CHAPTER II

GERONTOLOGICAL PERESPECTIVES AND ITS RELEVANCE IN THE STUDY OF LAW IN INDIA

Outline
I. Introduction
II. Meaning of gerontology and geriatrics
III. History of gerontology
IV. Parameters of the study of gerontology
V. Legal implication of gerontology
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I INTRODUCTION

All living things changes with time in both structure or physic and functions or mental capacity. Human being is not the exception, to this rule of nature. The person born on one day gradually passes through different phases of his or her life throughout the period till his or her death. The change that follows a general trend constitutes aging.

Aging is the part of the developmental sequence of the life span. Aging or old age is an inevitable in the life of human being. As the person grows he has to perform different activities, has to discharge different functions and to perform different role in his life. During this period that person makes every attempt to improve and develop his and their family’s condition and status in the society. Also he works or contributes towards the development of the country. Every person whether male or female, rich or poor, rural or urban of every religion, race, cast or creed etc. plays a vital role in nation building, by their efforts.
But the phase comes when aged persons cannot work with that much efficiency though aged people are having knowledge and experience. This thing commences on the completion of 50 years of age and increase particularly after crossing the age of 60 years. The person who was asset to the family, to society, and nation during particular age, suddenly become burden upon their family, society and also State.

In the immense growth of industrialization and technological development, the life of man comes to much too mechanical. This led to change in the lifestyle and approach in human behavior. As a consequence of it, the old people, the aged and sick parents are no more cared. They are turned out to be destitute.

In the present era aging is seen as negative, incompetence and narrow mindedness. Attitude towards elder are more negative than attitude towards the others. Persons of the age 60+ are now a day called as “Senior Citizens.”

The persons in the age group of 60+ and more specifically 65 onwards, even though regarded as senior citizens, are deprived of honour, which they should get and the status they are required. There are different problems of aged people. There are different problems of male and female aged, ruler and urban residents and belonging to different community. When we peruse the history, it reveals that, earlier, the life span was very short. But now due to technological inventions, improved lifestyle, better eating facilities and modern medical facilities/ treatments, led to extension of life span of the human being.

Due to these improved conditions of life and medicinal facilities, on the globe, day by day the population of aged people or
senior citizens or 65+ people is increasing throughout the world, in each and every country. That’s why now a day it is the focal point for discussion on the problems of aged people at the national as well as international level. How to formulate the policy to solve the problems of population aging? What measures are to be taken for the protection of these people? Which policies are to be prepared for them? How those policies are to be implemented? These are some areas around which discussions are going on.

This is because it is the responsibility of the family member to look after the welfare of aged parents in their family as well as it is the duty of the state to recognize and protect the interest of aged or senior citizens within the state/nation.

In this backdrop, when we analyze the status, position and conditions of aged people/population, in their family, society and so also in the State, it reveals that, there is need to give proper attention towards this population. The demands and requirements of aged people are to be studied through various angles. This may facilitate the finding at the best suitable and equally effective conclusion. This will ultimately help the policy maker, the legislator and the administrator to enact and formulate the policy which can be implemented effectively and in the larger interest of these people and further to attain the welfare of aged people.

Considering the points referred above, the new concept and branch of study have been emerged in the 20th Century. Recently gerontology and geriatrics, with sub classification of different subsidiary branches have been recognized. These two branches deals with two different aspects in the human life and both are equally important.
It is humbly submitted that, the researcher in this chapter intends to unfold and analyze the concept of gerontology and geriatrics, distinction between these two etc. The main emphasis will be on the concept of gerontological perspective, its meaning, history, its parameters and legal implications. So also researcher intends to highlight the importance of geriatric approach in the study of gerontological perspective.

For the proper understanding/discussion regarding gerontological perspective, it is divided in following sub-heads, as stated hereinafter.

II MEANING OF GERONTOLOGY AND GERIATRICS
The Dictionary meaning of gerontology is that it is scientific study of old age, the process of aging and the special problems of old people\(^1\). Gerontology is the scientific study of the phenomena of aging. By aging is meant the progressive changes that take place in a cell, tissue, an organ system, a total organism or a group of organisms with the passage of time. Aging is part of the developmental sequence of the entire life span. Gerontology is concerned primarily with the changes that occur between the attainment of maturity and the death of the individual and with the factors that influence these changes.\(^2\) Gerontology is the study of aging. It covers the social, psychological and biological aspects of aging.

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\(^2\) Encyclopedia Britannica vol. 10, William Benton publisher, pp 363-64
The ambit of gerontology is quite wide, it includes in study of phenomena of life, changes that occurs in group of organism etc. in addition to the aspects referred herein below—

- Studying physical, mental and social changes in people as they age.
- Investigating the aging process itself.
- Investigating the effects of our aging population on society, including the fiscal effects of pensions, entitlements, life and health insurance and retirement planning.

The multidisciplinary focus of gerontology means that there is number of sub fields, as well as associated fields such as psychology and sociology that also cross over into gerontology.

The dictionary meaning of Geriatric is that, it is a branch of medicine or social science dealing with the health and care of old people.\(^3\) It is the branch of medical science concerned with the prevention and treatment of diseases in older people; it is thus a part of the broader field of gerontology.\(^4\) It is a branch of medical science that deals with disease and problems specific to old people.\(^5\) It is the branch of medicine that focuses on health promotion and prevention and treatment of disease and disability in latter life. The term itself can be distinguished from gerontology, which is the study of the aging process itself.\(^6\)

The term comes from the Greek ‘geron’ meaning “old man” and ‘iatros’ meaning “healer”, and was proposed in 1909 by Dr. Ignatz Leo Nascher, former Chief of Clinic in Mount Sinai

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\(^4\) Encyclopedia Britannica p 363

\(^5\) World Net - 3.0 by Princeton University accessed on 12/07/2008

\(^6\) Wikipedia Encyclopedia accessed on 11/04/2008
Hospital outpatient department (New York City) and a “father” of geriatrics in the United States. Geriatrics is cognate with Jara in Sanskrit which also means old.\(^7\)

**III  HISTORY OF GERONTOLOGY**

It may be said that, the history of gerontology begins with agriculture, prior to this the hunter gatherer societies that existed could only support a marginal existence, and food supply was short, frequent movement a necessity. For these and some other reasons very few reached ‘old age’. In this era life expectancy was about 14 years, (such as 10,000 B.C.), being ‘40’ years was ‘old.’

Thing changed with the coming of agriculture. A more stable food supply and the lack of frequent movement meant that humans could now survive longer and beginning perhaps around 4000 BC, a regular segment of the population began to attain ‘old age’ in places such as Mesopotamia and the Indus river valleys.

The main or important role of older persons in those days were to stay and watch the farms or children, make pottery or jewelry and perform social functions, such as story-telling and teaching the younger generation techniques for farming, tool-making etc.

After this change, the views of elder persons in societies waxed and waned, but generally the proportion of the population over 50 or 60 remained small. During dark ages, negative opinions of the elderly prevailed; old women were often burned at the stakes as witches. However, with the coming of renaissance old age returned to favor in Europe.

While number of aged humans and maximum ages lived to, tended to increase in every century since the 1300’s society tended to consider caring for an elderly relative as family issue. It was not until the coming of the industrial revolution with its techniques of mass production that ideas shifted in favor of societal care system. Care-homes for the aged emerged in the 1800’s.

It is to be noted that some early pioneers, such as Michel-Eugene Cheverul, who himself lived to 102 in 1880’s, believed that aging itself should be a science to be studied.\(^8\)

Metchnikoff coined the name gerontology for this field of inquiry in 1903. It was not until the 1940s, however, that pioneers like James Birren began organizing ‘Gerontology’ into its own field. In 1950 to 1970s, the field was mainly social and concerned with issues such as nursing homes and health care.

Modern Geriatrics in U.K. really began with the ‘Mother’ of geriatrics, Dr. Marjorie Warren. Warren emphasized that rehabilitation was essential to the care of older people. She took her experiences as a physician in a London workhouse infirmary and developed the concept that merely keeping older fed until they died was not enough. They needed diagnosis, treatment, care and support. She found that patients, some of whom had previously been bedridden were able to gain some degree of independence with the correct assessment and treatment.\(^9\)

From above discussion it reveals that, theoretically speaking gerontology and geriatrics are two separate and distinct branches, dealing with two different aspects of aged person. However,

\(^8\) Ibid
\(^9\) Ibid
practically it is impossible to put these in to two watertight compartments. It is because of the fact that, these two are so intermingled that, when we study the gerontology, at some point we enter in geriatrics also. e.g. while analyzing or discussing economic problems or aged people, one of the essential component is his/her health. Former is associated with gerontology and the latter one is in the province of geriatrics. Many time gerontology and geriatrics are used as synonyms.

IV PARAMETERS OF STUDY OF GERONTOLOGY

From the above discussion it appears that, gerontology and geriatrics are mutually inclusive and co-ordinate branches dealing with the different aspects of aged population. Because of the intimate relation between these two branches of study, it may be very difficult to study both, in its minute details. As far as, the instant work is concerned it is respectfully submitted that, the researcher intend to focus or concentrate only on gerontology.

Pleasure and pain are gifted by almighty God to each and every human being on the Planet Earth. It is equally true that these two are two sides of the same coin. So also pleasure and pain differs from man to man, the society they represent, the nation they hails from or part of the globe. It differs as per the age also.

As man grows his demands and desires are also changing. When they attain the age of superannuation, there seems to be material changes in to the attitude, demand and desire. Because of this age factor, different problems cropped/arises. When we carefully analyzed and categories these problems. we will find that,
these people i.e. aged, have to face social, economic and legal consequences/problems in their golden years.

Many of the times we come across the instances, wherein aged people are deprived of their status in their own families. They are emotionally blackmailed. There are instances of economic exploitation of aged people. Many aged persons are deprived of their own purse and some of them have to face the problem of their bread and butter for want of money. There are instances of atrocities are being committed against the aged people. Many times they are victims of injuries inflicted by their own family members. Some aged people who do not have their family or relatives or their wards living separate or in abroad, have constant apprehension of their life and property. Facing these various problems, one day succumb to death. The problems do not comes to an end by the death of aged, to some, in some situation, it continues after the death also. The goal of research in gerontology is to learn more about the ageing process—not for the purpose of extending the life span but so that the disabilities and handicaps of old age can be minimized.

In this backdrop, it is humbly submitted that, the parameters of the present research work is mainly to identify the various problem of the aged people are facing. Further to make systematic analysis of these problems. Also it is one of the intent/object to find-out the solution/remedy, so that their problems would be dealt with effectively. So that, aged people can breathe smoothly, live safely and enjoy the life in golden years also. In addition to this there are following specific objects of the present work.
• Researcher intends to find out status and problems and socio-economic position of aged people.
• Researcher wants to understand how gerontological perspective has been dealt in law? How legal protection and social security is provided? What are the various programs, policies for the aged people?
• In the present study, researcher wants to examine various issues regarding aged people viz. protection of old people under Indian legal system, whether these provisions are effective? Whether there require special provision on the basis of gender? The role of strangers and NGO's in the protection and promotion of old population.

In this ambit, researcher also intends to evaluate the different policies, schemes declared and implemented by the government especially for the aged people. It is one of the enquiries in this study to trace out the relevance of these schemes policies etc. in the present circumstances. Whether these policies and schemes are really working in the interest of aged people? Whether all the demands and desires are fulfilled by these schemes of government?

These are some of the main issues or points of discussion/consideration in the present work.

V LEGAL IMPLICATIONS OF GERONTOLOGY

As stated earlier, the population of the older persons is increasing day by day in each and every country including India. Due to this there are different problems arising. The aged persons have invited the attention of the state towards problems they are facing.

State plays an important role in the administration of justice and maintenance of rule of law in the territory. To look after the welfare of the citizens, is the prime important function of the modern state. As a part of duty now state/government has also
taken the issue of welfare of aged persons on their agenda. Considering the contribution of aged persons, the government has taken an initiative in framing the policies for aged people.

Every human being is conferred with the different rights. These rights have been classified under different heads like, civil rights, political rights, economic rights, fundamental rights and human rights etc. All these rights have been enumerated in different legislation.

Now a day, human rights have been given wide importance, at national as well as international level. One of the important features of this right is that, they are very basic and can be sought even though there is no specific enumeration of it in the statute.

Gerontology, which is treated as branch of social science have certainly intimate relation with law. It is because social studies cannot be separated from law. Hence in law gerontological perspective has been dealt with. Gerontology demands that, there must be adequate provisions of law, in the interest of particular group i.e. aged people, in the State.

When we peruse the different legislation it reveals that, very few legislation contains the direct provisions regarding aged people/persons. Because of this these aged people are suffering from various difficulties.

The person at his /her young age looks after the welfare of their wards. They try to satisfy each and every demand of their wards/dependent. They provide all the amenities and better living conditions to their wards. They also educate their wards and create confidence to stand on their foot. At the same time the said person sacrifice their personal life. Almost all the parents try to maintain
their wards without any grudge or taking any return for their service towards their wards and perform it as their mandatory moral obligation.

At the fag end of their life when they become aged, naturally the role change. There the aged person depends upon their grownup wards. As aged person maintained their wards, similar maintenance by their wards are required to the aged parents. Aged person/parents expect that they be not only provided food, clothing, medicine and shelter, but also they be given some voice or participation in family matters/affairs. They expect that, they may be given opportunity to share their views and ideas etc.

Unfortunately the aged in the family, who was head of their family one time, suddenly become handicap. Worst is the case of aged persons having medical of health problems. Most of the aged persons are deprived of medicine and proper care, by their own family members.

Actually it is the responsibility of the young members of the family to look after the welfare of aged person in their family and maintain them with dignity. It is the duty of the family of aged person to provide adequate treatment, proper food and clothing and create such atmosphere that, they can enjoy their life.

We come across with the news many times, that the aged is being ill treated at their residence. The aged persons are being harassed and deprived of minimum and daily requirement, for share in the property. Some aged persons are evicted from the house by their own children and murdered for money and other property. The perusal of such instances is shocking but they are happening.
These atrocities are being committed against the individual in their family. At this point, the individual aged person is deprived of the minimum requirement for survival, issue of right takes birth. They talk about their right etc. this individual constitute a class or group. These people as a whole then demands their basic rights to be recognized and conferred on them. These rights evolved out of legal ties between two generations. There is transformation from moral rights to legal rights. Non compliance with the moral duty by the present generation led to mandatory compliance through recognition of legal rights.

Naturally welfare and care of the aged persons is a concern of the family in which they live. But because of the non performance or neglect by the family; it becomes the concern of government or state. In this situation or circumstance it becomes the most important responsibility of the government or State to look after the welfare, care and maintenance of the aged persons. So that the group, i.e. aged persons can live in a healthy atmosphere till their death.

In this circumstance the human rights jurisprudence is playing an important role. To survive on the earth among the human being as a human being, aged people require some rights and protection. These rights have been recognized by International Community. These rights have also been recognized in Municipal legislation. Some of these rights are right to health; right to shelter, right to pollution free atmosphere, right to travel throughout the State as well as abroad etc. are some of the important human rights conferred on aged people. Special provisions of law, schemes,
policies, concessions for aged people can be included in the wider ambit of human right philosophy.

As consequences of this development now we are having number of policies and schemes especially for the aged people. All these can be treated as collective rights of aged people. Because of emergence of this third branch of Human Rights, the aged people/population is being benefited. Aged people or senior citizens now getting many facilities like, travel concession, higher rate of interest on deposits, improved medicinal facilities at a very meager amount, preference in courts proceedings, financial assistance to aged destitute persons, police protection, etc. So also government ordered the banks to disburse money to aged/senior citizens through Reverse Mortgage loan scheme. All the government hospitals have been asked to keep separate queue/counters for senior citizens to take case papers, likewise to give preference to aged in medical examination/checkup by doctors.

The geriatric approach is also covered in the human rights philosophy relating to senior citizens. Human right philosophy demands that, no one can be deprived of medication of themselves for want of money. Hence, aged people are being given the medicinal facility at very small fees. Also they are given free diagnosis facilities and free operations e.g. Cataract, Asthma etc. They are also given equipments at free of cost, by running a special campaign e.g. distribution of specs to operated patients. In many hospitals there is a special geriatrics ward for the senior citizen patients. It has also been made mandatory to have special staff to
look after the aged patients. The staff deputed in the geriatric wards is supposed to be trend in geriatric medicine and treatment.

Analysis of these legal provisions, policies and various schemes shows that, by the enactment and implementation of these are in the interest of group of aged people and to imbibe confidence in them, that they can survive and enjoy their life with honour and dignity till the last breath.

**VI CONCLUSION**

Gerontology and geriatrics even though recently evolved concepts in the modern circumstances, are of vital importance in the present situation. Day by day the population of aged people is increasing in the world. By the increase in the population of aged led to different problems. In this backdrop gerontology and geriatrics plays an important role.

There is need to identify, examine and to find out the solution to the problems of aged. No doubt the responsibility of care of the aged persons or parents is to be shared by their family first. But unfortunately many aged persons are not given proper attention by their family members. Worst is the case of aged persons who are not having family or relatives. Such persons are deprived of basic rights such as right to life and food etc.

There are different provisions in different legislations which can be indirectly interpreted in favor of such persons. However, for want of some direct provisions of law or special law for the aged people, the position of aged cannot be improved.

Taking this into consideration, the governments in different States as well as Central government have formulated certain policies, schemes and programs. These different schemes enacted
to aid the aged people. All these policies, schemes, benefits, concessions etc. provided to aged persons are with sole object to make available the opportunity to the aged people to live with dignity. Theoretically speaking all these are appearing to be very good and effective, but practice is otherwise.

For example, senior citizens are given travel concession in airways, trains and State transport buses. This concession, no doubt reduces financial burden of senior citizens and in providing encouragement to aged people. But when we analyses this scheme, then certain questions crop up, viz. when that person is too old then, how can they travel without attendant? Further, if such persons require medical assistance during travel/journey, it is not available in any conveyance so far. Whether we are having elder friendly conveyance like buses or trains wherein aged people can easily board and comfortably travel. So also there are no adequate provisions for safety and security of the aged persons during travel.

Likewise banks are providing more rate of interest on the deposits by the aged persons. All the account holders including senior citizens are issued ATM cards for quick transactions. Question arises, How far this provision is adaptable and suitable to aged persons. In that event they are again dependent upon others for withdrawal of money through ATM. There is every chance that, aged persons can be cheated and will have to suffer economically and in certain cases there will be danger to their life.

To sum up, the problems of aged cannot be solved only by formulating various schemes, policies etc, but it is necessary to think about its utility in its actual implementation. Most of the persons among the public at large for whom these policies and
programs are evolved are not aware of these policies or schemes. Also there is ignorance by the authorities while implementing these schemes or policies. For proper consideration and dealing the gerontological perspective in the law, it is required that the mass i.e. specifically aged people, must be made conversant and aware about the various schemes and policies formulated and enacted by the government. Further the public authorities must be asked to implement those policies with relevant adjustment or improvement in it, so that it can be proved to be effective and large section of aged people will be benefitted.