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Constitutional Safeguards for Scheduled Tribes

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Abstract:

Old age is an indispensable stage of life of a human being which a man cannot refute except untimely death. The childhood and old age are natural reliant conditions of life where children depend on parents and parents depend on children. The concept of nuclear family affected this usual cycle resulting in misbalance of the normal life of elderly people by defeating thousand years old practice of India where parents are treated as a pious form of God. Nowadays, the parents are becoming burdensome for their child whenever they lost their strength to work and earn. Available legal, social, moral and governmental norms are analyzed in this article to find out the possible ways by which elderly people's human right are infringed and they bound to suffer pain and agony. The article also reflects the available laws, policies and guidelines for protection of the rights of old age person in India.

Keywords: - Old Age, Policies, Articles and Legal Right.

Introduction

Ageing is a universal phenomenon. It brings about certain anatomical, physiological, psychological change in life. It is also one of the most important demographic and epidemiological transitions caused by enormous improvement in public health, medical treatment, socio-economic factors such as education, income, better nutrition's and living condition as well as technological advancement. The population of aged increasing day by day but we take it as challenge for futurity policy making and administrative purpose. Aged problems are not physical in nature it may be social and psychotically disease. But today aged are neglected in family because of generational gap between young and age's. The aged are behavior like traditionalized. The young's are modern. The majority of the tribes depend on land and forest to make a living. Their social life is also interwoven around the land they live on. They have thus a physical and emotional attachment and dependence on land and forest. In this context, launch of Van Bandhu Kalyan Yojana. Single Window System for Obtaining Market Information on Minor Forest Produces, Setting up of 184 Eklavya Model Residential Schools. Preparation of Tribal Map of India and Launch of MFPNET Portal of TRIFED were some of the important Initiatives for Tribal welfare during the year 2014. It is the nodal Ministry for the overall policy, planning and coordination of programmes for the development of the Scheduled Tribes (STs). The programmes and schemes of the Ministry are intended to support and supplement, through financial assistance, the efforts of other Central Ministries, the State Governments and voluntary organizations, and to fill critical gaps taking into account the needs of ST. 2011 census of India demonstrated that aged people in India have crossed over 104 million and most of the Indian parents expect their children to look after in their old age, but due to many reasons like globalization, modernization, industrialization and decline in ethical values elder persons are admitted to old age home in large number. To protect the rights and interests of senior citizens national and international agencies have passed many legislations like- "UN Principles of Ageing" was passed in 1982, to promote rights of senior citizens. Indian government has passed The Hindu Adoption and Maintenance Act 1956, Criminal

Procedure Code 1973(section 125) under these acts parents can claim for maintenance from their children. The National Policy on Older Persons (NPOP) was announced in January 1999. The International Day for Older Persons (IDOP) is being observed on 1st October every year since 2005. The Maintenance and Welfare of Parents and Senior Citizens Act 2007. The Division has been implementing a Central Sector Scheme, "Integrated Programme for Older Persons" (IPOP) since 1992 the objective of improving the quality of life of senior citizens by providing basic amenities like shelter, food, medical care and entertainment opportunities etc.

Meaning of tribes:

Tribes' means a unique culture, language, common name and common ancestor etc, and they are known as **Adivasis, Girijan, Hill tribes, Vanavasis**. A social division of people especially a preliterate people defined in terms of common descent, territory, culture, including some defined by unilateral descent, some defined by ethnic origin. Cultural anthropologist now usually apply the term to a unit of social organization i.e., culturally homogeneous and consist of multiple kinship group such as family lineage or clan that prohibited marriage with themselves but endorse or require marriage with person of the other kinship group.

Definition of tribes:

- **S. C. Dube** : Tribe is "an ethnic category , defined by real or putative descent and characterized by a corporate identity and a wide range of commonly shared traits of culture".
- **J. L. Gillin and J. A. Gillin** : "A tribe is a group of local communities which lives in a common area, speaks a common dialect and follows a common culture".

What is scheduled tribes?

The term "**Scheduled tribes**" is a politico-legal term. It was introduction by the British for their administrative convenience. It was first coined by the "**Simon Commission**" (1928) and was used by the then "**Government of India Act 1935**". When India became independent this term was adopted by the constitution for the purpose giving special facilities and the constitutional guarantees for the tribes. The **Constitution** has '**listed**' or '**scheduled**' a few of the tribal communities and these listed tribes are referred to as scheduled tribes.

Methodology of the Study: The Study is based on secondary data. This paper is the initial Part of my Ph.D thesis entitled "**Health Status of Elderly Scheduled Tribes: A Sociological Study**"

Constitutional Facilities:

Article 15: The state shall not discriminate against any citizen on the ground of Religion, Race, caste, sex, and place of birth or any of them.

Article 16(4) and 320(4): Provides reservation in employments.

Article 41: Right to work, to education and to public assistance in certain cases: The State shall, within the limits of 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: Promotion of educational economic interest of citizen and other weaker sections: The State shall promote with special care the educational and economic interest of the weaker section of the people and shall protect them from social injustice and all forms of exploitation.

Article 330, 332, and 334: Provides seats shall be reserved for Scheduled Caste and Scheduled Tribes in the house of people and state legislature.

Article 342: Empowers the president to specify the tribes deemed to be Scheduled Tribes in a particular state or union territory.

Legal Rights

- **Code of Criminal Procedure (1973):-** Section 125(1)(2) makes it incumbent for a person having sufficient means to maintain his father and mother who is unable to maintain himself and on getting proof of neglect or refusal, not exceeding by a first class magistrate to make a monthly allowance not exceeding 500/-. It is applicable to all, irrespective of their and religious persuasions, and including adoptive parents.
- **Hindu Adoption and maintain Act, 1956:-** The right of parents without any means to be supported by their children having sufficient means has been recognized by section 125(1)(d) of the Code of Criminal Procedure 1973, and Section 20(3) of the Hindu Adoption and maintenance Act 1956. This act gives a statutory recognition to the well established normal obligation of a Hindu child (male or female) to maintain this aged or infirm parent, as long as they are not able to maintain themselves.
- **Maintenance and Welfare of Parents and Senior Citizen Act, 2007:-** Parents and grandparents who are unable to maintain themselves from their own income can demand maintains from their child as defined below. And “Childless Senior Citizen” who is unable to maintain themselves from their own income can demand maintenance from their relatives as defined as a “Senior citizen” is any citizen of India of 60 years and above whether living in India or not. “Relatives” are those who are either in possession of the property of the senior citizen or would inherit it. “Parent” is the father or mother even if not 60 years yet. “Children” are adult son, daughter, grandson and grand-daughter.

Central And State Government Facilities

Central Government facilities

1. Bank facilities.

- Debit card free.
- Income exemption up to 2.25 lakh per annum.
- Government also gives higher rate of interest senior citizen on certain Savings schemes which it runs through its large network of Post Offices and public sector Banks.
- Some Banks like State Bank of India 50% of the applicable prescribed charges in respect of following services like
 - a) Issue of duplicate pass book.
 - b) Issue of cheque books.
 - c) Charge of non maintenance of minimum balance.
 - d) Minimum balance requirement is also 50% for these class customers.

2. Health facilities insurance/LIC.

A) Health insurance

- ❖ Attala Bhīma swats yojana (2012).
- ❖ Rashatriya swats' Bhīma yojana (2008).
- ❖ Jana arogya Bhīma Neeti.
- ❖ There is provision for separate queues for senior citizen at hospital and health care centre when they visit for any health related concerns or clinical examination.

B) Life insurance of India policies for old age.

- Jeevan Dhara Yojana.

- Jeevan akshay Yojana.
- Senior citizen Unit.
- Medical insurance Yojana.

3. Railway facilities.

- ❖ Travel by Indian Railways is 30% cheaper for all senior citizen (age of photo ID proof and date of birth proof).
- ❖ Separate counters/Queues for senior citizen.
- ❖ Special arrangements are available for those who find it difficult to walk or move on their own. (Wheel chairs).

4. Air lines facilities.

- Senior citizens are entitled to 50% discount on Economy class fares on all flights of Indian Airlines.
- Air India gives 45% discount in any economy class on domestic sectors to senior citizen (women 63+ and men aged 65+).

5. The focus of the new policy:

- 1) Mainstream senior citizens, especially older women, and bring their concerns into the national development debate with priority to implement mechanisms already set by governments and supported by civil society and senior citizens' associations. Support promotion and establishment of senior citizens' associations, especially amongst women.
2. Promote the concept of „Ageing in Place“ or ageing in own home, housing, income security and homeware services, old age pension and access to healthcare insurance schemes and other programmes and services to facilitate and sustain dignity in old age. The thrust of the policy would be preventive rather than cure.
- 2) The policy will consider institutional care as the last resort. It recognises that care of senior citizens has to remain vested in the family which would partner the community, government and the private sector.
- 3) Being a signatory to the Madrid Plan of Action and Barrier Free Framework it will work towards an inclusive, barrier-free and age-friendly society.
- 4) Recognize that senior citizens are a valuable resource for the country and create an environment that provides them with equal opportunities, protects their rights and enables their full participation in society. Towards achievement of this directive, the policy visualizes that the states will extend their support for senior citizens living below the poverty line in urban and rural areas and ensure their social security, healthcare, shelter and welfare. It will protect them from abuse and exploitation so that the quality of their lives improves.
- 5) Long term savings instruments and credit activities will be promoted to reach both rural and urban areas. It will be necessary for the contributors to feel assured that the payments at the end of the stipulated period are attractive enough to take care of the likely erosion in purchasing power.
- 6) Employment in income generating activities after superannuation will be encouraged.
- 7) Support and assist organizations that provide counseling, career guidance and training services.
- 8) States will be advised to implement the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and set up Tribunals so that elderly parents unable to maintain themselves are not abandoned and neglected.

- 9) States will set up homes with assisted living facilities for abandoned senior citizens in every district of the country and there will be adequate budgetary support

State Government Facilities

- Senior citizen pension (Sandhya suraksha yojana).
- Widow pension.
- 10% concession on bus fair.
- 10% reservation in bus seats.
- Old age homes.
- Elderly help line centers.
- Identity card distribution (District physical health officer).

Conclusion:

We can conclude by saying that the problem of the elderly must be addressed to urgently and with utmost care. There is urgent need to amend the Constitution for the special provision to protection of aged person and bring it in the periphery of fundamental right. When the degeneration of joint family system, dislocation of familiar bonds and loss respect for the aged person, the family in modern times should not be thought to be a secure place for them. Thus, it should be the Constitutional duty of the State to make an Act for the welfare and extra protection of the senior citizen including palliative care.

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