

The logo for Agewell, featuring the word "Agewell" in a bold, red, sans-serif font. The letter "A" is stylized with horizontal brushstrokes. The logo is set against a white background with a blue border, and is flanked by two blue arrows pointing outwards.

(In Special Consultative Status with the
ECOSOC at United Nations since 2011)

AGEWELL RESEARCH & ADVOCACY CENTRE
(For Needs & Rights of Older Persons)

**ACCESS TO JUSTICE
IN INDIA
FOR OLD PEOPLE**
With special focus on
RIGHT TO WORK

March 2020

Agewell Foundation

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BACKGROUND

In India, population of older persons which has crossed 130 million mark recently and is expected to increase rapidly during 3rd & 4th decades of the century, has become a huge challenge for policy planners. Earlier issues concerning older persons were considered as secondary issues only. But now government at various levels has started including issues concerning older persons in its central agenda.

During the last couple of decades socio-economic and demographic scenario of the country has changed remarkably. With expansion of modern social norms, popularity of nuclear family system, fast paced lifestyle, rapid urbanization, and digitalization of the technology and above all, consistent increase in share of older persons in country's population has changed overall profile of older persons considerably.



Now older people include more educated, they are comparatively healthy & active due to health awareness and healthy lifestyle. Financial status of older persons has also improved comparatively over the years.

However, due to lack of family support, diminishing social and traditional values and increased sense of loneliness among them, many elderly remain vulnerable just because of their Old Age. They always look for meaningful engagement in old age, at all levels - family, society, profession, etc. so that they keep themselves engaged, lead a more active as well as healthy life and get due respect in old age. Their rights and interests always remain at stake and compromised. Access to justice remains a big problem in old age. Despite their vast knowledge, experience and wisdom their right to work is hardly entertained by the society.



OBJECTIVES OF THE STUDY

Research & Advocacy Centre at Agewell Foundation has recently carried out a nationwide survey to study the status of access to justice in old age and availability of legal judicial system in the country for old people.

Simultaneously, under the survey, while assessing the access to justice in old age, right to work of older persons and their access to country's labor market were also studied. It was also attempted to identify core areas of concerns in the field of legal system for safeguarding interests and rights of older persons.

In view of changed socio-economic and demographic scenario, study was also focused to suggest and recommend some specific measures to policy makers, planners and decision makers so that access to justice could be ensured for old people in the country.



RESEARCH METHODOLOGY AND SAMPLE DESIGN

Trained, experienced and qualified volunteers (including those with legal background) were selected as interviewers and they were provided with proper guidelines, directions, project brief, training, etc.

Under the survey campaign, comprehensive interviews were undertaken by managing time-bound schedules to collect information /impression/views from selected older persons and people with legal background from across the country.

The survey was conducted during the month of **January-February 2020**.

Sample Respondents

1. Older Persons
2. Legal Practitioners

I. Older persons as Respondents

For the survey a **representative sample of 5000 older persons** (2464 older men and 2536 older women) was interviewed spread across **100 districts of 20 states & Union Territories** of India. Volunteers visited various public / community places including court complexes (various courts/ Lok Adalats (local public courts)/ Consumer courts) spread across the country.

Sample respondents comprise the following;

- a) Rural elderly men
- b) Rural elderly women
- c) Urban elderly men
- d) Urban Elderly women
- e) Older persons from all age groups (60-70, 71-80 and 80+)
- f) Older Persons from different religions and castes

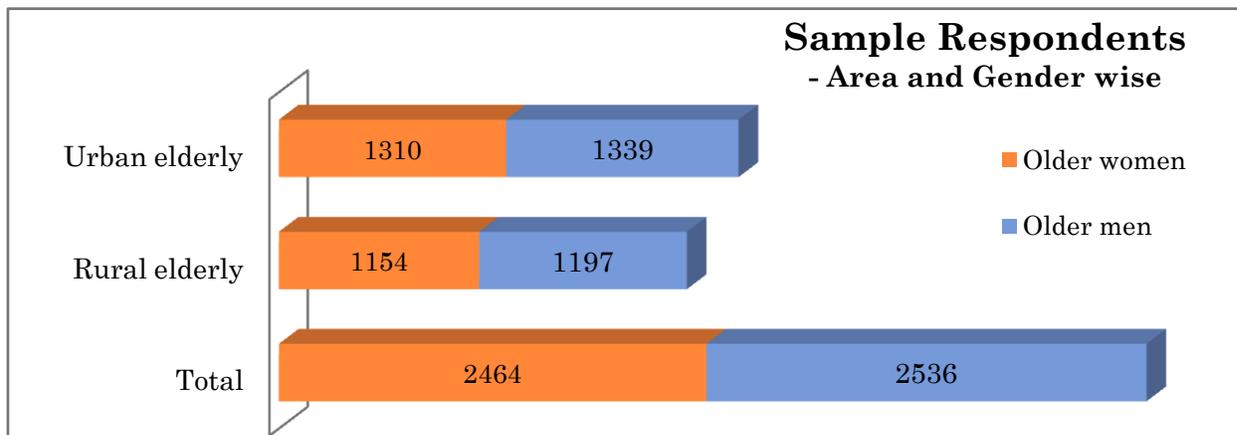


Chart 1 Sample Respondents - Area & Gender wise

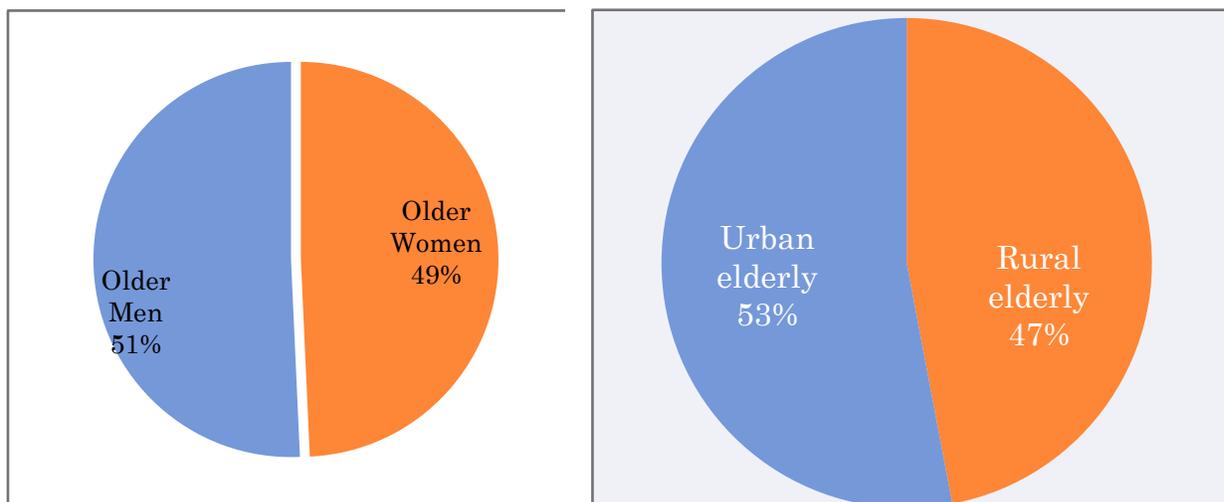


Chart 2: Percentage of Respondents - Gender wise / Area wise

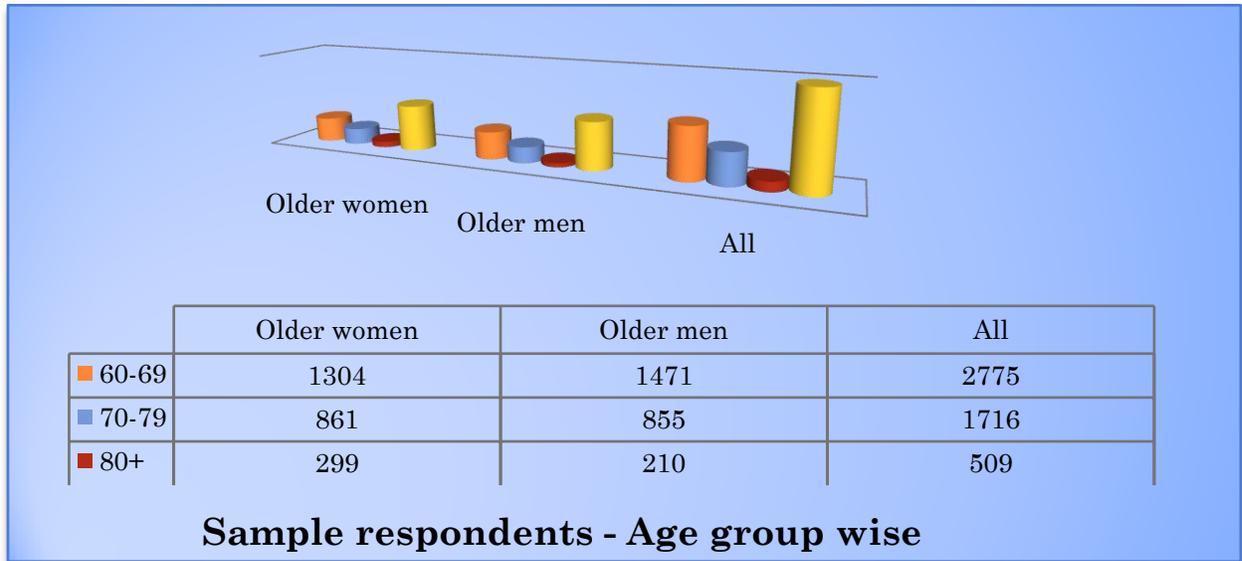


Chart 3 Sample respondents - Age group wise

Volunteers also interviewed older persons visiting various court complexes

- For criminal cases / For civil cases
- Affected by court cases of their family members/relatives

II. Legal Practitioners as respondents

At the same time, interviewers also interact **with a representative sample of 500 legal practitioners** (Spread across 50 districts of India) to collecting useful data pertaining to legal provisions and practices pertaining to old people.

- Legal advisors/consultants/ Lawyers / counselors
- Judges (various courts across the country)
- Legal experts
- Rights activists/ NGO representatives

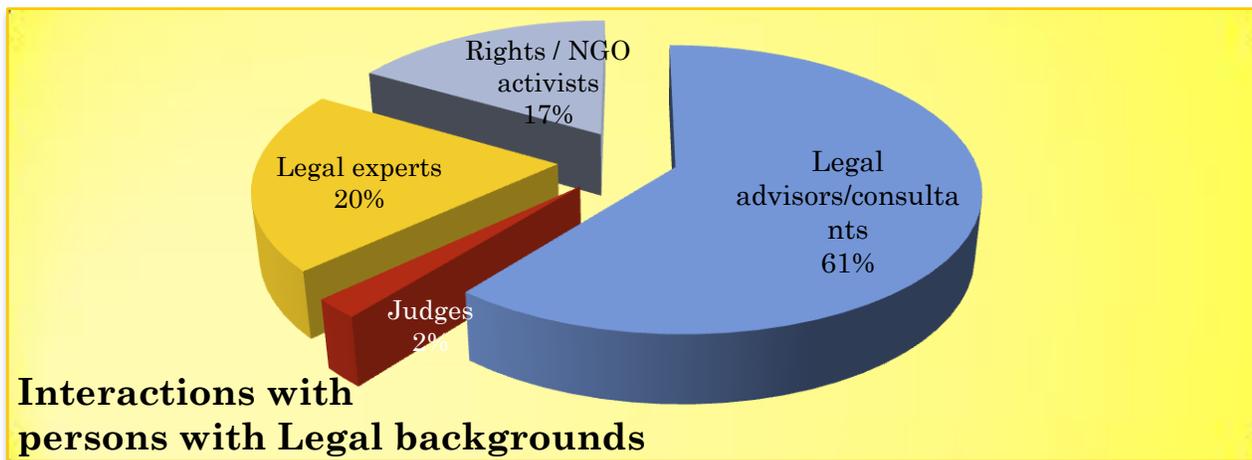


Figure 4 Interactions with legal advisors, etc.

PART-I

ACCESS TO JUSTICE IN INDIA FOR OLD PEOPLE

OVERVIEW

In India, access to justice is a fundamental right of every citizen, as guaranteed under Article 14 & 21 of Constitution of India. Older persons have equal rights to justice; however, they face a lot of constraints in getting justice, due to their old age related restrictions. In view of declining health/mental/financial status of older persons, government of India has several provisions at different level to help them get easy access to Justice in old age.

National legal framework

Taking care of ageing parents is more or less a legal duty as well as a moral obligation of their children. Personal laws of every religion have made it a legal and moral obligation for the children to take care of their ageing parents. In India, there are several laws to ensure justice to elderly. While different religions have varying laws in place to protect the interests and rights of older persons. Some are very particular such as the statutory provision for maintenance of parents under Hindu personal law contained in Section 20 of the Hindu Adoption and Maintenance Act, 1956. Similar laws are found in Muslim laws, Christian laws, and even Parsi laws.



(I) Hindus Laws:

The statutory provision for maintenance of parents under Hindu personal law is contained in Sec 20 of the Hindu Adoption and Maintenance Act, 1956. This Act is the first personal law statute in India, which imposes an obligation on the children to maintain their parents. As per the laws, the obligation to maintain parents is not confined to sons only, and daughters also have an equal duty towards parents. It is important to note that only those parents who are financially unable to maintain themselves from any source, are entitled to seek maintenance under this Act.

(II) Muslim Law:

Children have a duty to maintain their aged parents even under the Muslim law. According to Mulla:

- (a) Children in normal circumstances are bound to maintain their poor parents, although the latter may be able to earn something for themselves.
- (b) A son though in strained circumstances is bound to maintain his mother, if the mother is poor, though she may not be infirm.
- (c) A son, who though poor, is earning something, is bound to support his father who earns.
- Parents and grandparents in indigent circumstances are entitled, under Hanafi law, to maintenance from their children and grandchildren who have the means, even if they are able to earn their livelihood. Both sons and daughters have a duty to maintain their parents under the Muslim law. The obligation, however, is dependent on their having the means to do so.



(III) Christian and Parsi Law:

- The Christians and Parsis have no personal laws providing for maintenance for the parents. Parents who wish to seek maintenance have to apply under provisions of the Criminal Procedure Code.

(IV) Sikh:

- Sikhs have no personal law, under which they can claim benefit. They can take benefit under Hindu law.

(V) The Criminal Procedure Code:

- Prior to 1973, there was no provision for maintenance of parents under the code. The Law Commission, however, was not in favour of making such provision.

Steps taken to ensure the availability of judicial and non-judicial mechanisms for older persons

'The Maintenance and Welfare of Parents and Senior Citizens Act, 2007' was passed by the Government of India, which laid an emphasis on familial care of the aged. The MWPSA Act mandates States formation of tribunals for every sub-division of a district to look into the grievances of older persons, particularly those who don't receive care in the form of proper food, shelter, clothing or medical treatment from their kin. The legislation enables a neglected parent or/ and older persons to approach the tribunal if they are unable to maintain themselves from their own earnings and property. Section 125(1)(d) of Code of Criminal Procedure, 1973 makes a person having sufficient means to maintain his parents if they are unable to maintain themselves.

The goal of all these provisions is to provide safety and security to the older persons across the country.

Specific challenges encountered by older persons in accessing justice and remedy

In India, there are many legal challenges faced by older persons. Some specific challenges are as under:

- Lengthy legal process, which prove fatal for older persons
- Mobility constraints - many older persons find it difficult to reach court premises
- Prevailing literacy and low awareness among older persons about the provisions and schemes
- Lack of free and accessible transportation facilities for older persons to visit lawyers/courts
- Large number of pending cases in various courts



"43.55 lakh (4.36 million) cases are pending in the 25 high court and out of these, 18.75 lakh (1.86 million) relate to civil matters and 12.15 lakh (1.22 million) are criminal cases. 26.76 lakh (2.68 million) of these cases are less than five years old, 8.44 lakh (0.85 million) are pending for more than five years but less than 10 year."

- Law Minister, Ravi Shankar Prasad in a written reply in Parliament¹

¹ <https://economictimes.indiatimes.com/news/politics-and-nation/out-of-43-lakh-cases-pending-in-high-courts-over-8-lakh-a-decade-old/articleshow/69974916.cms?from=mdr>

Pending cases in various courts²

	Civil cases	criminal cases	Total
Filed Cases By Older person	1486911	508851	1995762
Total cases filed in courts	8968171	23023213	31991384

Table 1 Pending cases in various courts of India (Source: National Judicial Data 2020)

- In India, there are 3.2 Crore cases filed in various courts of India and 6.24% cases (approx. 20 lakh cases) are filed by older persons.
- Among civil cases, percentage of cases of older persons is 16.58 while among criminal cases 2.21% cases are related to older persons, where old people are involved as a litigant or accused.

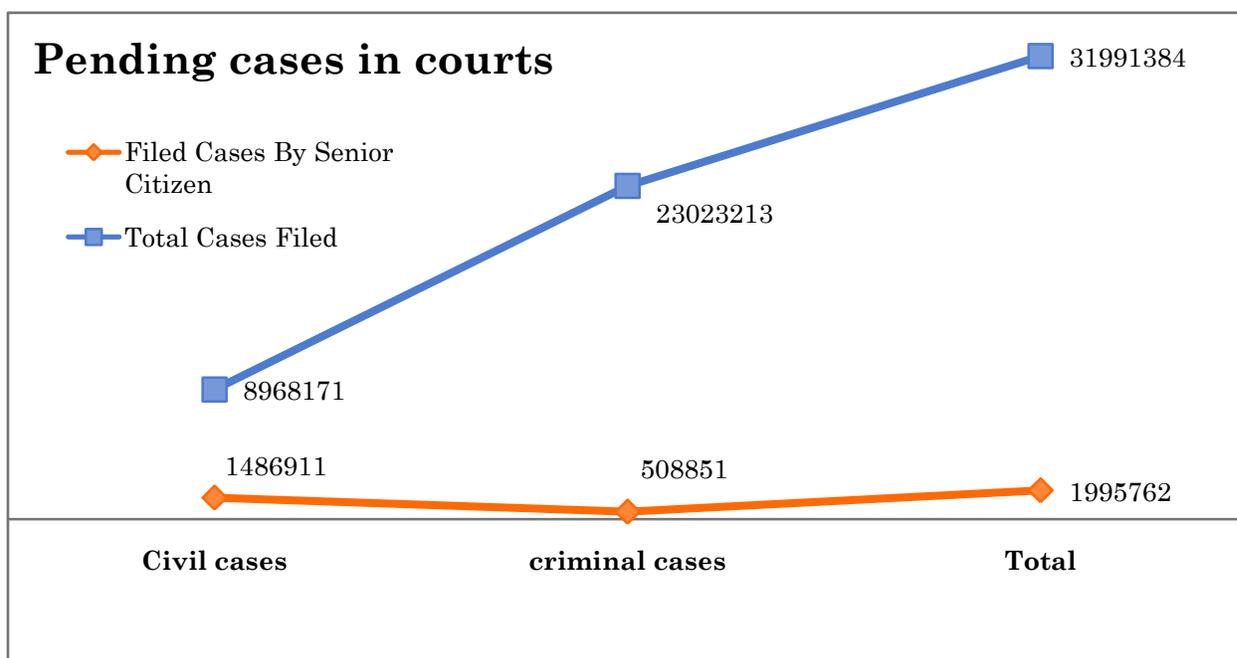


Chart 5 Pending cases filed by senior citizens and others in courts

- Ironically, today thousands of older persons are forced to attend court cases for indefinite period of time due to lethargic legal process and other vested interest groups intervention. Indeed, older persons are the worst affected victims of our sluggish and insensitive to system.

² National Judicial Grid, Jan. 2020

Latest development

The Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill, 2019, piloted by Social Justice and Empowerment Minister, also has provisions for the elderly to claim maintenance and for mandatory registration of senior citizens care homes and other such institutions which will have to comply with prescribed minimum standards.

The bill defines "abuse" as physical, verbal, emotional and economic abuse, neglect and abandonment, causing assault, injury, physical or mental suffering. "Children" in relation to a parent or a senior citizen means son or daughter, whether biological, adoptive or step-child and includes son-in-law, daughter-in-law, grandson, granddaughter and legal guardians of minor children.

The bill provides for the establishment of a tribunal for senior citizens to file claims for maintenance and assistance and such applications from those above 80 years of age should be disposed of within 60 days.

According to the legislation, there will be a nodal officer at each police station, not below the rank of an assistant sub-inspector, to deal with the issues relating to parents and senior citizens.

The state government has to appoint the maintenance officer to ensure implementation of the order of maintenance and such officer shall be a point of contact for the parent or senior citizen to liaison and coordinate with them.

The Bill enables the government to ensure that all government and private hospitals have beds specially earmarked for senior citizens and separate Out Patient queues for senior citizens in hospitals.

A dedicated help line number would be available for senior citizens in every state to convey their problems.

The definition 'maintenance' has been expanded to include safety and security of the parents besides taking care of their food, clothing, housing and health care obligations.



Good practices available in terms of ensuring equal and effective access to justice for older persons

Currently, in India, following good practices are available to some extent;

- Creating awareness about legal rights of older persons among elderly and their family members through various media
- Assisting elderly in getting justice by providing the free transportation facility, free legal advice, prioritizing their hearing in courts, other incentives, etc.
- Ensuring equal and effective access to justice for older persons through various NGOs/volunteers, etc.

Provisions adopted to ensure effective access to justice

Priority is given to cases of older persons over the age of 60 in the courts with a view to expeditious disposal. Under the Right to Information Act, 2005 second appeal filed by older persons is taken on a high priority basis. It is unfortunate, despite the existence of various legal provisions and schemes for older persons, their benefits have reached very few older persons, primarily because of lack of awareness among old people about their own legal rights including their human rights.

The Free Legal Services are provided to older persons, which includes- Payment of court fee, process fees and all other charges payable or incurred in connection with any legal proceedings, Providing Advocate in legal proceedings, Obtaining and supply of certified copies of orders and other documents in legal proceeding and Preparation of appeal, paper work including printing & translation of documents in legal proceedings.



Under the Para-legal Volunteer Scheme a group of volunteers from among the rural people is built to act as intermediates between the common people and legal services institutions at Central, State, District and block levels.

Various Lok Adalats (public courts) have been set up in order to widen the network of Public Courts to Government Departments, Petitions pending before Women's Commissions, various Tribunals, Labor Courts, Industrial Tribunal and Tax Tribunals etc., setting-up Special Lok Adalats in all Family Courts.

Legal Aid Clinics are being set up in the States on the latest laws i.e. Maintenance and Welfare of Parents and Senior Citizens Act, 2007, etc. to create awareness among older persons and their family members/relatives/others.

In Delhi, as per the Standard Operating Procedures (SOP's) of Delhi Police Senior Citizen Security Cell police should pay a visit to the residence of the senior citizens twice a week. Delhi Police have 36000+ senior citizens registered with them. A checklist for the security audit of senior citizens includes a check on the domestic helps, tenants if any, driver, sweeper, iron man, car cleaner, etc.



Existing public policies and awareness-raising and capacity building programs

Status of programs for awareness raising and capacity building is depressing in India. Indian judicial system is based on the principles of independence and impartiality. However, in many cases, delivery of justice is delayed, which sometimes proves worthless for older persons. Status of judicial mechanism is dismal which hardly addresses the issues of age discrimination.

In Indian society, most families consider old people a burden, as majority of older persons, particularly 75+, have no adequate social security. Due to lack of social security provisions, old people have to depend upon their family members for their basic needs. Dependence on others in old age creates many kinds of problems in old age, from disrespect to elder abuse, from negligence by family members to destitution.

Salient observation

Under the Maintenance and Welfare of Parents and Senior Citizens Act there must be a provision for employers to take a written declaration from their employees that they take care of their elderly parents. So that welfare and maintenance of aging parents can be ensured. The said undertaking must be signed by their parents as well. In case, working younger people do not support or take care of their elderly parents, punitive actions can be taken against them like deduction of certain amount of money from their monthly package and transfer the same to their parents account.

At the same time, under the Act, maintenance/welfare of older persons, who have children settled abroad and living in the country without any family support, must be ensured. For this, their children must submit declaration at designated authority that they have done proper arrangements for taking care of their ageing parents.



Part-I: ACCESS TO JUSTICE IN OLD AGE IN INDIA

MAJOR FINDINGS OF THE STUDY

Need of legal protection in old age

- During the study it was found that 33.88% elderly respondents (i.e. 1694 elderly respondents out of 5000 sample respondents) felt the need in old age. Among them 44.4% were older men and remaining 23.5% were older women.

- Among these 1694 elderly respondents, 70.1% respondents (i.e. 1188 elderly) were from urban areas, while 29.9% elderly (i.e. 506 older persons) were from rural areas.

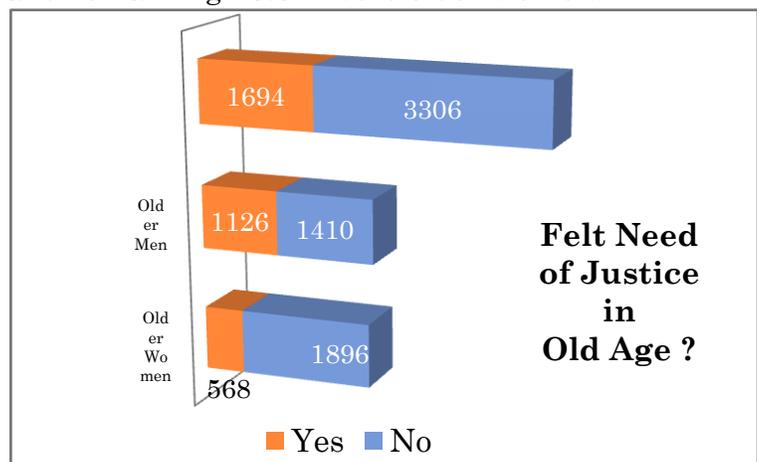


Figure 6 Need f Justice in Old Age

- In rural areas, 21.5% elderly respondents (26.2% older men & 16.6% older women) said that they felt the need of justice in their old age and in urban areas. Among 506 rural elderly respondents, 314 were male respondents while 192 were female respondents.



Chart 7 Need for Justice in old age - Older Men

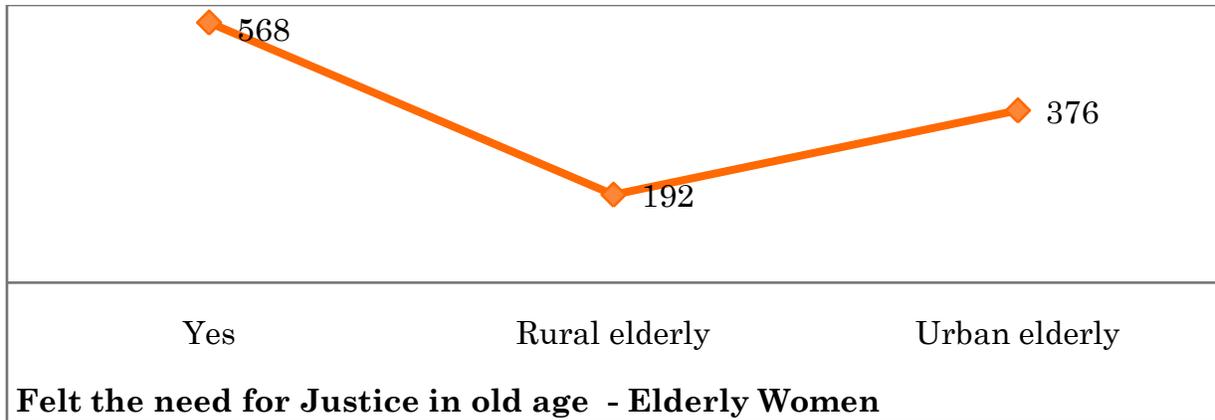


Chart 8 Need for Justice in old age - Older Women

- In urban areas, 44.85% elderly respondents (60.4% older men & 28.7% older women) claimed that they need or needed justice during their old age. Among 2188 urban elderly respondents, 812 were male respondents while 1376 were female respondents.

Filing Legal cases by older Persons

- When asked about whether old people in need of justice take any step to get justice in old age, it was found that only 1/6th elderly had taken any step for getting justice in old age.
- According to survey data, approx. 14% older persons (237 elderly respondents out of 1694 older persons) facing injustice in old age.
- 17.2% older men and 7.6% older women filed legal cases or taken the matter to competent authorities for hearing and getting possible justice.

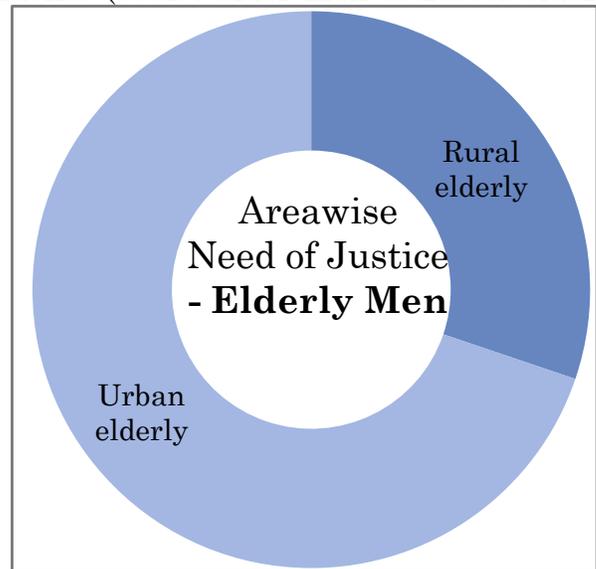


Figure 9 Area-wise Need of Justice - Older Men

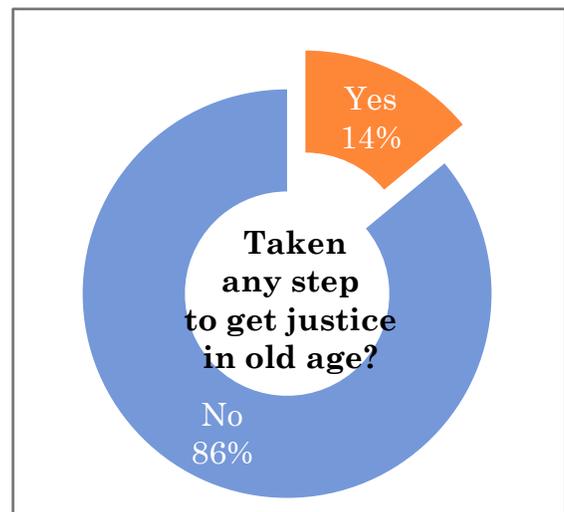


Figure 10 Step taken to get Justice in old age?

- 86% elderly people, suffering from some kind of injustice in old age (1457 out of 1694 elderly respondents), never opted to take action against injustice and prefer to not to file any legal case or seek legal action against the culprits.
- On analysis of the data on the basis of rural / urban residence basis, it was found that among such older persons, who had to file suites or take step to get justice, 65.8% were from urban areas and the remaining 34.2% were from rural areas.

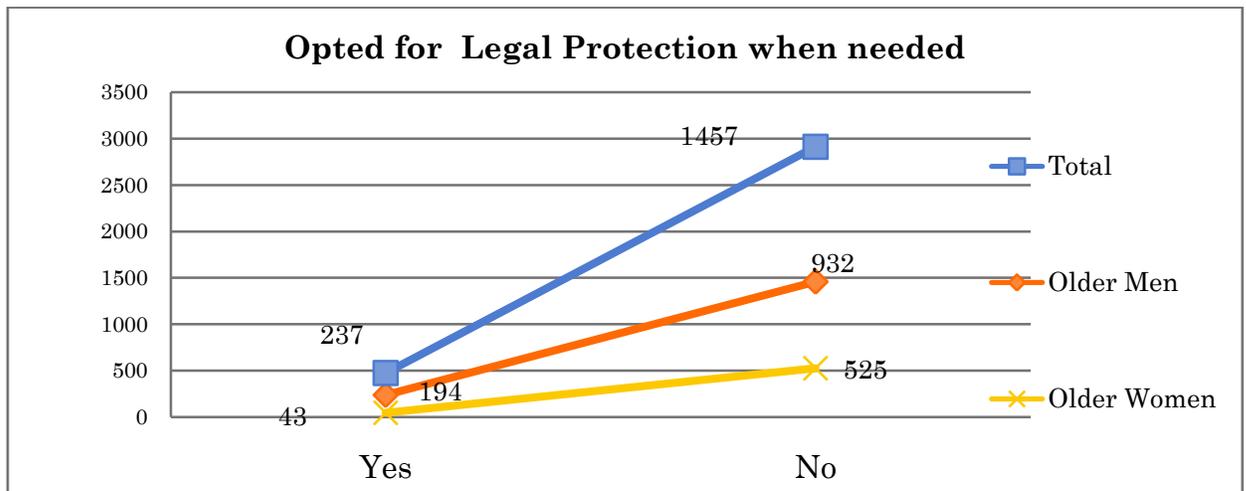


Chart 11 Opted for Legal Protection when needed

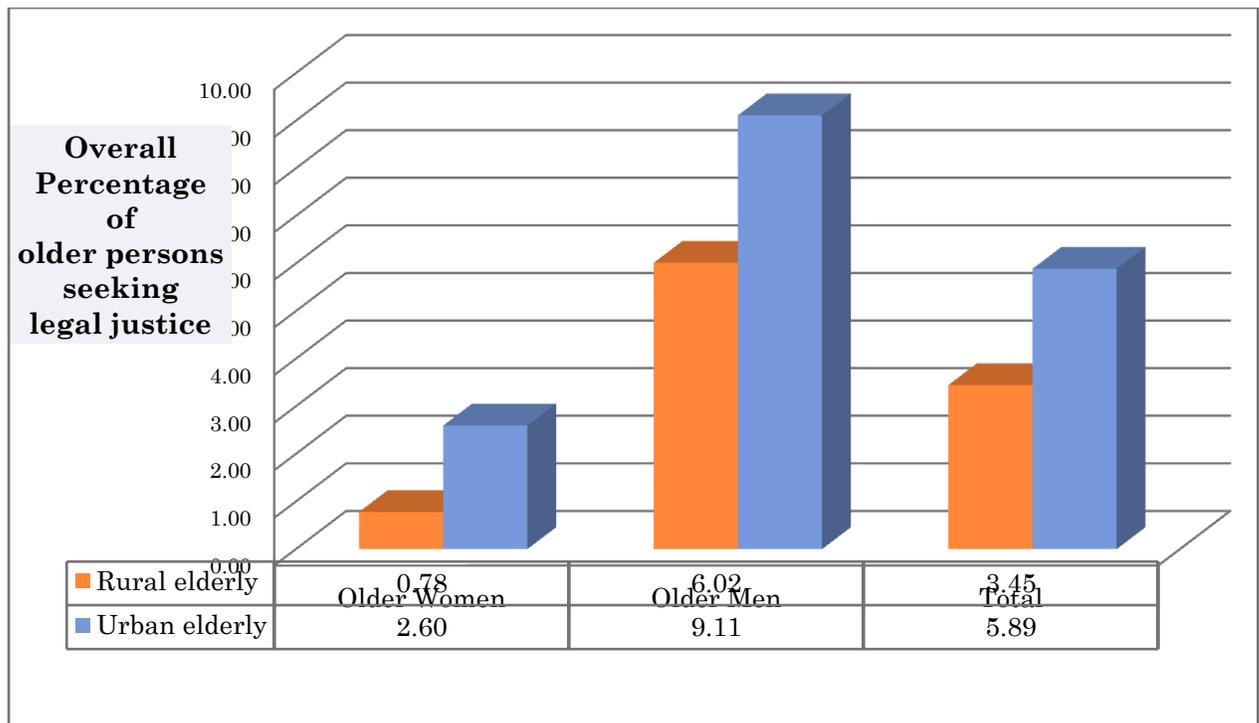


Chart 12 Overall Percentage of older persons seeking legal justice

Challenges before older persons in getting access to justice

During the survey, older persons, who had faced or who are facing injustice but didn't move further to raise their voice or take any step to get justice were asked about the reasons for not moving ahead.

- 2/5th older persons (40.6%), who have not filed any complaint again the injustice said that lengthy legal process in the country is the primary reason for not going ahead with legal cases/complaints. Out of 1457 older persons, 591 older persons had given 1st priority to lengthy legal process among most responsible factors.

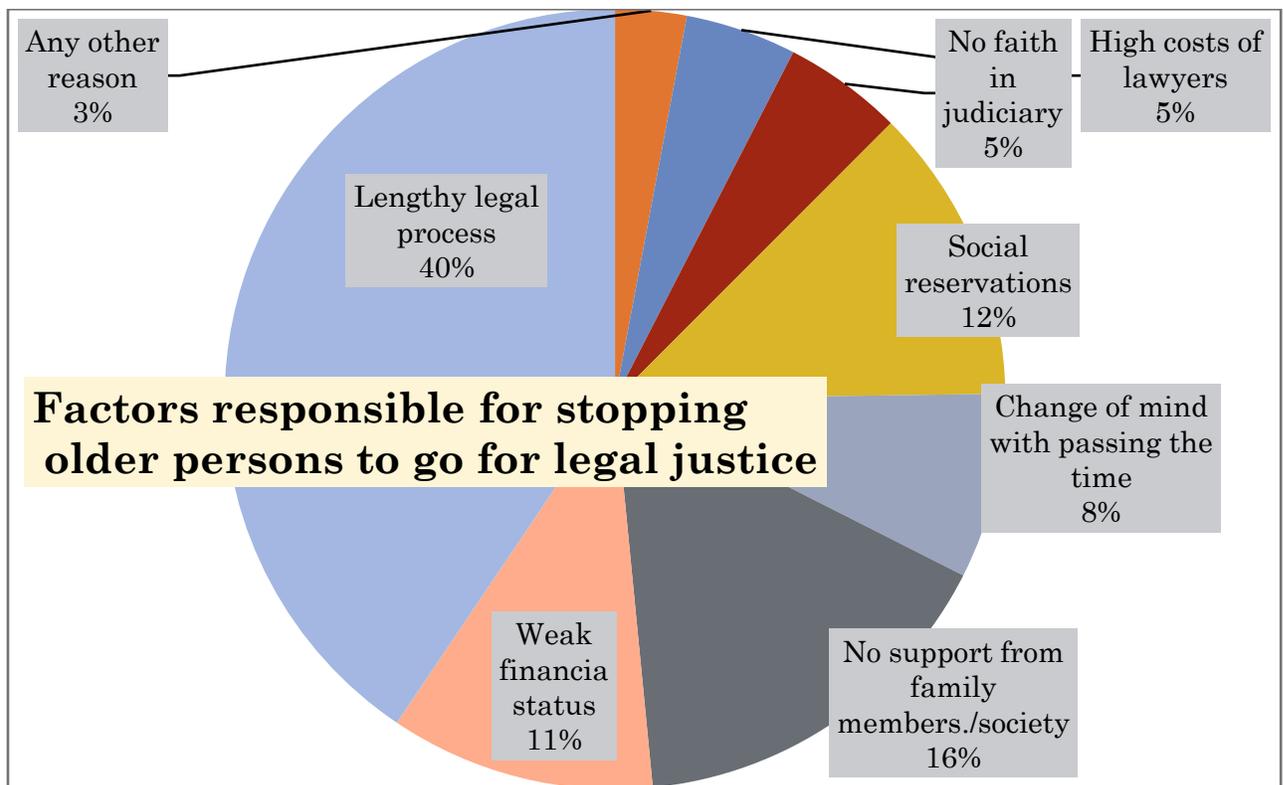


Chart 13 Factors responsible for stopping older persons to go for legal justice

- Among this category, 440 (47.2%) were older men and 171 (28.8%) were older women.
- After that, 16% elderly respondents (18.7% elderly women and 14.5% elderly men) claimed that 'No support from their respective family members/society' is primary factor responsible for not raising their voice or moving to lawyers for getting justice in old age.

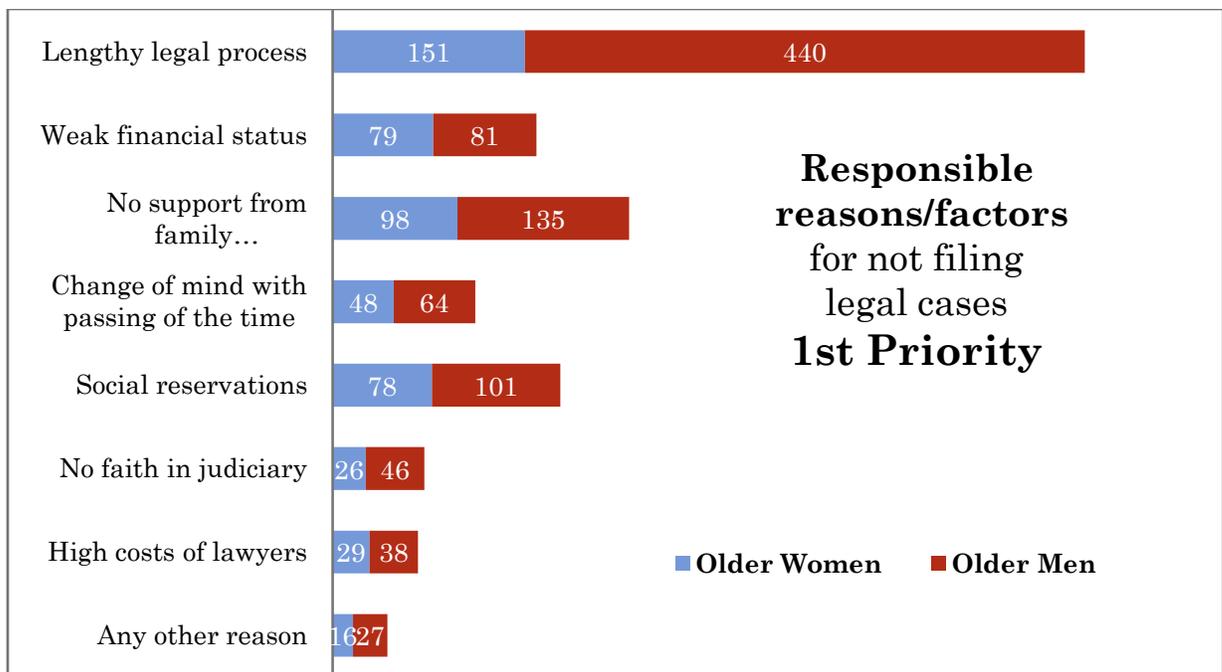


Chart 14 Responsible reasons/factors for not filing legal cases 1st Priority

- 12.3% elderly respondents, who prefer to compromise instead of taking up any step against injustice, said that they did it due to social reasons because in their opinion involvement in any kind of legal cases is not considered in their respective societies.
- Among other factors responsible for discouraging older persons to move ahead and seek justice include – Poor financial status, High cost of lawyers, No faith in judiciary, Change of mind with passing of the time, etc.

Awareness about the elderly friendly Legal provisions among old people

- During the survey 43.5% respondents reportedly accepted that being old persons, they are not at all aware of their specific legal rights. Among 5000 elderly respondents 2176 older persons claimed so.
- Among older men just above 1/3rd respondents i.e. 35.5% and among older women 51.6% respondents claimed that they have no knowledge of their specific legal rights.

- While 46.5% older persons, contacted during the survey claimed that they are aware but to some extent. 2325 older persons out of total 5000 sample respondents said that they are aware to some extent about their special legal rights.

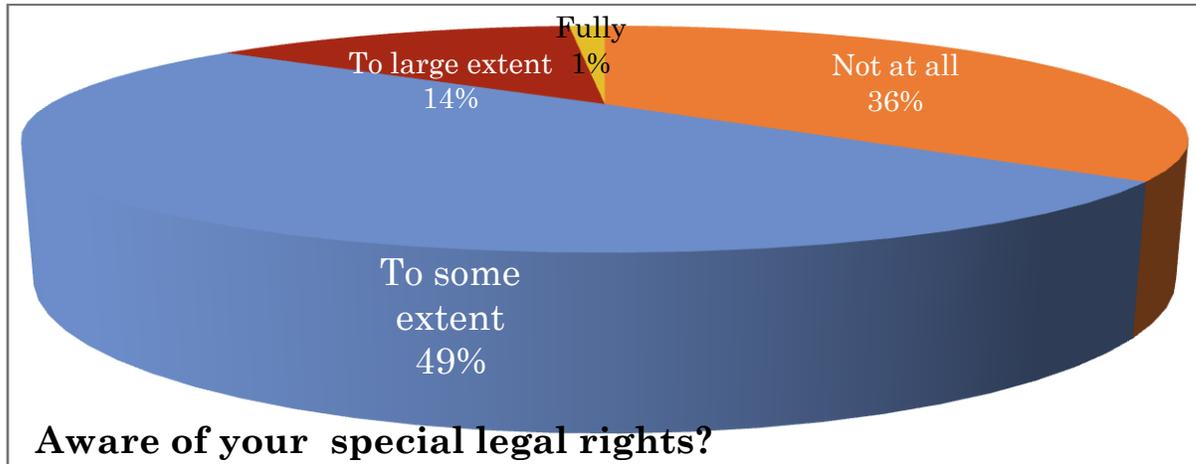


Chart 15 Aware of your special legal rights?

- Among older men, every second respondents (49.5%) and among older women 43.4% respondents claimed that they are aware but to some extent only.
- During the survey, only 1.1% elderly respondents claimed that they are fully aware of their legal rights in old age. Among this category 1.34% were older men and 0.89% were older women.

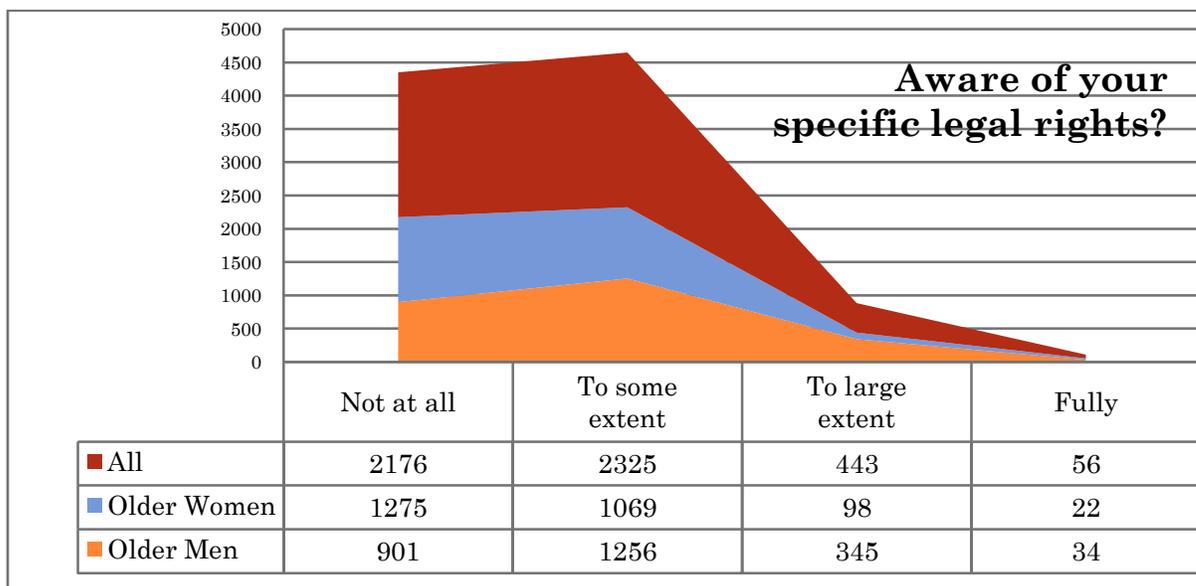


Chart 16 Aware of your specific legal rights? Gender-wise

- When it was attempted to assess the awareness level of older persons about various legal provisions for the welfare and empowerment of older persons, it was found that overall 14.9% elderly respondents (743 out of 5000 respondents) were aware of Maintenance & Welfare of Parents & Sr. Citizens Act. Among these elderly 609 were older men and 134 were older women.
- Among older men awareness about this Act was quite higher (24.1%) in comparison to older women (5.44%)
- During the survey, it was found that almost every 10th elderly person (9.1%) is aware of RTI Act 2005. Among older men awareness about this Act was quite higher (14%) in comparison to older women (4%).
- 4% elderly respondents (5.3% older men and 2.6% older women) said that they are aware of Hindu Adoptions and Maintenance Act.
- On Code of Criminal Procedure Act, 1973, only 2.6% elderly respondents (4.5% older men and 0.7% older women) claimed that they have knowledge of this act.

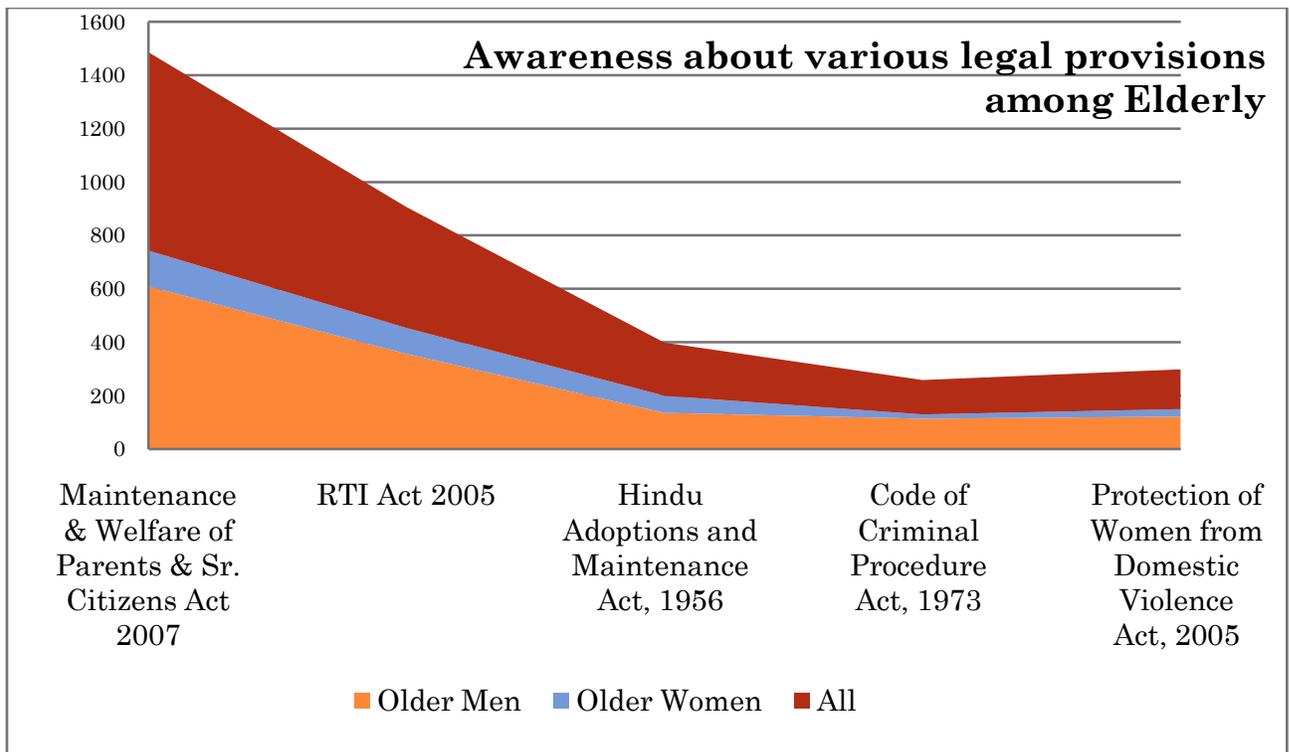


Chart 17 Awareness about various legal provisions among Elderly

- Survey finding suggest that there are less than 3% older persons, who are aware of Protection of Women from Domestic Violence Act, 2005.
- 7% elderly respondents (9.7% elderly men and 4.1% elderly women), interacted during the survey agreed that they have knowledge of other legal facilities and schemes for elderly.

Attitude of Older Persons towards Judicial system

- Under the survey, it was also attempted to observe the overall attitude of older persons towards current judicial system of the country. From the data obtained from 5000 sample elderly respondents, it was found that in the country less than 1/3rd elderly people (32.8%) are happy with the current judicial system.
- 29.3% elderly respondents were found to be pessimistic towards judicial system of the country while 35.8 % respondents preferred to remain neutral (neither happy nor unhappy with the judicial system).

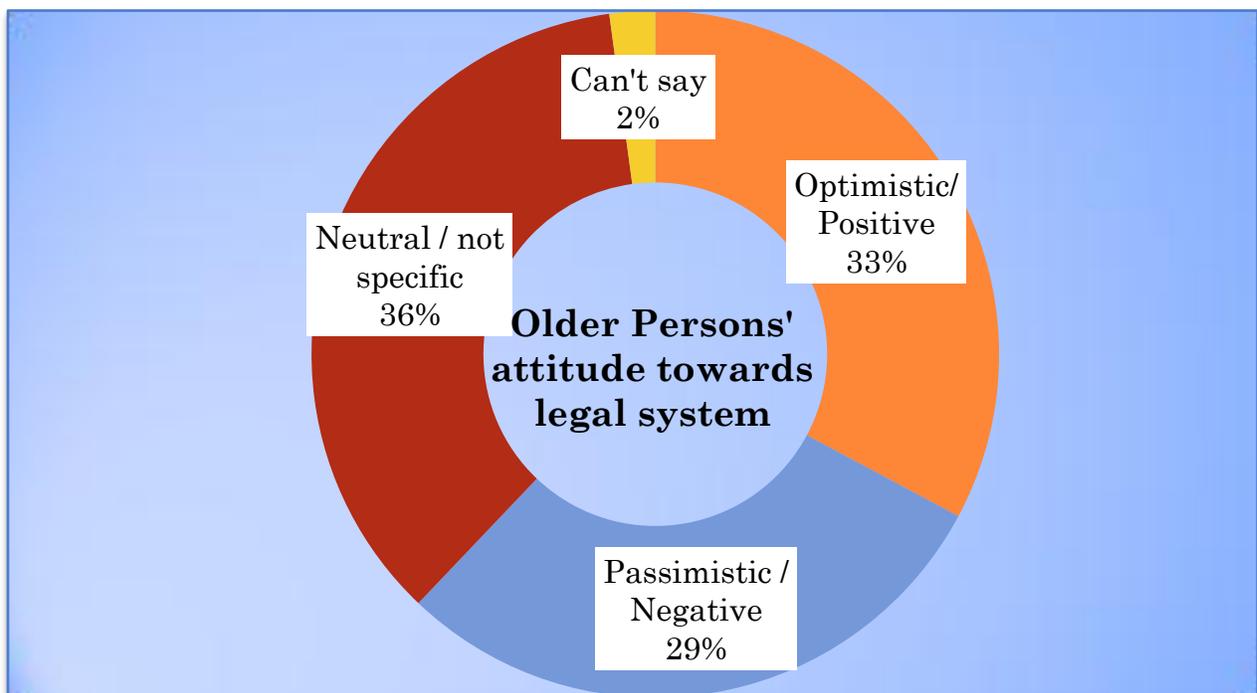


Chart 18 Older Persons' attitude towards legal system

- 2.14% elderly respondents said that they are not aware of status of judicial system.

Interactions with Legal practitioners

- to assess the impact of legal provisions on older persons

- During the survey conducted by Agewell Research & Advocacy Centre, interviewers were also asked to collect input / feedback from legal practitioners including legal advisors / counselors, legal experts, human rights / NGO activists, etc. regarding legal issues of older people.

Kinds of Primary legal cases of older people

- According to legal practitioners, contacted during the survey 37.2% cases of older persons were related to real estate (house/land properties). Among 500 legal practitioners, 186 said that older persons are primarily involved in house/land property related cases in old age.
- Following this, 18.2% sample legal practitioners said that older persons primarily involved in legal cases pertaining to their financial matters.
- According to 14% legal practitioners, older persons are facing legal cases pertaining to dowry and harassment.
- 12.8% respondents among people with legal background said that primary legal issues of older persons are related to domestic violence.
- 6.2% legal practitioners reported claimed that older persons are involved in legal cases primarily related to crime against older persons.
- 11.6% legal practitioners were of the views that older persons have legal cases primarily related to other civil matters.



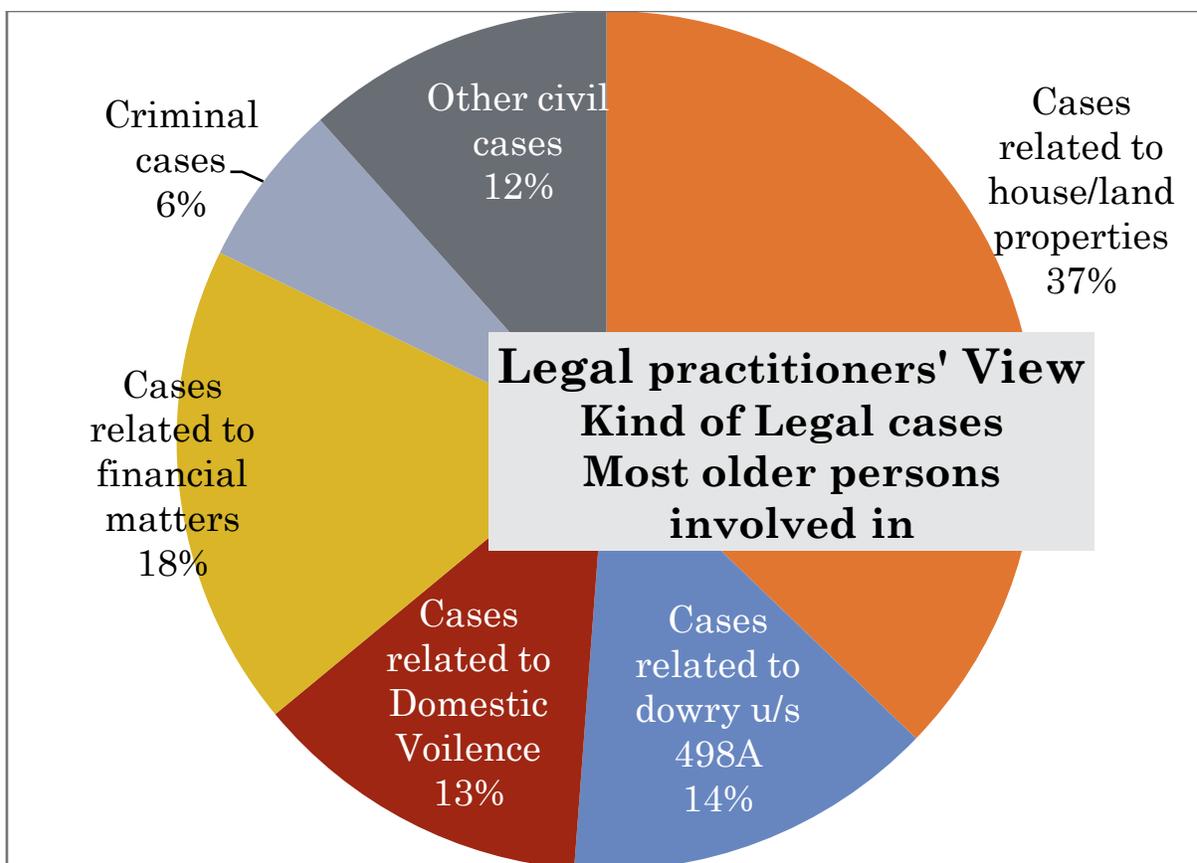


Chart 19 Legal practitioners' View - Kind of Legal cases Most older persons involved in

- When it was attempted to find out whether legal provisions and practices in India are sufficient to protect human rights of older persons, data analysis showed that more than a half respondents (58.8% respondents with legal background) disagreed with this fact. Out of 500, 294 respondents said that legal provisions and practices in India are not satisfactory in order to protect human rights of older persons.
- While according to 41.2% legal practitioners reportedly admitted that there are adequate legal provisions and practices in India to protect human rights of older persons.
- On role of judiciary in strengthening human rights of older persons, 29.2% respondents among legal practitioners claimed that judiciary can play most important role by sensitizing the society towards needs & rights of older persons for strengthening human rights of older persons.

Are legal provisions and practices sufficient to protect human rights of older persons?

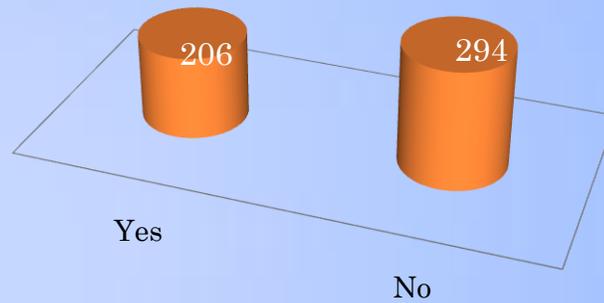


Chart 20 Are legal provisions and practices sufficient to protect human rights of older persons?

- According to almost 1/5th respondents with legal background, creating awareness in the society about rights of older persons is the most important role that judiciary can play. Out of 500 respondents, 105 people said that creating awareness is the crucial task of the judiciary.
- 17.4% respondents from this group said that ensuring protection of human rights of older persons is the most important role of judiciary.
- Further, 17% respondents said that ensuring older persons friendly environment in the country must be the most important role of judiciary.

Most important role that Judiciary can play for strengthening human rights of older persons

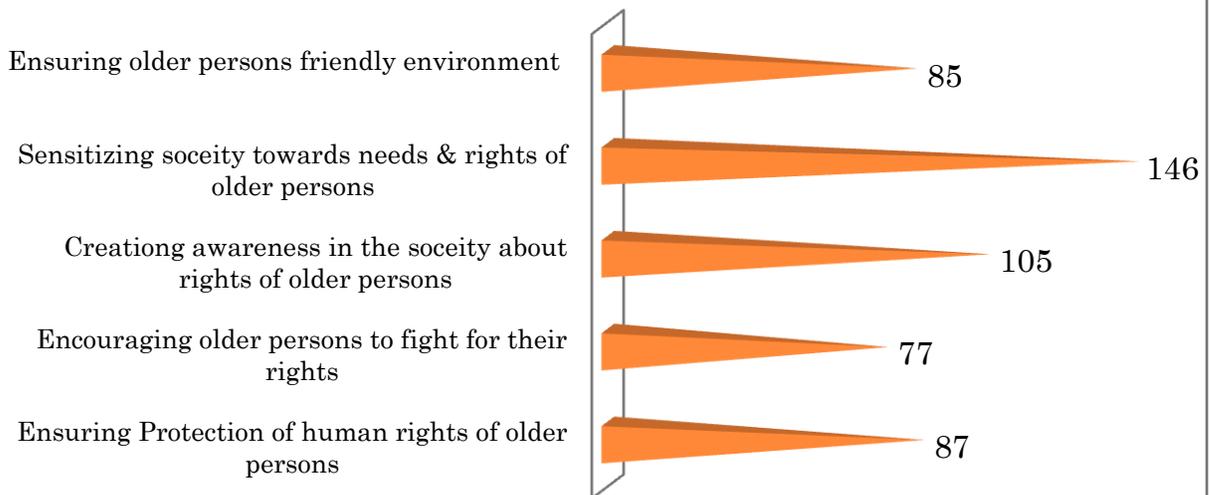


Chart 21 Most important role that Judiciary can play for strengthening human rights of older persons

- 15.4% respondents with legal background were of the view that most important role that judiciary can play is encouraging older persons to raise their voice against violation of their rights and fight for their rights.
- When asked about most favorable legal provisions from the older persons' point of view it was found that comparatively new legal provision of Maintenance of Welfare of Parents & Senior Citizens Act, 2007 is the most favorable legal step taken by the government in India. According to 50.6% respondents from legal background this is the most useful legal provision made by the Government.
- According to 16.6% legal practitioners, RTI Act, 2005 is the most legal provisions from the older persons' point of view.
- Protection of Women from Domestic Violence Act, 2005 is most favorable legal provision from the older persons' point of view as per the 14.8% respondents. 74 respondents out of 500 respondents reportedly claimed so.

Most favorable legal provisions

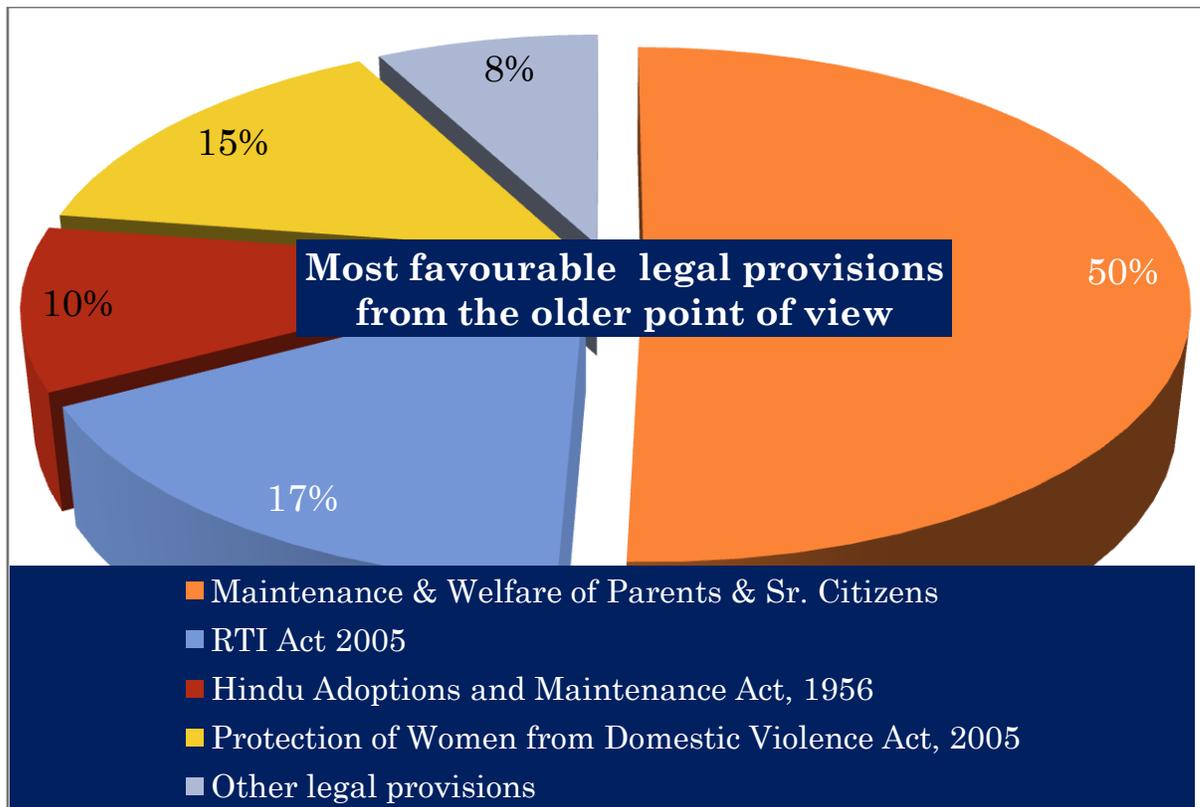


Chart 22 Most favourable legal provisions from the older point of view

- 10.2% legal practitioners were of the view that Hindu Adoptions and Maintenance Act, 1956 is the most favorable Act for older persons.
- When asked about what is the worst legal provision / act from older persons point of view, 51.8% respondents find that Indian Penal Code (Section 498a) is worst legal provision. Out of 500 legal practitioners interviewed during the survey admitted that older persons are suffering a lot due to Section 498a.
- According to 29.2% respondents, Protection of Women from Domestic Violence Act, 2005 has been proved worst law for older persons.
- 14% respondents with legal background claimed that majority of older persons are victim of certain provisions of Code of Criminal Procedure Act 1973.

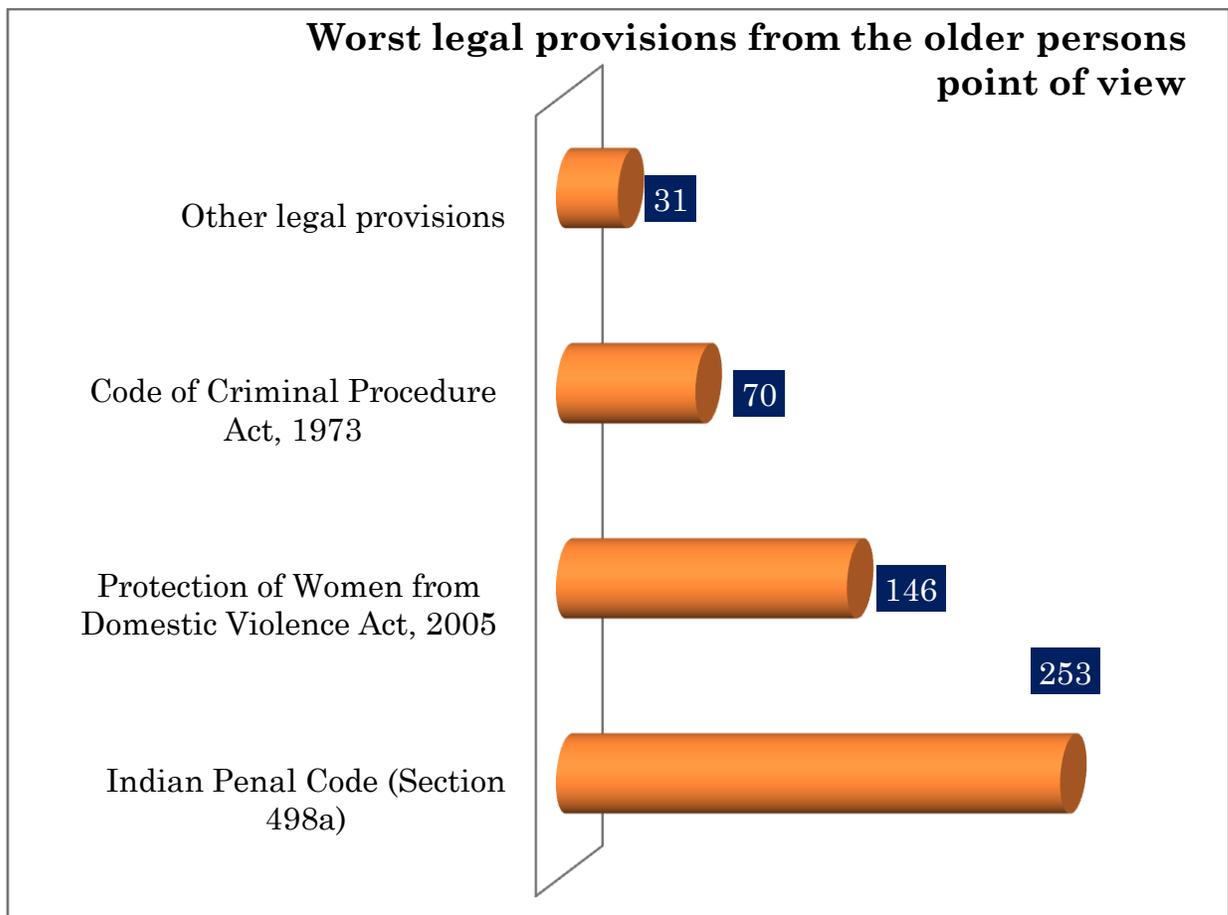


Chart 23 Worst legal provisions from the older persons point of view

PART-II

RIGHT TO WORK IN OLD AGE IN INDIA

OVERVIEW

RIGHT TO WORK AND ACCESS TO THE LABOR MARKET

In developing countries like India, where old age social security support system is almost negligible and the traditional structures of family care for the old people are eroding, the risk of economic vulnerability may increase for the elderly. In the context of inadequate institutional social security and lack of family support, the only option left for most of the elderly is to depend on their own earnings for their day-to-day maintenance.

With inadequate social security for the majority of the older persons, growth of nuclear families and declining traditional support from extended family members, continuing to work and earn remains the only option for support in old age for most Indians.

The older persons constitute a precious reservoir of human resource. Most old people are gifted with knowledge of various sorts, varied experiences and deep insights. May be they have formally retired, yet an



overwhelming majority of them are physically and mentally capable of contributing to the well being of the society. Hence, given an appropriate opportunity, they are in a position to make significant contribution to the socioeconomic development of the country.

National Scenario

Normal age of retirement from government jobs is 60 years in India. However, in unorganized / informal sector where majority of working population work, there is no fixed retirement age. Article 41 of the constitution of India 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 to public assistance in cases of unemployment, old age, sickness and disablement. Every citizen has the right to work over a certain period of time. They cannot be retired from doing their work whether in the private or the public sphere. Unfortunately older persons do not come under the preview of this constitutional provision and they hardly enjoy right to work in India. However, in labor market of informal sector, primarily, agriculture sector, older persons have equal access till they are able to work.

India has approximately 135 million older persons and majority of them are in the age group of 60-70. In this age group most old persons are active and want to work for few more years. However, in job market, they hardly find any takers, who can offer them suitable jobs due to their age and other limitations. Older persons have experience, knowledge and wisdom but they lack much needed skills and training.

Challenges faced by older persons for the realization of their right to work

Over the past decades work culture across the sectors has changed remarkably primarily due to advancement of technology. Majority of older persons are unskilled, and digitally challenged or have lower academic qualification as compared to younger people. Moreover ever-increasing unemployment and lack of post retirement gainful engagement opportunities discourage older persons to realize their right to work in old age. Inadequate provision of social security for the elderly in India has left the majority without any economic support and they continue to look for employment opportunities in their old age.



Gainful re-employment is an area of great concern, for many older persons. Some want it because they find themselves completely active but retired. Some need it because of their yet uncompleted responsibilities. For many, it is a matter of survival; there are still many more who just want to keep themselves engaged. Indeed it is ironical; that very few people prepare themselves for their life after retirement. In addition, most of them are mentally and physically fit to work for some more years in old age.

Earlier most of the retired people didn't like to work after retirement and used to depend on their savings / pension and younger family members for the rest of the life. However, today due to escalating cost of living, longer life span in old age and lack of family support compels them to look for a second career to complete their unfinished responsibilities. Many retired persons who are otherwise financially sound and do not have any of the above responsibilities, find it difficult to pass their time on and seek meaningful engagement because when they have nothing to do, time hangs on them.

So far as job market is concerned, older persons are not treated equally and they have to face a lot of discrimination due to their age. The current retirement age for most government workers in India is 60. Most private companies have aligned their age of superannuation to the Centre and state governments.

Role of informal / unorganized sector

A very low percentage of the elderly workforce are engaged in poorly paid jobs in the informal sector, either as casual workers or as self-employed in low-skilled or unskilled occupations since their access to the labor market is very limited. In rural areas, 66% of elderly men and 28% of elderly women were working, while in urban areas only 46% of elderly men and about 11% of elderly women were working³. The industrial distribution of employment of elderly differs between urban and rural India. In rural India, agriculture sector accounts for more than two thirds of employment for both elderly men and elderly women. Service sector is the second most important source of employment for elderly in rural India. Unlike rural India, service sector provides the predominant share of employment to the urban elderly.



In organized sector, right to work is enjoyed by a small number of older persons, that too for 2 to 5 years beyond the age of 60 years. However in unorganized / informal sector older persons have equal right to work and earn their livelihood. Due to increased longevity share of older persons is also increasing in labor market.

³ Ministry of Statistics and Programme Implementation, Govt. of India,

In fast changing world, where cost of skilled labor is one of the major challenges before industry, retired skilled, educated, experienced workforce like - retired engineers, technicians, supervisors, administrators, teachers, accountants, professionals etc. can be re-engaged in the industry with most competitive rates. For this group of retired people Jobs Fairs can be organized in the country. The employers may be educational institutions, retail outlets, hotels, insurance companies, medical supplier firms etc. Retied people can be given post-retirement jobs in the field of Administration, Accounting, Security/Estate Managers, Human resources, Electrical/Mechanical Consultant, Business Development Managers, Cashier, Clerical, etc.

Steps taken to ensure the access of older persons to the labor market

In India, no tangible steps have been taken at any level to ensure the access of older persons to the labor market including through physical accessibility, access to information about employment opportunities, training and the provision of appropriate workplace accommodations. However, concerned stakeholders at multiple levels have realized the need to bring older persons into the mainstream by involving them in income-generational activities.

At government level, no major steps are taken, except promoting older persons friendly projects like setting up recreation centers for older persons, senior citizens organizations, etc.

Remedies and Redress

Following are the indicative mechanisms for older persons to seek redress for denial of their right to work and access to the labor market

- Conducting Pre and post-retirement training programs for older persons to provide them soft skills, digital literacy, communication and other training for skill enhancement.
- Establishment of Employment Exchange for Old and Retired People at national level.
- Organizing Job Fairs for Senior citizens at local level

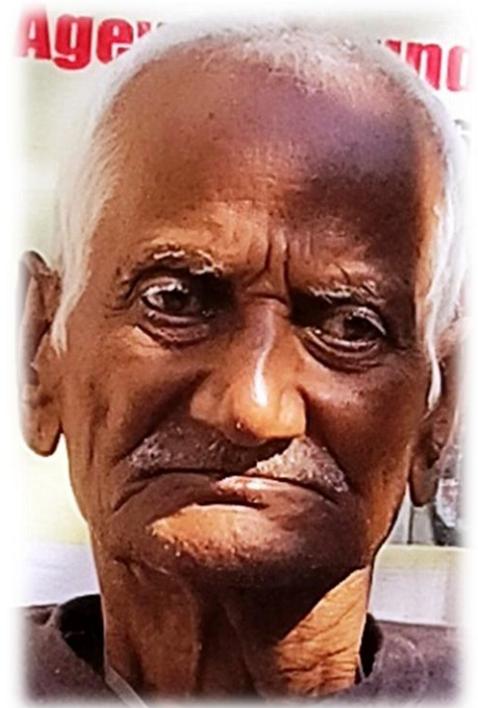


- Provisions for encouraging employment of retired elderly in unorganized service sector by initiating incentives schemes.
- Promoting anti age discriminatory practices in the labor market

Self-employment opportunities for older persons in India

After retirement older persons don't want to remain completely jobless. They often tend to start a new business or a gainful job. There are several ideas to get going for older persons in India that are not completely intended to make money but to enjoy working in old age. Retired older persons can take up these occupations as per their choice, expertise, knowledge, experience and interests;

- Real estate agent / developer: Older persons can be their own boss when they work on this platform. For this kind of job, they don't need specific knowledge or experience.
- Online Selling of products and services: Retired people can try selling products or goods or services online by using the social media platform. It is not just for time pass but also one can get an opportunity to learn how things happen over social media platform.
- In-Home Care (Non-Medical) Services: Retired people from these kinds of background don't have to sit idle after retirement. They can make some contacts and have few regular customers and that's all to keep them busy.
- Tuition classes to Kids: This the best job to opt after retirement. In-turn they learn a lot from the new generation. It is always refreshing when they interact with younger children.
- Sell Home Made Foods: Majority of elderly women are expert with cooking and have the capacity to cook in large amount. They can start off this business with something basic and right items Food items have a huge demand in the market.



- Data Entry operators: This job is always available in the market. These jobs are easy to be found. All they need is just a laptop or a system to type and send the information in a documented way.
- Florist / Garden Maintenance: This job creates a work environment that is full of creativity, cheerfulness and spreads some fresh fragrance. They can turn into an expert professional in garden maintenance.
- Store keeping: There are quite a few job openings available that just involve some monitoring and assistance work. These jobs are forever available in the market.
- Start a Book Stall: This kind of job doesn't involve much of hard work. There is more than enough kind of entertainment too by choosing to set up a book stall. Ideal for densely populated Middle upper class urban areas.
- Paper plates and Paper bags: By putting in some creative thoughts you can make some impressive paper bags that are tough for the customers to say no from buying them.
- Baby day care centre: Ideal for elderly women living in urban areas. Living in this busy world where both the parents get to work for 8-10 hours a day it has become very difficult for them to take care of their kids. Elderly women can teach their kids with proper discipline and manners.
- Internet Centre: Even though internet is just a click away in the smart phones there are still few internet cafes that are to the rescue in most of the places.
- Dairy Farm: Ideal for elderly from rural areas. With their own resources, like cattle, etc. they can set up dairy farm. With careful planning and marketing strategy they can make good money.
- Ice Cream Parlor and Food stall: By creating some interesting menu and hiring kitchen expert they can start this business and earn good income.



Part-II: ACCESS TO WORK IN OLD AGE IN INDIA

MAJOR FINDINGS OF THE STUDY

- For the survey, survey questionnaires were also designed to collect data related to working life of older persons and jobs/gainful engagement available in old age.
- On the analysis of data obtained from older persons, it was found that 12.9% respondents (14% in urban areas and 11.7% in rural areas) were working/gainfully engaged. Out of 5000 elderly respondents, 647 claimed that they are gainfully engaged in old age.

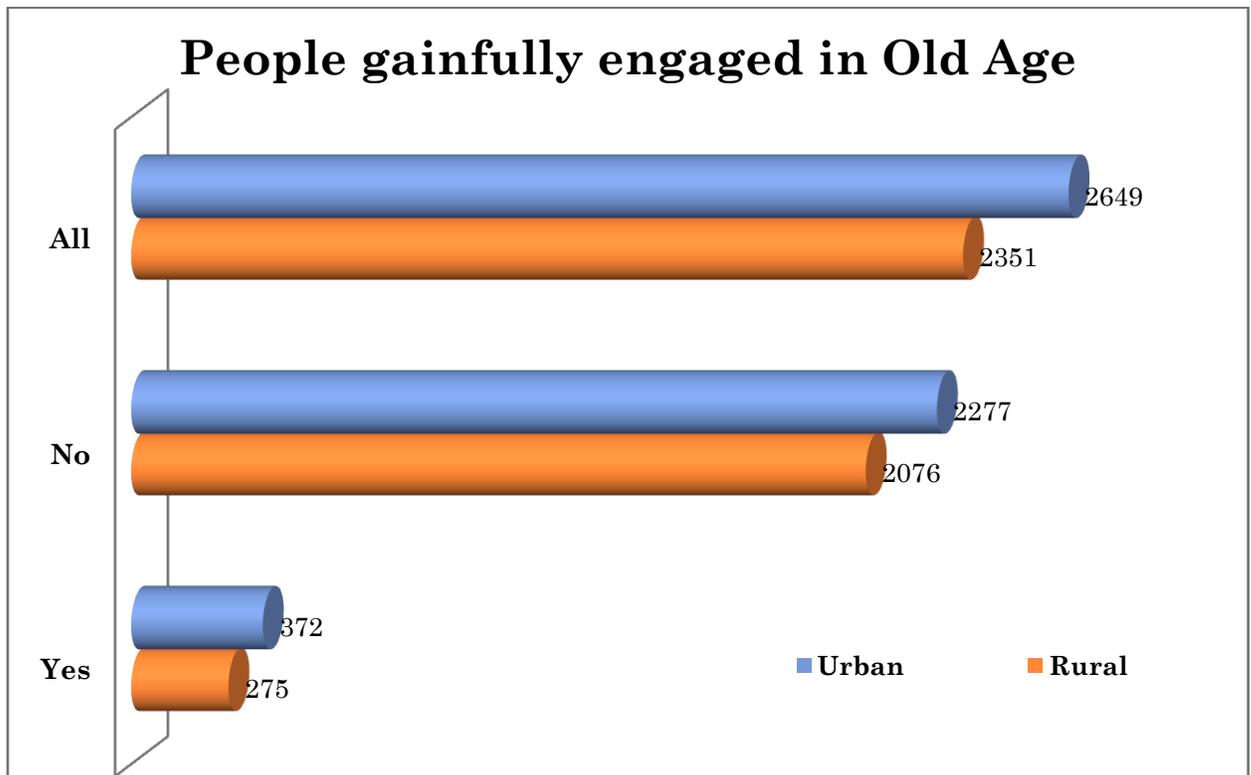


Chart 24 People gainfully engaged in Old Age

- Among older persons who are not gainfully engaged, almost every second person accepted that he/she need some work in old age. 51.4% (52.4% in urban

areas and 50.3% in rural areas) said that they are in need of some gainful engagement / work due to various reasons.

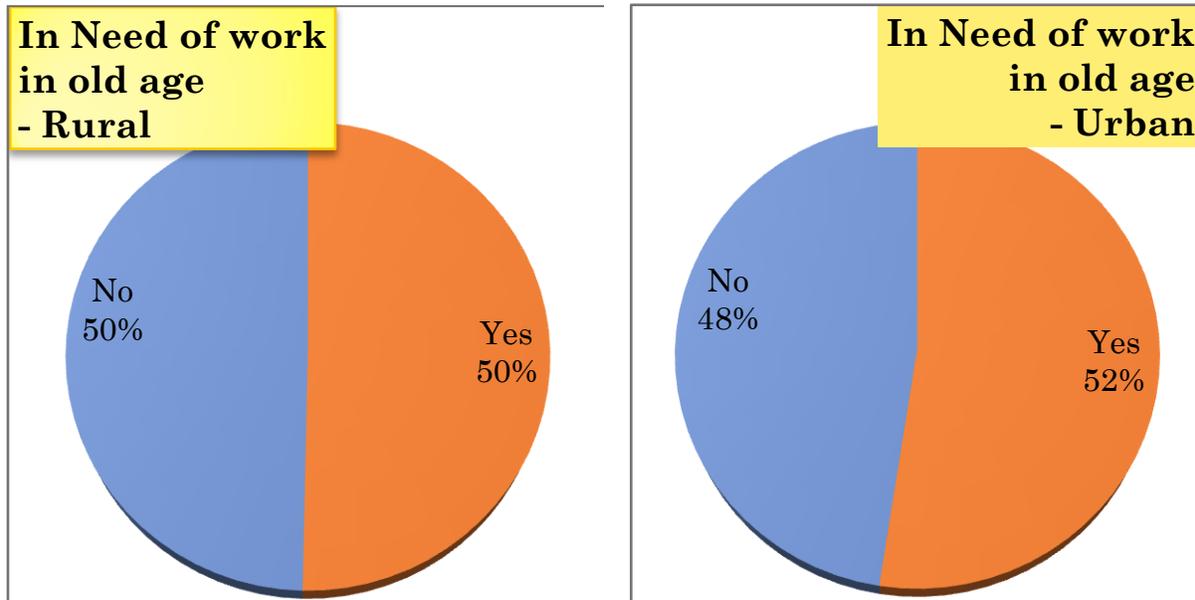


Chart 25 Older People In Need of work in old age- Rural/Urban

Out of total 4353 elderly who are not gainfully engaged, 2239 older persons were looking for jobs in old age.

- Among those 2239 older persons, 76.2% respondents were in the age group of 60-69 years, while 20.1% were in 70-79 years age group and remaining i.e. 3.7% were 80+.

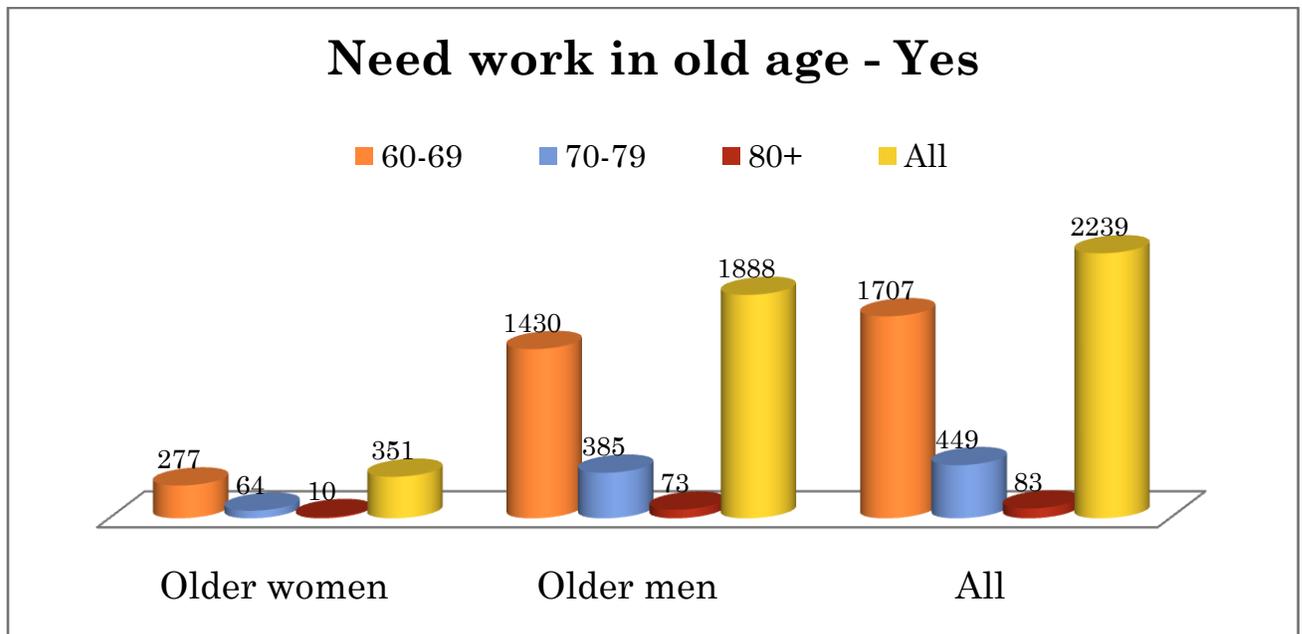


Chart 26 Need work in old age - Yes

- Percentage of older men, interested to work was 84.3% (1888) in comparison to 15.7% (351) older women.
- Study further suggested that most old persons (42.6%) wanted to work for financial self-reliance in old age. Among 2239 retired/unemployed respondents, 954 persons claimed that they want to work and earn money to meet their financial requirements.
- 21.7% respondents (486 out of 2239) said that they want to keep themselves engaged in order to attain good health. They had given 1st priority to good health in old age, as major reason to look for gainful engagement in old age.
- 15% respondents gave 1st priority to self respect and said they want work to earn self respect in old age. While 13.4% respondents reportedly said that they want work for passing their idle time at home and keep themselves engaged.

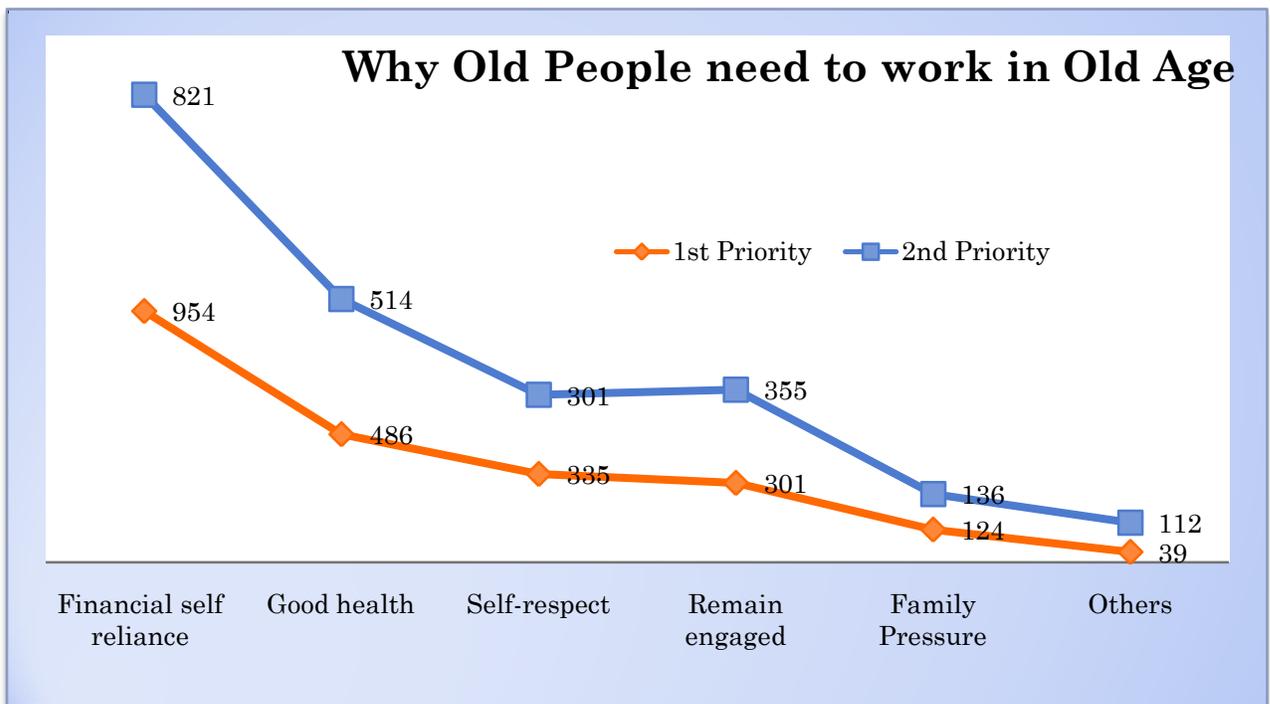


Chart 27 Why Old People need to work in Old Age

- 5.5% older persons also claimed that they are in urgent of work due to family members' pressures and some unfulfilled family responsibilities.

- Among 2239 older persons, who are willing to work in old age and looking for job opportunities, 36.7% older persons claimed financial self-reliance as 2nd reason for work in old age.
- 23% respondents in this category said that to keep themselves in good shape and health is 2nd reason of their search for job in old age.
- Another 15.9% respondents claimed that their 2nd reason for looking for gainful engagement is keeping themselves engaged in some work and activity as they can't sit idle at home all the time.
- When these respondents (2239) were asked about what kind of work they need in old age, 21.7% said that their first priority will be to get administrative/supervisory kind of work.

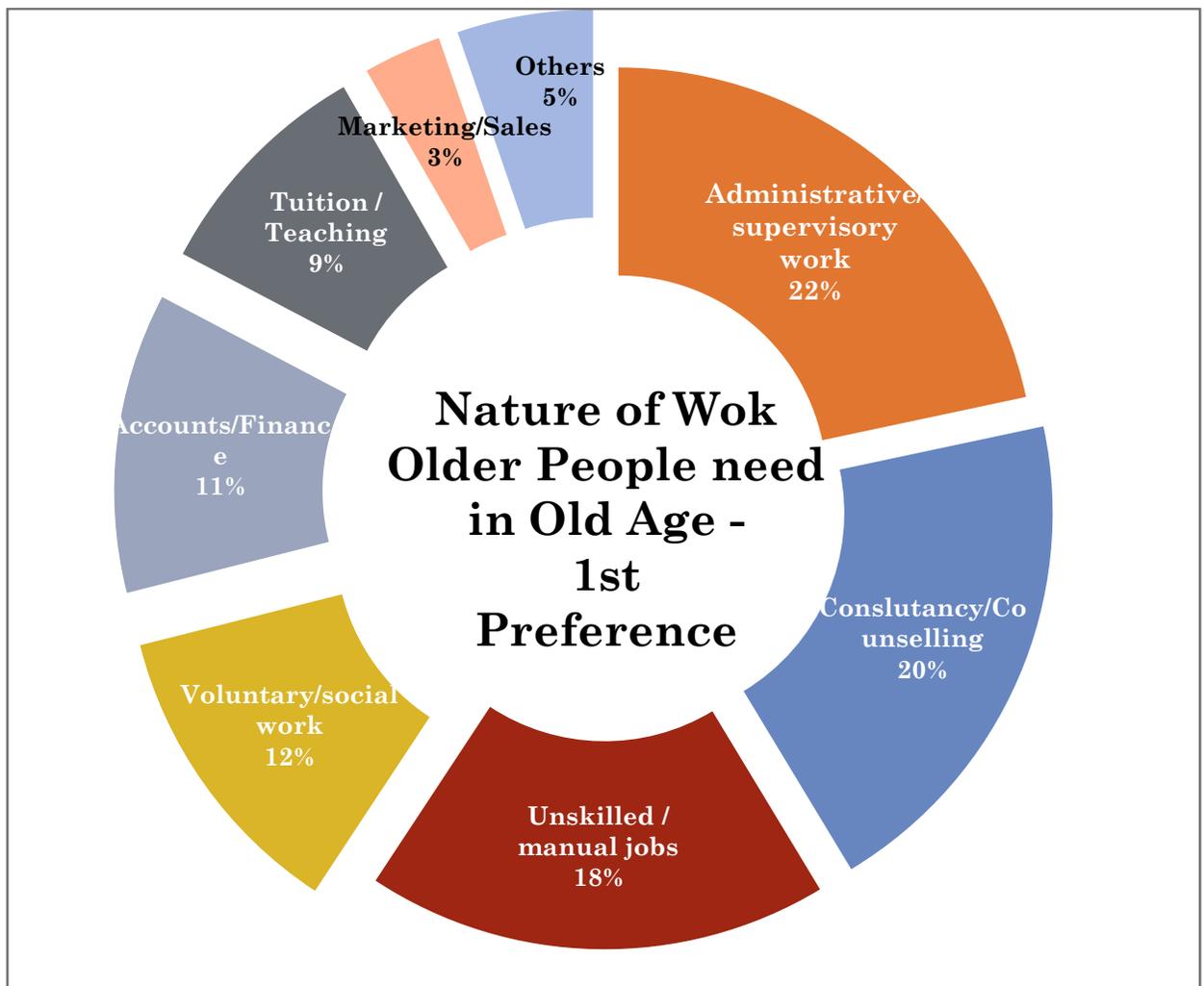


Chart 28 Nature of Work Older People need in Old Age -1st Preference

- 19.7% older persons in this category of 2239 people informed that they will prefer consultancy/counseling work in old age.
- 17.9% elderly respondents reportedly found inclined to get some unskilled / manual jobs to earn money in old age.
- Among these elderly 11.8% respondents said that they are basically interested in some kind of social work on voluntary basis to keep them engaged in old age.
- 11.7% older persons in this category were looking for accounts/finance related work while 9% elderly were found interested in tuition / teaching jobs in schools/coaching centers.
- As a second choice, 22.4% older persons, who have no work to do, said that they can take up administrative/supervisory work to earn money in old age.
- 22.5% elderly respondents, preferred to go for unskilled / manual work as a 2nd choice of work if available.



Representative statements

"I have four children but none of them take care of our daily expenses in old age. I and my wife get old age pension from government, that's not enough to meet our expenses. I want support from my children but unable to get it. I tried my best to convince my children through my relatives, local police, NGO worker, but failed. An advocate has advised me to register a case against them under Parents Maintenance Act. Initially I didn't want to do that but now I have no option left."

-Sukhdev Gupta, 75, Thane, Maharashtra

"I am victim of Section 498A. My daughter-in-law and his parents filed a false police case against me and my wife for harassing my daughter-in-law for dowry. They have also made several fake allegations on my son. This case has destroyed our life in old age. There is no one to listen to our pity. I had to spend many days in jail and police custody."

- Daya Shankar Pandey, 65, Mayur Vihar, Delhi

"My son and daughter-in-law have been harassing me for past 4-5 years. They denied me to even meet my grandchildren. My life has become a nightmare. I can't leave my family as there is no one to support me and I am totally dependent on my son. I could not share my pain with others as it can annoy my son and his wife. I can't even think of any legal action against them as I can't visit lawyers and court premises in old age."



-Damyanti Goel, a 68-year-old widow, Kanpur, UP

"I retired from a company 5 years back spent all my savings. I'm in urgent need of work as I have no source of income now and I have to repay my home loan installments for another 4 years. My children are not supportive and they always pressurize me to look around for any work and earn money, enough to look after my daily expenses and monthly home loan installment. But due to my old age no company is ready to give me job. I am dependent on my family members and I have started losing my self-respect now."

- Amit Parashar, Guna, Madhya Pradesh

Summary of OBSERVATIONS

Today, most people are aware of the fact that they have long years to live in old age with specific needs and requirements. During the survey it has been observed that there must be a legal provision for employers to take a written declaration from their employees that they take care of their elderly parents, so that well being of aging parents can be ensured.

In India, lengthy legal process is the primary reason for not filing legal cases / complaints to get legal justice in old age. Family members of elderly often discourage them and prevent them for not raising their voice or approaching legal system for getting justice in old age.

Majority of older people are not aware or have limited awareness about their specific legal rights. Due to illiteracy, poor knowledge of law and dependence on others, they always remain vulnerable.

Even after a decade of enactment of Maintenance & Welfare of Parents & Senior Citizens Act, there is not adequate awareness among the older persons about the law.



It has been observed that most old people are not optimistic towards current judicial system of the country. According to majority of elderly people despite transparency at most levels, corrupt practices are still there, which makes legal process lengthily and costly affair, particularly for old people.

Older persons are primarily involved in long pending cases related to their house / land properties. In old age these cases affect their health adversely and even prove fatal for many of them in most cases.

Though legal provisions and practices in India are adequate to protect human rights of older person, actual implementation on the ground is countered by a lot of hurdles like social and traditional value system, no knowledge / awareness about the laws, fragile health condition in old age. Maintenance of Welfare of Parents & Senior

Citizens Act is appreciated by many, however very few elderly are getting benefitted by it.

Most young old people (60-70 years) are keen to work after retirement, either to earn money or in some cases to occupy their free time. However, due to limited post-retirement job opportunities and ever increasing number of younger old persons, they are being treated by many as cheap manpower.

It has also been observed by the volunteers that in old age most elderly who have some source of income, prefer to live apart from their younger family members to avoid day-to-day intergenerational issues / family differences and to live in a peaceful environment in old age. In a way this is also one major factor, responsible for popularity of nuclear families in the country.

Obviously, nuclear families of older persons are on the rise in India, which is completely new phenomenon for traditional societies like India. With longer life span of older persons, life of such families is also getting longer. These families of elderly have specific needs & requirements like arrangement of care givers, safety & security of their property and lives, counseling for elderly living alone, home delivery of foods / medicines, basic services, etc., regular patrolling by police / volunteers, etc.



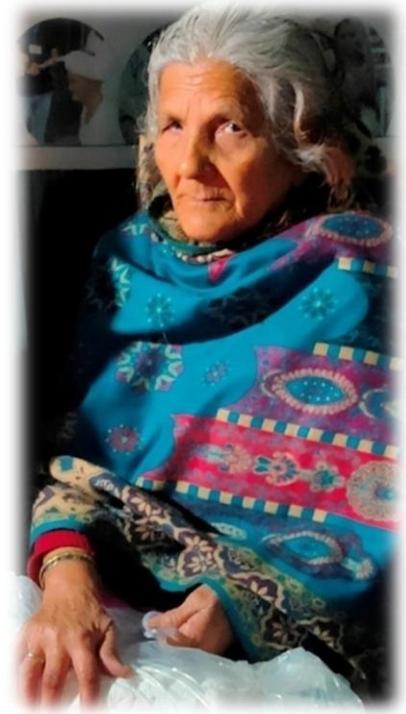
RECOMMENDATIONS

Access to justice is a fundamental right for every citizen of India; however people in their old age have limited access to legal justice due to various factors like increased marginalization & isolation in old age, vulnerability and infirmity, etc. In fast changing socio-economic and demographic scenario, older persons not only need adequate social security but also require justice against violation of their basic and human rights. To ensure legal justice to every older person, government must specially focus on most vulnerable section of older persons i.e. 70+.

For older persons in the age group of 60-70 years government and concerned stakeholders need to relook at their needs & rights because they have enormous pool of experience, knowledge and wisdom. This section of older people need their right to work to be strengthened so that they can remain gainfully engaged and also contribute for the wellbeing of society as well and remain active, healthier and lead a self-reliant and graceful life during silver years.

To ensure justice for every older person, government must focus on community sensitization by creating awareness about specific needs and rights of older persons among their family members & caregivers in particular and in society in general.

Study also concludes that special focus must be given on welfare & empowerment of older persons and their working younger children must be held accountable to certain extent. For this some legal provisions can be made in laws like Maintenance and welfare of Parents and Senior Citizens Act etc.



To ensure access to justice for older people following steps are recommended;

- Arrangement of care givers for bedridden, disabled, infirm elderly
- Provision for safety & security of their property and life
- Regular patrolling by police / volunteers
- Provision for counseling to elderly living alone through volunteers
- Home delivery of foods / medicines, utility services
- Old age healthcare / hygiene training
- Skill training for self-reliance in old age
- Provision for palliative care, where ever required

To protect the right to work in old age and increase access of older persons to labor market, following measures are recommended;

- Conducting Pre and post-retirement training programs for older persons to provide them soft skills, digital literacy, communication and other training for skill enhancement
- Setting up Employment Exchange / Job Portal for old and retired people at national level
- Organizing special Job Fairs for older persons at district level
- Encouraging employment of retired elderly in unorganized service sector
- Promoting anti age discriminatory practices in the country's labor market





*Agewell Foundation is a not-for-profit NGO which has been working for the welfare and empowerment of older persons of India since 1999. Agewell has set up a nationwide network of **volunteers** spread across the country and interacts with **older persons** on daily basis through its volunteers' network. Recognizing the work being done by Agewell Foundation ECOSOC has granted **Special Consultative Status** to Agewell Foundation at **United Nations** since 2011. It is also associated with Department of Public Information, United Nations (**UN-DPI**). Agewell has been member of Working Groups and Steering Committees on Social Sector for Xth, XIth and the XIIth Five-Year-Plan of India. Agewell Foundation has also been empanelled with DARPAN, NITI Aayog, Govt. of India and **National CSR Hub** by Tata Institute of Social Sciences (**TISS**).*

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