
ABSTRACT

The Constitution of India, recognizing the basic human rights, and guarantying some of these human rights paving the way for a constitutional system in which individual autonomy and welfare is going to be ensured. This work examines the rights and welfare of senior citizens ensuing from the collective reading of the Senior Citizens Act, 2007, and the Food Security Act, 2013 along with the constitutional guarantee enshrined in the Constitution of India. For academic convenience, the work is divided into four parts. Part-I encapsulates the rights of senior citizens flowing from constitutional provisions and the above two legislations. Part II narrates the international commitments reflected through various covenants and instruments. Part III of the work underlines the judicial approach to securing the rights of the senior citizens, especially the right to live with dignity, and the availability of food, shelter and other amenities. Part-IV deals with a critical inquiry about the rights of the senior citizens, especially their 'right to food'. This section focuses on the Senior Citizens Act, 2007 and the Food Security Act, 2013. The work concludes that both these legislations were drafted with great intent, however, fail in bringing the necessary legal apparatus and the executive protection which could have ensured the right to food to the elderly.

Key words: *senior citizens, welfare, food security, right, protection, society, vulnerability, dignity, ageing, adequate.*

*Ph.D. Scholar at Himachal Pradesh National Law University, Himachal Pradesh.

Part-I: Elderly and Right to Food- the Constitutional Scheme

The Constitution of India provides the basic framework under which rights and liberties of individuals, as well as groups, are being secured, and at the same time state is given certain duties to bring necessary upliftment to its citizens.¹ This constitution-based governance came into force on 26th November 1949 with the substantial enforcement of the Constitution of India². The governance visualized under the constitution focuses on the concept of equality, liberty and justice.³ The very 'Preamble' of the Constitution guarantees '*fraternity*' to its entire people, which presupposes the availability of all other rights and basic liberties to all without any discrimination. The idea of 'equality', 'liberty' and 'justice' should not remain a hollow promise, the same are substantially guaranteed through the explicit provisions under Part-III⁴ and Part-IV⁵ thereof.

Egalitarian Society: A Constitutional Dream

Furthering the objectives and vision laid down in the Preamble, Part-III of the Constitution starts with guaranteeing 'equality' and 'equal protection by law',⁶ and proceeds to ensure the basic freedoms,⁷ and liberties⁸ including choices of religion,⁹ and educational institutions.¹⁰ The Constitutional scheme leaves no scope for doubts that these rights are merely some form of moral declaration. These rights are the essence of constitutional governance, and thus, in case of their violation, people shall have the right to enforce them directly through the constitutional court i.e. the Supreme Court of India as well as the High Courts.¹¹ Invoking a unique model of justice, as described vividly in John Rawls' Theory of Justice,¹² the constitution ensures basic liberties to all without any discrimination, and at the same time directs the state to follow a path of economic development whereby true economic empowerment could be achieved. Thus, Part IV of the

¹ Part-III & IV, Constitution of India, 1949

² The Republic is governed in terms of the Constitution of India which was adopted by the Constituent Assembly on 26th November, 1949 and came into force on 26th January, 1950.

³ Preamble of the Constitution of India, 1950.

⁴ Fundamental rights, Constitution of India, 1950.

⁵ Directive principles of state policy (DPSPs), Constitution of India, 1950.

⁶ Article 14-18, the Constitution of India, 1949

⁷ *Id.*, Article 19.

⁸ *Id.*, Article 20-22

⁹ *Id.*, Article 25-28

¹⁰ *Id.*, Article 29-30

¹¹ *Id.*, Article 32 & 226

¹² John Rawls, "A THEORY OF JUSTICE" (1971).

constitution provides instructions in the form of Directive Principles of State Policy¹³ whereby the state is required to formulate their economic policies to achieve the idea of social justice. A thorough analysis of Part IV unequivocally indicates an egalitarian model of society where equality, liberty, and justice will be omnipresent in all forms of governmental policy. The prerequisite for an egalitarian model would be the equality of treatment and equal protection. Thus, this is no surprise that Part-III of the Constitution begins with 'equality', which further makes the way for all other fundamental rights.

Vulnerability: Social, Economic or Political

The idea of social justice would be incomplete if certain sections of society, were at disadvantage, historically or otherwise, or left unattended by the system of governance. Sensing this at a very early stage, the government through legislation, policy interventions, and judicial developments attempted to handle the system responsible for the suffering of these sections. For example, in the very first decade of independence, the Indian Parliament enacted several legislations to address the vulnerability of women.¹⁴ Later on, concerns of the other sections of the vulnerable sections of society such as children,¹⁵ persons with disability¹⁶, the third gender,¹⁷ and the elderly¹⁸ were addressed.

Elderly: A Special Class

Though there is no express provision for senior citizens in the Constitution, however going through with the spirit of the Constitution, the senior citizen does come under the 'vulnerability' due to their specific characteristics including family and livelihood dependency. Senior citizens are

¹³ Directive principles of state policy, Constitution of India, 1950.

¹⁴ See for example, the Immoral Traffic (Prevention) Act, 1956; the Dowry Prohibition Act, 1961; the Commission of Sati (Prevention) Act, 1987; the Protection of Women from Domestic Violence Act, 2005; the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; the Criminal Law (Amendment) Act, 2013; the Indecent Representation of Women (Prohibition) Act, 1986 etc.

¹⁵ The Protection of Children from Sexual Offences Act, 2012; the Juvenile Justice (Care and Protection of Children) Act, 2015

¹⁶ The Person with Disabilities Act, 1995; the Mental Health Act, 1987; the Rehabilitation Council of India, 1992; the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities Act, 1999.

¹⁷ The Transgender Persons (Protection of Rights) Act, 2019

¹⁸ Maintenance and Welfare of Parents and Senior Citizens Act, 2007

defined as ‘person who has attained the age of sixty years and above. According to Merriam Webster dictionary, Senior-citizen means an elderly person, especially one who has retired.¹⁹

Senior citizens are treated as dependent because of numerous factors. *Firstly*, there are scientific/biological reasons which make the elderly depend upon their family. *Secondly*, the economic factors further cause dependency of senior citizens on their families. It is quite natural that most senior citizens unless they are pensioners can become dependent on their families in their old age. Economic dependency is much more severe and complicated than other forms of disability such as emotional or companionship. Thus, it is quite plain that senior citizens are that section of society that requires the urgent attention of the state.

It may be pointed out here that Article 14 of the Constitution talks about the ‘equal protection of laws, under which state is mandated to make necessary provision to empower such vulnerable sections by specific protection measures. Further, the fundamental rights, *vis.* right to life enshrined under Article 21 of the Constitution has been interpreted to include the ‘*right to life with human dignity*, which inter alia includes the ‘right to food’, right to shelter, right to medical health etc. While dealing with Article 21, though in a different context, the Supreme Court of India ruled the meaning of life ‘as not merely animal existence but life with human dignity.²⁰

Article 21 of the Constitution read with Articles 39(a) and Article 47 categorically indicate a definite constitutional scheme of ‘right to food’ for all vulnerable sections. Article 39(a) of the Constitution enunciates a policy, fundamental in the governance of the country, requiring the state to direct its policies towards securing that all its citizens ‘the right to an adequate means of livelihood’.²¹ Article 47 of the Constitution, inter alia, gives that the State will respect raising the degree of nourishment and the way of life of its kin and the improvement of general wellbeing as among its essential obligations.²² The Constitution, thus, makes the ‘right to food’ a guaranteed

¹⁹ Merriam-Webster, Available <https://www.merriam-webster.com/dictionary/senior%20citizen> visited at March 10, 2022.

²⁰ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

²¹ Constitution of India, 1950, Art. 39(a), “the State shall... direct its policy towards securing that the citizen, men and women equally, have the right to an adequate means of livelihood...”

²² Constitution of India, 1950, Art. 47: “The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties...”

fundamental right which is enforceable by virtue of the constitutional remedy provided under Article 32 of the Constitution.²³

It is quite noticeable that a person of old age is incapable of maintaining themselves and would not be in a position to live a life with human dignity unless the same is guaranteed through the legislative mechanism and enforced as a constitutional duty. The Indian ethos of serving the parents well is very much reflected in Article 51A (f).²⁴

Part-II: Right to Food and the International Legal Regime

The Universal Declaration of Human Rights²⁵ and International Covenant on Economic, Social and Cultural Rights²⁶, to which India is a signatory, likewise cast liabilities on all states who are parties to perceive the right of everybody to sufficient food. Destroying outrageous destitution and appetite is one of the objectives of the Millennium Development Goals of the United Nations.

The 'right to food' is an integral part of a vision of a 'world without hunger. The vision articulates a world where every child, woman and man can feed himself or herself in dignity. The right to adequate food as a basic human right was first recognized in the Universal Declaration of Human Rights in 1948, as part of the right to a decent standard of living. Article 25 of the Universal Declaration of Human Rights in 1948 states that:

'Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food.'

The above declaration was converted into a legally binding nature with the adoption of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1976. In Article 11, the ICESCR stipulates that the States Parties recognize the right of everyone to an adequate

²³ *Kishen Patnaik and Anr v. State of Orissa*, AIR 1989 SC 677; See also, *Chameli Singh v State of UP*, (1996) 2 SCC 549; *Paschim Banga Khet Mazdoor Samity and Ors., v. State of West Bengal*, (1996) 4 SCC 37; *Francis Coralie Mullin v. Union Territory of Delhi*, (1981) 1 SCC 608. The National Human Right Commission has also considered right to food as funademental right. See also, <https://nhrc.nic.in/press-release/right-food-fundamental-right> (last visited 21 Feb. 2022)

²⁴ Constitution of India, 1950, Art. 51A (f): "It shall be the duty of every citizen of India to value and preserve the rich heritage of our composite culture..."

²⁵ Universal Declaration of Human Rights (1948)

²⁶ International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27.

standard of living for himself and his family, including adequate food and affirms the existence of ‘the fundamental right of everyone to be free from hunger.’ Since the adoption of the International Covenant on Economic, Social and Cultural Rights, 1976, the international community of states have many bilateral and multilateral agreements and has affirmed the right to food. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979 reaffirms the right to access food for women. Article 24(2)(c) of the Convention on the Rights of the Child (CRC), 1989 mandates the state parties to pursue full implementation of rights contained in the convention, and shall take appropriate measures “to combat disease and malnutrition, including within the framework of primary health care, though, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.”

The Committee on Economic, Social and Cultural Rights (CESCR) defined the ‘right to food’ in General Comment No. 12 as follows ‘the right to adequate food is realized when every man, woman and child, alone or in a community with others, has physical and economic access at all times to adequate food or means for its procurement.’²⁷ The Committee stresses that the right to adequate food ‘shall not be interpreted in a narrow and restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients.’²⁸

The international human rights instruments place the primary responsibility for the realization of the right to food on the State. The obligations are required to be respected in their municipal jurisdiction while legislating enactments. State parties are under the mandate to protect these obligations while launching measures to fight against food insecurity and malnutrition. Thus, states are in fact under obligation to ‘respect’, ‘protect’ and ‘facilitate’ the international mandate of the right to food. The ‘obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means that the State must pro-actively engage in activities intended to strengthen people’s access to and utilization of resources and means to ensure their livelihood, including food security.’²⁹ This means that the State has to create a legal, policy and institutional environment that enables people to access safe and nutritious food in ways that fully respect human dignity–

²⁷ CESCR. General Comment 12, “The Right to Adequate Food.” E/C.12/1999/5, par. 6.

²⁸ *Ibid.*

²⁹ CESCR. General Comment 12, The right to adequate food. E/C.12/1999/5, par. 15.

either through procurement or production. Whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by means at their disposal, States have the obligation to fulfil the right direction, an example of which could be supplying food aid. The States Parties to the ICESCR are obliged to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, with a view to achieving progressively the full realization of the right to food.³⁰

As deliberated during the World Food Summit 2002, a voluntary instrument on the right to food was conceptualized. To realize the same, the Food and Agriculture Organization of the United Nations (FAO), created the Intergovernmental Working Group (IGWG) on the right to food to design, discuss and negotiate this voluntary instrument. The Right to Food Guidelines was adopted by consensus at the FAO Council meeting in 2004. All the state parties were encouraged to apply these Guidelines while developing their strategies, policies, programs and activities.

It may not out of context to quote the United Nations Millennium Development Goals, 2015 (MDGs) Country Report noted that, despite India's significant progress during the MDG era, more sustained efforts are required to accelerate achievement, particularly related to food and nutrition security.³¹ In such a positive policy environment, the Government's efforts to address malnutrition and food insecurity have the potential to accelerate progress towards reaching their targets under Sustainable Development Goal 2. Goals (SDGs) cover all the three dimensions of human development – social, economic and environmental. They were launched in 2016 with 17 goals and 169 targets which are meant to be achieved before 2030. One notable difference between the MDGs and the SDGs is that the SDGs evolved through a series of grassroots consultations across the world, through which India contributed actively to shaping the final product. Achieving food security requires that all the three separate dimensions such as availability, access and utilization are sufficient and stable over time (World Food Summit, 1996).

It is in this sense, that the United Nations' Committee on World Food Security, argued that "all people, at all times, should have physical, social, and economic access to sufficient, safe, and nutritious food that meets their food preferences and dietary needs for an active and healthy life."

³⁰ *Id.*, par. 36

³¹ Food and Nutrition Security Analysis, India, 2019.

Food security is the combination of the three elements i.e. food availability, food access, and food utilization.

In pursuance of the constitutional commitments and commitments under the international conventions, giving food security has been the focal point of the Government's preparation and strategy. Food security implies accessibility of adequate food grains to fulfil the homegrown need as well as access, at the singular level, to satisfactory amounts of food at reasonable costs. The fulfilment of independence in food-grains creation at the public level has been one of the significant accomplishments of the country. To resolve the issue of food security at the family level, the Government is executing the Targeted Public Distribution System under which financed food grains are given to the Below Poverty Line, including *Antyodaya Anna Yojana*, or more destitution line families. While the Below Poverty Line families under the Targeted Public Distribution System get 35 kilograms of food grains per family each month, the assignment to Above Poverty Line families relies on the accessibility of food grains in the Central pool. Distributions for other food-based government assistance plans for females and children, catastrophic events, and so on, are likewise being made at subsidized rates.

Guaranteeing food security of individuals, be that as it may, keeps on being a test. The dietary status of the populace, and particularly of women and children, likewise should be improved to upgrade the nature of human assets of the country. The proposed regulation denotes a change in perspective in resolving the issue of food security—from the current government assistance way to deal with a right-based approach. Other than the growing inclusion of the Targeted Public Distribution System, the proposed regulation would give lawful freedoms to qualified recipients to get entitled amounts of food grains at profoundly financed costs. It will likewise present lawful privileges on women and children and other Special Groups, for example, desperate, destitute, calamity and crisis impacted people and people living in starvation, to get supper for nothing or at a reasonable cost, all things considered.

Part-III: Elderly and Right to Food: Legislative Development and Judicial Approach

Right to Food and Legislative Policy—

The government of India, along with state governments have launched various schemes to eradicate poverty and malnutrition viz, the Public Distribution System (PDS); *Antyodaya Anna*

Yojana (AAY); The National Programme of Nutritional Support to Primary Education, (Mid-day Meal); The Integrated Child Development Services (ICDS); Annapurna; The National Old Age Pension Scheme (NOAPS); The National Maternity Benefit Scheme (NMBS); The National Family Benefit Scheme (NFBS); and MNREGA etc. The object of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MNREGA) was to protect a rural households from poverty and hunger. The Act is of great privilege to people surviving on the margin of subsistence. The success or failure of these schemes is outside the scope of this paper. However, it is beyond doubt that these schemes have contributed a lot to handling poverty and malnutrition.

After a people-led movement for enacting a comprehensive recognition of the 'right to food', the parliament of India enacted the National Food Security Act, 2013. With this enactment, the Public Distribution System is now governed by provisions of the National Food Security Act, 2013. The Act provides coverage for nearly 2/3rd of the country's total population. By this Act 75% of the Rural and 50% of the Urban population is entitled to receive highly subsidised foodgrains under two categories of beneficiaries – Antodaya Anna Yojana (AAY) households and Priority Households (PHH). The Act entitles 35 kg of foodgrains per AAY Household per month, whereas 5 Kg of foodgrain per PHH Person per month. Under the Act, the eldest woman of the beneficiary household (18 years or above) is considered as 'Head of Family' for the purpose of issuing ration cards. A grievance redressal mechanism, through State Food Commissions, DGROs, and Vigilance Committees at different levels is provisioned for Women Empowerment. Thus, the Act intends to guarantee the minimum amount of food for all.

In this manner, the need for food is fundamental for human life. No humanized society can face starvation. Whenever the food isn't free to meet the call of craving, the creators have gone to the degree of saying that it is commensurate to the invalidation of life. In this way, independence from hunger is key to human life. In this way, 'right to food 'would comprise a vital piece of the established assurance, and subsequently basically be proclaimed a 'basic feature' of the Constitution. A similar should be shielded from all authoritative impedance that expects to weaken or annuls the 'right to food'.

The Judicial Developments

The Courts of India have taken positive steps toward considering “age” as a factor to provide special privileges/treatments. For e.g. medical security, financial security, social security etc.

In *Balbir Kaur v. Welfare of Senior Citizen*³² Court asks to ensure that the life and property of the senior citizen of the District are protected and they are able to live..., Here, the court attempts to provide social security to senior citizens through the Maintenance and welfare of parents and senior citizens act, 2007.

Supreme Court in *Chameli Singh v. State of U.P.*³³, referring to Article 11 of the International Covenant on Economic, Social and Cultural Rights, 1966 observed that the State parties recognize ‘the right to everyone to an adequate standard of living for himself and for his family including food, clothing, housing and to the continuous improvement of living conditions. Accordingly, all the State parties were to take appropriate steps to ensure the realization of this thought. And, “everyone” here, clearly includes senior citizens of the country too. The right mentioned in the above case is to be provided to senior citizens as well in its entirety.

In *Justice Shanti Sarup Dewan* case³⁴ the High Court of Punjab & Haryana, found itself in a dilemma, as the issues included connected with the upbraided property ought to have been chosen by the Competent Civil Courts however the equivalent had neglected to choose the matter. At the point when the matter preceded the High Court the Constitutional desires looked to be accomplished by Article 226 and 227 instigated the High Court to choose the issues. The octogenarian candidate was in the end the previous Chief Justice of the Court, living in Chandigarh alongside his septuagenarian spouse. Two urgent inquiries were to be answered by the court:³⁵ ‘Firstly, whether any direction in the given facts and circumstances of the case can be given to protect the rights of the appellants under the said Act? Secondly, Whether the writ petition could be maintained for the said purpose, especially in the alleged absence of so-called failure of Union Territory Administration in complying with its obligations under the said Act?’

³² 2015 SCC Online P&H 2603

³³ *Chameli Singh v. State of U.P.*, [1996] 2 SCC 549

³⁴ *Justice Shanti Sarup Dewan v. Union Territory, Chandigarh*, (2013 SCC OnLine P&H 20369.

³⁵ *Id.* Para 27.

The court said that the senior residents can't be passed on powerless because of details of the law. The Court gave headings to the Union domain to outline the suitable guidelines and execute them to effectuate the arrangements of the Act. It was requested by the Court that the child, who was the respondent, needed to clear the premises, but he would be freedom to challenge the issues connected with the property in a suitable court. The case is a shocker with regards to government assistance of senior residents in light of the fact that only impressive certain commitments don't operationalize the law until and except if the principles outlined thereof are in consonance with different arrangements of the law. It is dull referencing here that the more established populace is delivered defenceless considering such choices and, in this manner, on the off chance that the courts of the nation can't safeguard the privileges of the more seasoned people, what other cure is left with these people.

Notable human rights lobbyist Gautam Navlakha lost his fight in court for default bail in the Supreme Court. However, his case has incidentally convinced the top court to make an immense development on human rights so different activists like him do not suffer in future.³⁶ The bench of Justices Uday Umesh Lalit and K.M. Joseph accomplished this by giving freedom to courts to arrange house arrest in proper cases as another form of detainment under Section 167 of the CrPC. In this way, Navlakha's misfortune would well suggest relieving the shortfall of opportunity under police or legal custody for other human rights safeguards in future.

Part-IV: Senior Citizens' Right to Food and the Maintenance

The privilege of fundamental necessities is expected to be guaranteed to all, exceptionally the individual of advanced age. Article 41 of the Constitution states that "*the state shall, within the limits of its economic capacity and development, make effective provision for securing the right to public assistance in cases of old age*". The order contained in Article 41 read with Article 14 and 21 of the Constitution requests exceptional treatment for senior residents.

The government of India laid its first National Policy on Older Persons, 1999 in pursuance of the UN General Assembly Resolution 47/5.³⁷ However, even before this policy guideline, the

³⁶ *Gautam Navlakha vs National Investigation Agency*, THE SUPREME COURT OF INDIA CRIMINAL APPELLATE JURISDICTION, CRIMINAL APPEAL NO.510 OF 2021, [ARISING OUT OF SLP (CRIMINAL) NO. 1796/2021]

³⁷National Policy on Older Persons, 1999, Available at:

Ministry of Social Justice and Empowerment had been implementing a Central Sector Scheme of Integrated Programme for Older Persons (IPOP) since 1992 to provide basic amenities including shelter, food, medical care etc.³⁸ The term 'older persons', used in the National Policy on Older Persons, 1999 is wider than the term 'senior citizens' used in the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and National Policy on Senior Citizens, 2011.

In the year 2007, the Parliament of India enacted the Senior Citizens Act, 2007. This Act is social legislation, and applicable to all persons irrespective of their religion, caste, sex etc. Section 4 of the Senior Citizens Act, 2007 provides the entitlement of parents and senior citizens. It states that a senior citizen including a parent, being unable to maintain himself either from his/her own earnings or out of his/her property is entitled to apply for maintenance against his children. In a case where the senior citizen is childless, he/she can maintain such an application against the relative who is going to inherit his/her property.

Section 4 of the Act qualified 'maintenance/welfare' of every 'parent' and 'senior citizen who is *unable to maintain himself from his own earnings or out of the property owned by him*. This right is enforceable by the parent or grand-parent, against one or more of his children, not being a minor; and a childless senior citizen, against such of his 'relative'³⁹ who is in possession of or would inherit his property after his death. Section 5 of the Act makes provision for filing an application for maintenance, however, the matter connecting with 'maintenance' might be taken *suo-motu* by the Tribunal. The Tribunal can arrange interim maintenance, month to a month basis, during the pendency of the application. However, all such applications must be disposed-off within ninety days from the date of the Notice. Section 9 of the Act, 2007 further states that if the children or relative disregard the order of the Tribunal, it may issue a warrant levying the maintenance and also sentence such person for the whole, or any part of each month's allowance for the maintenance and expenses of the proceeding, as the case be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made

<http://socialjustice.nic.in/writereaddata/UploadFile/National%20Policy%20for%20Older%20Persons%20Year%201999.pdf>. (last visited 14 Mar. 2022)

³⁸ The Scheme was revised with effect from 01.04.2008 and 01.04.2015.

³⁹ S. 2(g), Act, 2007

whichever is earlier. The monthly maintenance amount shall not exceed Rupees 10,000 or any amount determined by the state from time to time.⁴⁰

It is quite visible that the Act does not give any special attention to the right to food. It basically revolves around general maintenance and welfare, and that too has been tied with the availability of resources or property with the children or relative, as the case may be. This approach becomes quite clear by a bare reading of section 4(4) which *inter alia* reads as “any person being a relative of a senior citizen *and having sufficient means* shall maintain such senior citizen provided he is in possession of the property of such citizen or he would inherit the property of such senior citizen [emphasis supplied]. Thus, no independent right to food is assured under the Act, 2007.

Right to Food under National Food Security Act, 2013

The purpose of the Food Security Act, 2013 is to ensure ‘access to food’ for each and everyone in the country for their active and healthy life.⁴¹ It aims to provide a healthy, nutritious life to every citizen of the country. The act makes special provisions for women and children, yet there is no special provision for senior citizens. Senior citizens, who despite being such an important part of our society, who despite of contributing so much more than half of their lives for the betterment of the society, have been left out unapologetically.

It is so evident from the bare reading of the Food Security Act, 2013 that the makers of the legislation were aware enough to provide specific support to vulnerable sections of our society who by their very existence deserve special treatment so that they can come on equal footing with rest of the people of our society. This intent becomes more categorical when the Act, 2013 specifies women, children and senior citizens as special class for such assistance. However, the elderly, who are the neglected one and the most vulnerable sections expecting special treatment were left with no specific provisions.

Further, the method to access the food security for elderly is far away from practical necessities. For example, the system of biometric confirmation, the system of going to public distribution shops (ration shops) government ration shops to get those food grains is not appropriate for elderly. Such elderly who are not living with their children who are living alone in villages cannot time to

⁴⁰ Section 9, Act, 2007

⁴¹ Right to Food Security Act, 2013

time go to the public distribution system shops to get the food grains and therefore the purpose of the NFSA, 2013 gets frustrated. Therefore, author believes that enactment does little in insuring availability and access of food to the elderly.

Conclusion

The age-old problems, like availability of food and basic amenities etc. are required to be tackled differently in 21st century. The right-based approach adopted through the Senior Citizens Act, 2007 is the correct step towards enabling the elderly in fulfilling their needs. However, the Food Security Act, 2013 falls short to their expectations. Immediate correctives steps in the form of specific entitlements, specially right to food is required to be inserted in the Act. Further, the mechanism drawn in the Act, specially the authentication through biometric system is required to be corrected.

Aging is an irreversible biological process, inevitable to all living being. With the change in life patterns, specially division of families into smaller units have resulted into lesser space for the elderly, and thus causing innumerable social issues. In such a scenario, it is duty of state to ensure that rights of elderly is not taken for granted through the state machinery, especially when they are already being recognised as vulnerable section of the society, and entitled for food.