Critical Analysis of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007” (2015) he points out some of the limitations of the act. The definition of senior citizen includes both Indian citizens aged above 60 years and all parents irrespective of age. It also includes all parents with children above age of 18 years. This definition differs from that in the National Policy on Older People which is now repealed. Persons from Revenue Department who may not be having the knowledge of law will be the presiding Officer the Tribunal. Revenue Department is already overburdened and assigning job

of adjudicating issues/cases of the senior citizens which require to be decided on priority would not be given that much attention. If this happens then very object of enacting this special legislation would frustrate. In this circumstance senior citizens will suffer double injustice. Since jurisdiction of other courts are also barred by this legislation. There is no facility available to childless senior citizens. This Act is silent regarding management and administration of such Old Age Home. The provision of the Act directing the government to provide medical support to the senior citizens, shall provide beds to senior citizens and such hospital shall be headed by a medical officer having experience in Geriatric care found to be ornamental only. Very few hospitals have Geriatric Care and medicine Experts in India. In absence of expertise how senior citizens will get proper treatment and care is the important question. In that event senior citizen will have to approach such hospitals having expertise in Geriatric care and will have to pay exorbitant fees for the same. This again frustrates the provisions of the Act

**Raju SS** in his report upon the status of ageing in India provided a situational analysis of elderly in terms of economic, social, psychological and health aspects, and elder abuse. It was much talked about the issues upon which models of care for the elderly can be framed and argues that factors such as place of residence, social class and gender among others tend to influence such models of care, therefore suggesting models of care and well being of five groups of elderly to better target services to their differing needs. These are:

- i. rural elderly,
- ii. urban poor elderly,
- iii. urban middle income well-to-do elderly,
- iv. female elderly and
- v. elderly living alone.

**Birkeland et al (2009)** attempted to know how elderly cope with being sick, unhealthy and living alone. Their findings showed that even if physical constraints put limits on their level of activity, the elderly were able to adapt and carry out different activities that did not require any physical strength. The main coping strategy was to

accept the situation, but the acceptance was often colored by a resigned and passive acceptance. The elderly thus tend to be passive and resigned.

**Balachandran et al (2007)** compared alienation and life satisfaction of elderly men and women. Their results showed that elderly men experience less alienation than the elderly women, and the results were found to be significant. Both the groups did not exhibit significant differences in their life satisfaction. Research also provides support for gender differences in physical and mental health, life satisfaction and social activities of aging persons. Higher positive affect and life satisfaction among the elderly enduring spouse relationships. It was also found that males experience more life satisfaction than females. Gender differences were also observed in the case of coping strategies when life dissatisfaction was high and low and in adjustment problems.

**Soneja, S. (2001)** The economic problems were on priority for the middle income group male elderly. Mental health problems were stated for the upper middle class elderly, as a result of lack of work, lack of facilities for utilization of leisure time and a general feeling of loneliness. The problem here did not seem to be lack of money but lack of time by the others for the older persons. Second to economic problems, there was lack of emotional support from family members and both the groups felt a need to talk to their family members who did not seem to have time for them.

**Prakash, I.J. (1999a)** Living in old age homes was the least preferred choice. There are both positive and negative aspects to the presence of old parents in the household. On the one hand, the presence of parents makes it easy for young couples to care for their own children. On the other hand, it has a cost in terms of lack of privacy and the cost of physical, psychological accommodation.

**Dandekar, K. (1996).** A report states that 90%of India's elderly population lives below the poverty line and 50% of them are widows. Widows and widowers are especially vulnerable to poverty, inadequate care and neglect in old age.

**Dr. Naresh VW** stated that India as a welfare State governed by a Constitution holds the pride of place in the hearts of its citizens. It lays special emphasis on the protection and well being of the weaker sections of society and seeks

to improve their economic and social status on the basis of constitutional guarantees spelled out in its provisions. The welfare of senior citizens is mandated by the Constitution of India. In India, age of 60 is considered (to be Senior citizens) as the beginning of old age. Senior citizens should be treated as a human being entitled to all the basic human rights, human dignity and human sympathy. It is, therefore, important that Government and the community play a proactive role in taking care of them. According to the researcher, the author has discussed the law in changing society with reference to senior citizens, need for care and protection of rights of them and suggestions to have general consensus in deciding the age of senior citizens, awareness and proper implementation of the law, and provision for necessary care and support to them within the families and community setting instead of opening more old age homes.

**Ajay B.S.** reported that the human rights are valuable to every human being. As a human being, elderly people are integral and important subject of society. United Nations is like a representative of ‘unity of nations’ as well as authority for promotion and protection of ‘human rights’ of human beings of world. But unfortunately, there is no separate legal document for promotion and protection of human rights of elderly people at International level. This work will deal with conceptual as well as human rights perspective of elderly people with the help of Universal Declaration of Human Rights, 1948, Draft Resolution on a Declaration of Old Age Rights, 1948 from Argentina and several international meetings and conferences of United Nations. This literature also examines the role of United Nations in strengthening human rights of elderly people. And lastly, it will conclude the need of legislative human rights framework exclusively for elderly people and outcome of human rights of elderly people in future.

## **OBJECTIVES OF THE RESEARCH**

The objectives of the research are:

1. To undertake a socio-economic situational study of elderly living in families.
2. To examine issues and problems related to activities of daily living, social engagement, social relations, their care and attention.

3. To list out the issues and challenges faced by old age population group and gain insight regarding the solution of old age population groups.
4. To assess the awareness about government schemes for the elderly people in India and the present attitude of younger generation towards elder care.
5. To assess and study the sustainability of the different models applicable for the old aged population of developed nations in the Indian context.

### **HYPOTHESIS OF THE RESEARCH**

Taking into consideration the above mentioned objectives, the following hypothesis were constructed:

- a. Although there are laws for the protection, care and maintenance of parents and senior citizens in India, but they have not sufficiently fulfilled the cause for which they are made and as every law has some lacuna, so the laws for the protection, care and maintenance of the parents and senior citizens have lacunas also.
- b. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is ornamental and ineffective regarding management and administration of not just Old Age Home but also Home in general.
- c. Taking into account the current destitute conditions of old age homes and old age people not dwelling in old age home it is clear that Implementation of the laws is vital for the laws to be effective. Therefore whether the laws are properly implemented is debated.
- d. There are enough schemes and policies for the senior citizens but very few hospitals have geriatric care and medicine experts and most of the senior citizens are not aware of the existing schemes and policies for them and the procedure to avail such benefits.

As per the Scheme of final Chapterization, the Researcher has dealt with Introduction as Chapter I: The introduction consists of the interpretation of the idea as to why Aged/ Elder persons across the world forms a vulnerable section of the society. When throughout their lives they have served for the family and society as a whole, why their services are considered invaluable and rendered insignificant for the lives to come. Why is it not our duty to care for them, help them financially socially

in the years of their fag end of life? Taking care of these Aged/ Elderly person in today's time needs to be considered as an expression of gratitude, love and above all humanity. The chapter also covers Relevance of the present study, research problem, objectives and hypothesis, research design, area of study, sample size to be taken into consideration, tools of enquiry, limitations. This chapter consists of the blueprint of the Research Thesis in the form of tentative chapter plan.

Then Chapter II: Aged persons across the word are vulnerable section of the society. Throughout their lives they have served for the family and society as a whole. Their services are invaluable which are enduring for the lives to come. So is it not our duty to care for them, help them financially socially in the years of their fag end of life. An expression of gratitude, love and above all humanity. Sir James Sterling Ross commented, 'You do need old age, you protect it, you promote it, you extend it'. The World Health Organization (WHO) defines those aged 60-74 years as 'elderly' and those older as 'aged'. In 1980, the United Nations recommended 60 years as the age of transitions for the elderly segment of the population. The senior citizens have been categorized as follows:

1. 'Young Old' (between the age of 60-75 years)
2. 'Old-Old' (between 75-85 years)
3. 'Very Old' (85 years and above)

The first category is physically active and mentally alert while the third category needs all types of support- health being the major one.

The Indian Census classifies people in the age range 60 years and above as old. According to another classification commonly used in the developed countries, there are three groups: the young-old (60 yrs. to 74 yrs.), the middle-old (75 yrs. to 84 yrs.), and the old-old (85 yrs. and over). The revered sage Manu spoke about the life in four stages:

Firstly, 'Brahmacharya' or celibacy; Secondly, 'Grihastha' or householder, when a person is expected to shoulder the responsibility of a citizen and discharge debts to parents by begetting children; Thirdly 'Vanaprastha', which entailed giving up worldly pursuits in order to follow spiritual growth by leaving home to the forest and the fourth and final stage was 'Sanyasa' or renunciation and asceticism.

Vanaprastha, indicates the old age as a ‘winding down social obligations’. Old age is also a cultural construction, in much the same way as are the other phases ‘vocations’ of life. For heuristic purposes, we have devised concepts like chronological age, biological age, mental age, social age and many others. Since these are our constructions, each of them relevant to a specific discipline, problems are likely to surface when a specific categorization of age is sought to be harmonized with another.

Therefore, It can be said that now it is time for a new paradigm, one that views older people as active participants in an age integrated society and as active contributors as well as beneficiaries of development. Broadly it can be said that for most of the older persons Human Rights is a new term for their basic rights. Awareness about Human Rights of Older Persons among older persons is negligible. Secondly the transformation of traditional joint family system into nuclear or small family systems is one of the main factors responsible for violation of human rights of older persons. Thirdly in urban areas cases of violation of human rights of elderly population are on the rise in comparison to rural areas due to small/nuclear family systems, lack of intergenerational interaction, less social interaction of older persons, age discrimination, etc. Also the young older people (i.e. in the age-group of 60-70) are more aggressive towards protection of their human rights people entering in the bracket of 60-70 years don’t like the ‘Old Age’ tag being attached to them. Interestingly, they don’t digest the fact that they have become old, that’s why they feel hurt when treatment or behavior of other people is changed towards them due to their growing age. Further it is necessary to decrease the incidences of age discrimination, age discriminatory policies like retirement policies in both government and public sector need to be amended.

Therefore, today, India urgently needs an inclusive social security programme for older persons at grass root level while utilizing tools like value based education, awareness generation, research and advocacy in order to protect the holistic rights of older persons.

Chapter III dealt with the International framework as to what all international conventions, action plans, declarations, treaties have been made in this regard and to how many of them India is signatory to.

- The Universal Declaration of Human Rights (1948)- Founding human rights instrument of contemporary international human rights law, included in its provisions the first reference to elderly people's right.

This reference can found in Article 25(1)- 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, and 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.

- The International Covenant on Economic, Social and Cultural Rights (1966)- The Committee's General comment 6 (para 1-32) on the economic, social, and cultural rights of elderly persons, the committee developed the most comprehensive legal analysis of the rights of the elderly currently existing at the international level.
- The Copenhagen Declaration on Social Development (1995)- The objective of this world summit was to enhance social development throughout the world especially with respect to people suffering from poverty, unemployment & social exclusion. Additionally, specifically it states that steps are to be taken to improve the possibility of elderly persons achieving a better life.
- The Habitat Agenda (1996)- This agenda specifies that elderly persons are entitled to lead fulfilling and productive lives & should have opportunities for full participation in their communities, society, & in all decision making regarding their well-being especially their shelter needs.
- The Vienna International Plan of Action on Ageing, 1982 and the Madrid International Plan of Action on Ageing, 2002- India had been a signatory of these plans. Both the plans of Action are wide ranging and contains vast arena of principles and recommendations with the purpose of helping the Governments in formulation of their policies on ageing to deal effectively with demographic ageing, etc.

Having been a signatory to the International Covenants and Plans of Action on Ageing, Government of India is also under a mandate to meet the state obligations, drawn out in the plans as well as in the United Nations Principles for Older Persons.

Moreover the Constitution of India envisages a welfare state encompassing justice: social, economic and political, indicating state responsibility towards securing the rights of older persons as well. Therefore it is important to evaluate the initiatives on the part of Government of India for the protection of the rights of older persons.

Chapter IV: This Chapter deals with the National Framework that is with respect to India, what has Indian Government provided for protection of rights of these Senior Citizens, what Act, laws, bylaws, policies have been enacted and how far their implementation has been successful. This chapter will also be including Role of judiciary in safeguarding the rights of Senior Citizens by effective pronouncement of judgments from time to time. It also discusses the Constitutional perspective of the rights of Elderly Persons and focuses on identification of statutory rights of the Elderly Persons.

- Article 21: No person shall be deprived of his life or personal liberty except according to procedure established by law.
- Article 38: State to secure a social order for the promotion of welfare of the people.
- Article 39: Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing.
- Article 41: Right to work, to education and to public assistance in certain cases.
- Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health.
- Entry 24, List III of Schedule VII deals with the welfare of labour, and includes conditions of work, Provident funds, and liability for workmen's compensation, invalidity and old age pension and maternity benefits. Further, Item 9 of the State List and item no(s). 20, 23 and 24 of the Concurrent List relates to old age pension, social security and social insurance, and economic and social planning.

Under this chapter, I have also discussed the provisions relating to the Maintenance of Parents provided under the Code of Criminal Procedure 1973 and The Hindu Adoptions and Maintenance Act, 1956:

- Section 125(1)(d) of Cr.P.C. provides that any person having sufficient means neglects or refuses to maintain his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his father or mother.
- Section 20(1) of the Hindu Adoptions and Maintenance Act provides that a Hindu is bound, during his or her lifetime, to maintain his or her aged or infirm parents and Section 20(3) of this Act provides that the obligation of a person to maintain his or her aged or infirm parent is unable to maintain himself or herself out of his or her own earnings or other property. This Section explanation says parent includes a childless step-mother.
- Apart from the provisions given under the Code of Criminal Procedure, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is enacted to ensure need based maintenance for parents and senior citizens and their welfare. The Act provides for:
  - a) Maintenance of parents/senior citizens by is obligatory to the children/relatives and justifiable through Tribunals.
  - b) Penal provision for abandonment of senior citizens;
  - c) Establishment of old age homes for indigent senior citizens; and
  - d) Adequate medical facilities and security for senior citizens.

In this chapter I have also highlighted the main points of various policies and programs made by the Central and State Governments for strengthening health and security of the elderly persons such as:

- National Policy for Elderly Persons (1999)- The policy provides broad guidelines to State Governments for taking action for welfare of elderly persons in a proactive manner by devising their own policies and plans of action.
- National Council for Elderly Persons (1999)- The NCOP is the highest body to advise the Government in the formulation & implementation of policy and programmes for the aged.
- National Policy on Senior Citizens (2011)- These include the demographic explosion among the elderly the changing economy and social milieu,

advancement in medical research science and technology and high levels of destitution among the elderly rural poor (51 million elderly live below the poverty line). A higher proportion of elderly women than men experience loneliness and are dependent on children. This policy addresses issues concerning senior citizens living in urban and rural areas, special needs of the oldest old and elderly women.

- Central Sector Scheme of Integrated Programme for Elderly Persons- The main objective of the scheme is to improve the quality of life of the senior citizens by providing basic amenities like shelter, food, medical care & entertainment opportunities and by encouraging productive and active ageing through providing support for capacity building of State/UT Government/NGO/Panchayati Raj Institutions/Local bodies and the community at large.
- National Action Plan for Welfare of Senior Citizens (effective from 01.04.2020)-objectives of the NAPSC are to work on the following components to fulfill the vision and mission of the scheme financial security, health care & nutrition, shelter & welfare, protection of life property of senior citizens, active & productive ageing with intergenerational bonding and skill development, accessibility transport & age friendly environment, etc.
- The Maintenance and Welfare of Senior Citizens Act has also been discussed in this chapter at length with the existing loopholes and recommendations which is the need of the hour and hence must be incorporated.

Therefore, The problem of the elderly must be addressed urgently and with utmost care. There is an urgent need to amend the Constitution for the special provision for the protection of aged person and to bring it in the periphery of fundamental right. With the degeneration of joint family system, dislocation of familiar bonds and loss of respect for the aged person, the family in modern times should not be thought to be a secure place for them. The Senior Citizens Act 2007 is a milestone which provides more effective provision for maintenance and welfare of parents and senior citizens. This Act also provides simple, speedy and inexpensive mechanism for the protection of life and property of the older persons. But when we look in depth, we cannot deny the fact that the existing mechanisms of rights of older

people have failed to rise beyond the expectations of the elderly. Also though the quantity of legal and welfare documents concerning the well being of elderly have considerably increased, the quality providing the same has decreased. Hence time has arrived to draft and design more national instruments enforceable in nature, to create problem specific provisions to protect the dignity and life of aged populations. Above all the need of the hour is to practice the provisions rather than preaching in volumes to uplift the rights and welfare of our pioneers.

Chapter V: This Chapter is devoted to the study of the judicial approach for the protections of the rights of Elderly Persons in India. This chapter analysed the Judicial responses on different parameters such as welfare of elderly persons, the best interest of elderly persons, Right to Dignity and Right to Freedom from Abuse, Neglect, or Exploitation, Right to Maintenance etc. This chapter discusses various cases decided by Supreme Court and High Courts, Maintenance Tribunals, etc. The drastic change in the value system and the negative behavior of the youth are the most evident reason for elderly abuse in the present day scenario. Dependence or old age persons due to extreme physical, psychological needs the constant support of a caregiver, which is absent from the side of the new generation. The irony of this situation is that the elder does not complain against the children usually; consequently, it might expose them to mishandle additionally. The investigation shows that old age people are amazingly hesitant and dismal to make lawful move against their children or bring criminal accusations against relatives. However, a beam of light shows up there; the examination uncovers that there has been a pattern that cases, including senior maltreatment, are starting to advance into the Court of law. The apex court of India has been asking the courts to accord priority to the cases concerning older persons and ensure their disposal as soon as possible. Recently, the electronic and print media have been showing courage to covering such sensitive issues with the hope that their status in society will be regained soon. Notwithstanding, all such legal provisions and guidelines given by the Hon'ble HCs and SC, It is essential to analyze the present socio-legal and demographic status of the senior citizens in India. Despite all of the laws and regulations that the Honorable HCs and SC have established, it is crucial to examine the current socio-legal and demographic situation of older folks in India.

Chapter VI: The Researcher has recently performed a research on a sample of 13 OAHs and discovered that nearly all of these homes, including government institutions, continue to operate under the welfare philosophy. This is undoubtedly an improvement over the custodial care philosophy, which served as the foundation for these homes. The interpretation and analysis of the data collected states that, the results suggest that while the physical ties of the elderly men and women with their adult children have weakened or snapped completely, their psychological and emotional bond with them remains strong. This is reflected by the fact that more than sixty% of the elderly living in old age homes still adhere to the view that children are the main support for parents in old age. It is therefore a sad reflection that these expectations of the elderly for the care and comfort from their children remain unfulfilled. The results therefore suggest that the state should be prepared to meet the need for good institutional living arrangements for the elderly as the demand for such care is likely to rise in the future. Simultaneously, some sort of counseling services will also need to be developed and incorporated in the larger programmes for the elderly to address their psycho-emotional health in addition to the service provision for their physical health.

Chapter VII: This chapter summarizes the findings of the study. On the basis of the various needs identified and the shortcomings of legal measures noted, certain recommendations are advanced for the proper protection of the rights of the elderly persons. The various suggestions are also made with respect to the law- reform, policy-stipulations and program-designs. The researcher believes that the findings of the research will certainly serve as useful inputs to make suitable changes under the Act as well as in the framing of policies and schemes. The study will also serve to identify the scheme of protection of the elderly persons in other countries, so that those could be adapted in India as well.

Some suggestions are as follows:

- Government, local authorities, non-governmental organizations, individual can make a significant contribution on to the provision of support and care for Elderly Persons in the family and community. What is needed is that the government should sustain and encourage voluntary activity of this kind which

may ultimately an age integrated society in which age discrimination and involuntary segregation are eliminated and in which solidarity and mutual support among generations will encouragement.

- In Section 2(a) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 definition of ‘Children’ includes son, daughter, grandson and granddaughter but it must be including stepchildren, adoptive children, children-in-laws and the legal guardian of minor children.
- In Section 2(d) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 definition of ‘Parents’ does not include grandparents and parents-in-laws. Hence, it must be including grandparents and parents-in-laws.
- Since Elderly Persons are most vulnerable person of society, so laws protecting them should be strictly implemented. There should be training to police and other agency of government entrusted with the protection of rights of Elderly Persons. The Act and the Policy needs to be implemented forthwith throughout the territory of India. All the State government shall be issued mandatory directions to implement the Act. Further, there shall be mandate issued to the officers to take special and sincere efforts in the implementation of the Act.
- In most of cases it was found that there physical and mental condition are not as such to seek legal remedy so government should either through its own body or through NGO make arrangement in this regards.
- Provision of regular surveillances should be made so that aged persons can be protected from abuse or harassment. Moreover, if somebody is found guilty of elder abuse then provision of sentencing scheme should be there.
- The world is in the midst of pandemic of novel corona virus COVID-19. Present and active role of the Government can be seen in preventing novel corona virus amongst the elderly population who are more vulnerable to the disease compared to other age groups.
- Amid the growing number of novel corona virus cases in the country, the Indian Government and the Ministry of Social Justice and Empowerment has taken stringent actions to contain the spread of COVID-19 among senior citizens and issued an advisory for the well-being of senior citizens who are aged above 60 years and especially those with medical conditions, such as

chronic respiratory disease, heart, liver and kidney disease, neurologic conditions, diabetes, hypertension and cancer, who are more particularly susceptible to infections during these times.

Hence, it is suggested for strict implementation of all laws relating to elderly persons in order to achieve the desired goal. Also, there has been a separate section of the chapter where the Hypothesis of the Empirical work has been tested and all the four hypotheses has been approved by the researcher on the basis of the interpretation and analysis of the collected data through Sampling.