

Domestic Violence Against the Elderly – An Analytical Study

Author – Aman Mujeeb, Student at Alliance School Of Law

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ABSTRACT

This study aims to examine and dissect elderly abuse in India and how it affects their quality of life. The present demographic system of the country shows a peak in the adult population. According to a 2011 census, 8.6% of the population constitutes the elderly, i.e., people aged 60 and above. Every year, hundreds of thousands of adults over 60 undergo abuse, neglect, or financial exploitation. Despite the number of cases, little evidence shows any intervention to thwart elder abuse. Fieldwork shows that the elderly that were abused are in a worse mental and physical state than those who were not. The elderly being physically and mentally weak and are seen to have poor decision making capabilities they are often taken advantage of and exploited despite rules and regulations existing in the state to prevent them from abuse. It maybe because rules are not stringent or maybe because of the inadequate knowledge and unawareness regarding the existing laws in force. The elderly are often ignored and their basic rights are often violated. This paper analyses how elder abuse takes place what leads to it and why it is not reported in large scale.

Keywords: domestic violence, elderly, mistreatment

INTRODUCTION

India is considered to have the most diverse population in the world along with one of the oldest cultural civilizations. One of the key aspects of Indian culture is respect for and reverence towards elders. Unfortunately, many individuals in today's day and age view them as

a burden. Elders are one of the most vulnerable elements of society and are, regrettably, dependent on their families for necessities and support. With the changing patterns of life, the condition of the elderly is getting worse. Elder abuse and neglect are widespread social issues globally, including India.

In India, 8% of the population was recorded as being 60 years of age or older in the 2011 census, and by 2026 and 2050, respectively, it is forecasted that this proportion will raise to 12.5% to 20%. With India's demographic shifts, there are growing worries for the elderly and serious worries about their safety and security. Therefore, it is crucial to concentrate on issues related to elder abuse and safeguard the security of the elderly. The current legal framework for older people needs to be reexamined, and a mechanism needs to be set up to defend older people's interests and minimize the escalating abuse against them.

Research problem

The topic of domestic abuse against elderly people is important, yet it doesn't get much attention. There is a stigma surrounding the elderly, who are thought to be of little social value because of the maltreatment that comes with age. People are ignorant of how to assist the abused. Despite the government acknowledging elder abuse as a serious problem and passing legislation to stop it, there are few effective remedies available because of cultural stigma and lack of awareness.

Objective

To gain knowledge regarding elderly abuse and how effective the current laws are against the perpetrators of elder abuse.

Research Questions

1. What is elder abuse? Why does it occur?
2. What legal protection is offered to the abused elderly?
3. What are the trends of abuse observed across different communities, especially regarding a family's income and way of living?

RESEARCH FIELDWORK

SIPANI SEVA SADAN old age home, located in Marsur village.

Findings:

About 320 individuals are present at the Sipani Seva Sadan. It serves as a home for elderly and disadvantaged people. 70 to 80 people have physical or mental disabilities. Findings: However, the population was, on average, made up of people between the ages of 45 and 60. Our poll is not really relevant to our issue because our study is focused on seniors, defined as those who are 65 and older. However, after speaking with them, we came to the conclusion that the majority of them were unaware of the laws protecting them from abuse and what constitutes abuse.

Hypothesis

The current legal system, which provides the abuser with a punishment of minimum 5,000 rupee fine or three months of jail, or both, is working well. People from economically weaker sections of society are hesitant to abuse their elders as they want to prevent the fine of punishment.

Research Methodology

The information in this paper has been collected through analytical and empirical methods. Along with interaction with the elderly, we have also included data collected from previous researches and surveys.

Scope

Analyzing the effectiveness of the current legal system and the relief it awards the abused. Through surveys and extensive research, the punishment for abusing the elderly was looked into.

ELDER ABUSE AND ITS EFFECTS

Physical abuse is the willful infliction of harm or pain, intended to cause bodily injury to the victim. Unfortunately, since older people have weaker bodies, it might cause grave injuries or even lead to death. In elderly people, abuse is perpetrated by family members, friends, nursing home staff, or other residents. This abuse may happen regularly or once.

Sexual abuse in elderly occurs when caregivers or others violate the trust they were given to care for an elderly person and taking advantage of that person sexually. Abusers target elderly people as they believe they are vulnerable and easy targets. Although elder sexual abuse can occur anywhere, it tragically occurs most often in nursing homes. These are incredibly immoral and illegal actions, and both families and caregivers need to recognize the signs of this type of abuse.

Verbal abuse is any statement that is meant to cause pain, fear or detriment is considered verbal mistreatment, this includes insults, yelling and screaming, mocking and criticizing, threats of harming the individual, excluding in activities or ignoring. While it doesn't leave physical marks, it can be devastating to someone's wellbeing potentially causing depression, PTSD and anxiety. The stress associated with providing care and assistance to frail, highly dependent elderly people is found to be one of the major reasons leading to domestic violence

against the elderly. Among the elderly who felt ill-treated, 77.3 per cent complained of verbal / emotional ill-treatment that can harm their self-worth or emotional well-being.

Financial abuse could be in the form of improper use of elders' money, duping off their property and belongings. It is mainly done by undue influence of relatives and family. From the above mentioned abuses. It is clearly evident that all these abuses are extremely dangerous and these can cause adverse effects on elders physically, mentally and financially.

Elder Neglect refers to the failure to provide the required care and fulfil the requirements. Neglecting the elderly has a detrimental effect on their mental health. Intentional or accidental neglect is both possible, based on elements including a senior's lack of knowledge or denial about the level of care they require. Healthcare fraud is frequently committed by dishonest physicians, nurses, hospital staff, and other healthcare professionals.

LEGAL ACTION AGAINST ELDERLY ABUSE

Laws against elderly abuse

Seniors have the legal power to request maintenance from their children under the **Hindu Adoption and Maintenance Act, 1956**. Furthermore, it states that in the event that a person's elderly parents are unable to care for themselves, it is their responsibility to do so. It's necessary to keep in mind that the 1956 law mentioned above only applies to Hindus. Muslim, Christian, and even Parsi law share similarities.

The Maintenance and Welfare of Parents Act, 2007, was the first piece of legislation to specifically address the problems encountered by elderly people. The 2007 Support and Welfare of Parents and Senior Individuals Act aims to make it a legal requirement for children and heirs to give adequate maintenance to senior citizens. It also includes provisions for state

governments to create old age institutions in every district.

1999's National Policy for Older People is an effort to better the lives of senior citizens in society. The Ministry of Social Justice and Empowerment introduced the Policy in 1999. In accordance with Article 41 of the Constitution, which requires the state to protect the interests of the elderly, this policy was formed. The National Policy aims to assure senior citizens that their worries are recognized by the country and that they won't be left without protection or support. The National Policy's main objective is the welfare of senior citizens. It attempts to support their social standing and assist them in living out their final years in peace, dignity, and purpose. According to the policy, the State will support older people in terms of their financial security, health care, housing, welfare, and other needs. It will also protect them from abuse and exploitation, provide opportunities for them to reach their full potential, actively seek out their input, and offer services to enhance the quality of their lives.

Indira Gandhi National Old Age Pension Scheme: Ministry of Rural Development of India has introduced Indira Gandhi National Old Age Pension Scheme (IGNOAPS) under the National Social Assistance Program (NSAP) in the year 2007. This scheme provided central assistance by providing pension of 200/- per month to persons above 60 years of age and 500/- per month to persons above 80 years of age who belong to households below the poverty line. The State Government is also under the obligation to provide benefits to the senior citizens. Accordingly, the State Government of Maharashtra, under Shravanbal Seva Rajya Nivruttivetan Yojana provides 400/- to the citizens who are eligible for the scheme.

National Program for the Health Care for the Elderly: The National Program for the Health Care for the Elderly is an articulation of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), National Policy on Older Person (NPOP) adopted by the

Government of India in 1999 and Section 20 of "The Maintenance and Welfare of Parents Act, 2007" dealing with provisions for medical care of Senior Citizen. The main objective of the program is to provide preventive, curative and rehabilitative services to the elderly persons at various level of health care delivery system of the country.

Article 39(e) requires the State to secure that the health and strength of workers, men and women and children of tender age are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their area++ of strength. To achieve these goals, the State provides pensions as a monetary benefit to former employees so that they can live a meaningful life with dignity.

Article 41 provides 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 public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want".

Under **Section 125 of the CPC**, parents can claim maintenance against their children including married daughters, provided that the children have sufficient means to maintain the parents while the parents can't maintain themselves.

Judicial support for the elderly

- (a) Sunny Paul & Anr. Vs State Nct of Delhi & Ors.: The Delhi High Court has ruled that children who abuse their parents while staying with them in their house can be evicted from the property.
- (b) Santosh Surendra Patil Vs Surendra Narasgopnda Patil: In this case, the court held that it is the legal responsibility of children and guardians to take care of the elderly.
- (c) Kirtikant D. Vadodaria Vs. State of Gujarat: According to the Supreme Court, under the Hindu Adoption and Support Act of 1956, elderly and disabled

parents have the same right to maintenance from their daughter as they would have from a son.

- (d) Vijaya Manohar Arbat Vs. Kashi Rao Rajaram Sawai and Anr: The Supreme Court rightly highlighted that a self-sufficient married daughter must pay maintenance to the father or mother who does not have a son. Additionally, the stepmother has the same right to maintenance as the biological father.

REPORTS OF ELDER ABUSE

Trends of elder abuse across different communities

By making an analytical study we come to know that people under the age of 60 – 70, people with more household assets, people who are unmarried, usually live in rural areas, who are unhealthy have considerably seen higher risks of being abused. Elder abuse happens more in communities where people lack knowledge of the laws and their frameworks that help. Even after adjusting for wealth and other relevant factors, we find that education consistently has the lowest impact on elder abuse. Only individuals with more than 8 years of education may relate education to abuse, though. This shows that the continued growth of education in India beyond the years of basic schooling may result in a decrease in the frequency of elder abuse. Nursing homes can be considered to be a community where abuse happens in some way- from physical abuse to stealing money to illegally restricting activity (false imprisonment). Powers of attorney can bring peace to the minds of elders, which allows them to make decisions about finances, and many people are seen affected in old age homes because of this kind of issue.

How often are elders abused?

Although 82% of India's elderly live with their families, they are often at the receiving end of 'verbal abuse', 'neglect' & 'physical violence', according to HelpAge India report. According to a survey, 35% senior citizens in India suffer abuse by sons, 21% by daughters-in-law. According to the latest survey, almost 60% of senior citizens feel that elder abuse is prevalent on a large scale, and 10% have admitted that they have been victims by themselves.

Money as a factor of abuse

Elder abuse in general, including financial exploitation of the elderly, is difficult to quantify since there is no national reporting system to track and evaluate it, cases are frequently not reported, definitions vary, and it is challenging to identify. There is no proper research or surveys that show that in economically weaker sections of society, money is a major reason elders of a family face abuse.

Is abuse lesser in economically weaker sections?

No, it is not lesser in economically weaker sections. There is a gradual increase in abuse in recent periods. The reasons may be the problems such as financial issues, property issues, and more. A fine or punishment isn't a way to solve the issue. The only way that this could be solved is by teaching children to respect elders around them.

CONCLUSION

Indian society once took great pride in its united family system. In family issues, elders were respected and given a say. The circumstance completely changed over time. Industrialization has led to the breakdown of the joint family system and the rise of nuclear or single-family norms. Value erosion is a result of migration, consumerism, and other related factors. These causes contribute to the high incidence of elder abuse, neglect, and abandonment. Numerous people even experience violent torture. Even

murders are a common occurrence. Through this study, our idea has been disproven.

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