Agewell

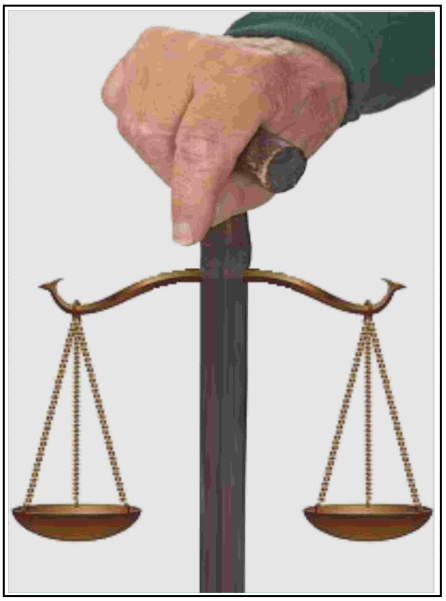
*(In **Special Consultative Status** with the **ECOSOC** at **United Nations** since 2011)*

AGEWELL RESEARCH & ADVOCACY CENTRE

(For Needs & Rights of Older Persons)

AGEWELL STUDY
ON
LEGAL PROVISIONS & PRACTICES IN INDIA
with special focus on
HUMAN RIGHTS OF OLD PEOPLE

AUGUST 2012



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STUDY ON LEGAL PROVISIONS & PRACTICES
With Special Focus on HUMAN RIGHTS OF OLD PEOPLE

BACKGROUND

In India, population of older persons which has crossed 100 million mark recently and is expected to increase rapidly for another 3-4 decades, has become a huge challenge for policy planners. Till few years back issues concerning older persons were considered as peripheral issues only. But now government at various levels has started including issues concerning older persons in its central agenda.

During the last decade, socio-economic and demographic scenario of the country has changed remarkably. With expansion of modern social norms, popularity of nuclear families, rapid urbanization, industrialization and above all, consistent increase in percentage of older persons in country's population has changed profile of older persons dramatically. Now they include more educated older persons, they are comparatively healthy and active due to advancement of medical science & healthy lifestyle. Their overall net worth has also risen due to increase in real estate prices and other financial factors across the country. However, majority of them still lead a life full of miseries, disparity and worries due to lack of family support, diminishing social and traditional values and sense of loneliness fast developing among them. They remain vulnerable just because of their Old Age. Their human rights always remain at stake and compromised.

Despite all the challenges and problems old people have been facing for years, Indian government has never shown keen interest to adopt a legal framework specifically addressing the rights and welfare of old people, as a special group in the society. On the contrary older people are clubbed under the head of disadvantaged section of society alongwith drug addicts, baggers, etc. as a point of reference in the Ministry of Social Justice & Empowerment, which is expected to insure welfare of old people.

National policy on the Older Persons issued in 1999 has many provisions for older persons but it is still a pure policy document, even after 13 years of its formulation. It has not been enforced due to lack of legal provisions.

Programs and schemes for the welfare and empowerment of older persons have continued to be dependent upon the grace and wishes of those who feel-like assisting them. This only motivates violation of human rights of older persons at the end.

Families consider old people burden, as majority of older persons 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 for older persons, from disrespect to elder abuse, from negligence by family members to destitution.

OVERVIEW

There are a very few provisions regarding older persons in our scores of laws and acts within the Indian legal system. So far as performance of our legal system is concerned, we cannot say it is satisfactory at all. From the older people's point of view, it's shocking to realise that there are approximately 26% of the court cases which are pending for more than five years where one of the party is an old person. There are many instances where we see that people spend their whole life pursuing their cases in various courts and die before getting the verdict.

As per a Supreme Court report, over 42 lakh (4.2 Million) cases were pending in India's 21 High Courts and shocking 2.7 Crore (27 Million) cases were pending in Lower Courts across the country.

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. Their human rights are always at stake.

Indeed, older persons are the worst affected victims of our sluggish and insensitive to system.

Rights of old people

The rights of older persons internationally were first considered in the Vienna International Plan of Action on Ageing, 1982 (Vienna Plan) and later on in the Madrid International Plan of Action on Ageing, 2002 (Madrid Plan).

The latter plan contained detailed recommendations to UN member states on how to realize the rights of older people through three main areas which are development, improving health and well-being as well as creating an enabling and supportive environment for older persons.

So far there is no agreed definition of old people internationally. Most developing world countries have accepted the chronological age of 60 years as the definition for 'old people'. There is no United Nations standard numerical criterion, but the UN has also agreed, cut-off is 60+ years to refer to the older population.

Government of India has taken some steps to ensure well-being of the older persons. The issue of older people is also dealt within the five-year-plans of Govt. of India, where a special focus on older people has been made.

Factors contributing to vulnerability of older persons were identified as food and nutrition insecurity, limited access to productive assets, poor health, unemployment, lack of support networks, and lack of support to education, discrimination and elder abuse.

OBJECTIVES OF THE STUDY

Research & Advocacy Centre at Agewell Foundation *(a consortium of over 1500 NGOs and 7000 primary and 80000 secondary volunteers spread across 620 districts of India, committed to initiate better interaction between generations and extend a helping hand)* has recently carried out a nationwide survey to study the Legal Provisions & Practices in context of protection of human rights of Older Persons.

Agewell Research & Advocacy Centre has conducted a survey to assess the status of the legal protection of older persons. Under the survey, it was 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 old age scenario, study was also focused to suggest and recommend some specific points to policy makers, planners and decision makers so that respectful and comfortable environment could be ensured for old people in the country.

RESEARCH METHODOLOGY AND SAMPLE DESIGN

Experienced and qualified volunteers (mostly with law background) were selected as interviewers and they were provided with proper guidelines, directions, 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.

Respondents were classified in two categories:

I. Older persons respondents
II. People with legal background

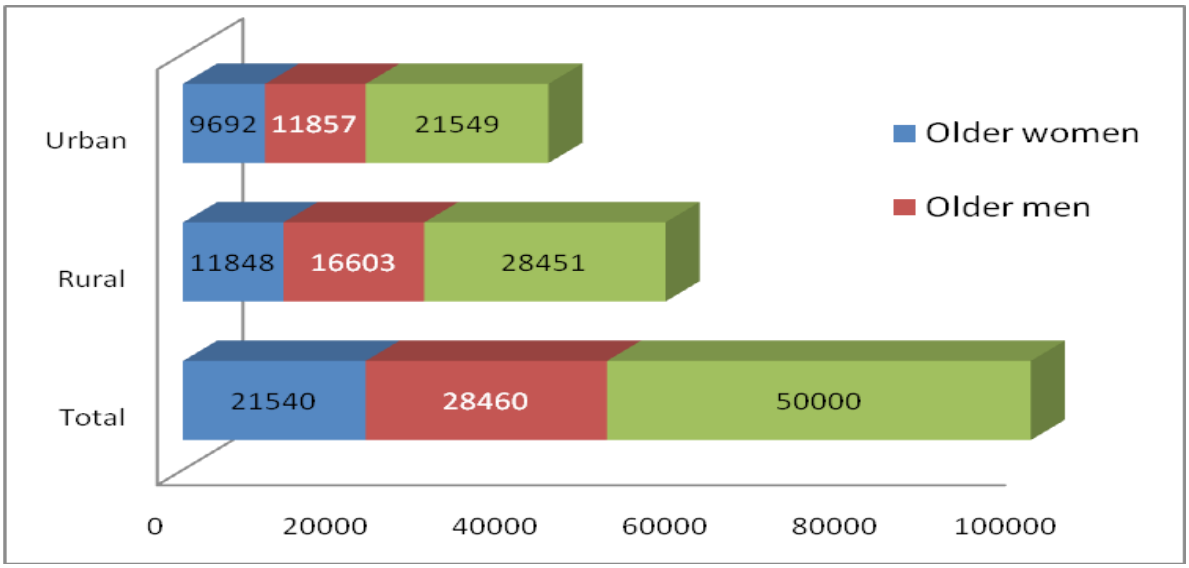
Older persons as Respondents

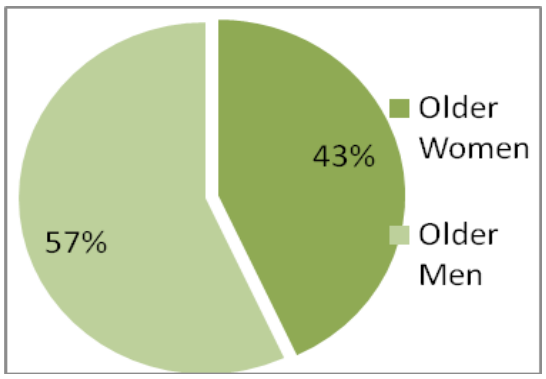
For the survey a **representative sample of 50000 older persons** (28460 older men and 21540 older women) was interviewed spread across **300 districts of 25 states & Union Territories** of India. Volunteers visited various Public / community places including court complexes (District Courts/ High Courts/ Supreme Court of India/ Lok Adalats (local public courts)/ Consumer courts) spread across 540 districts across the country.

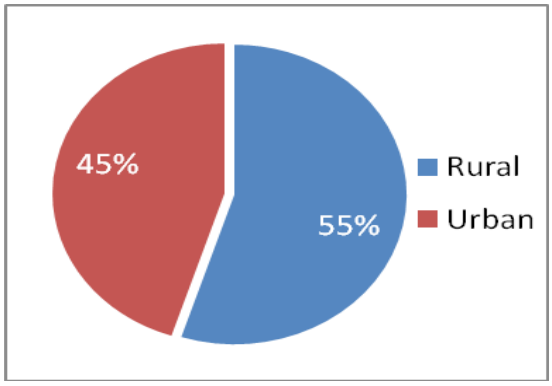
Volunteers interviewed older persons visiting various court complexes

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

Sample size classification

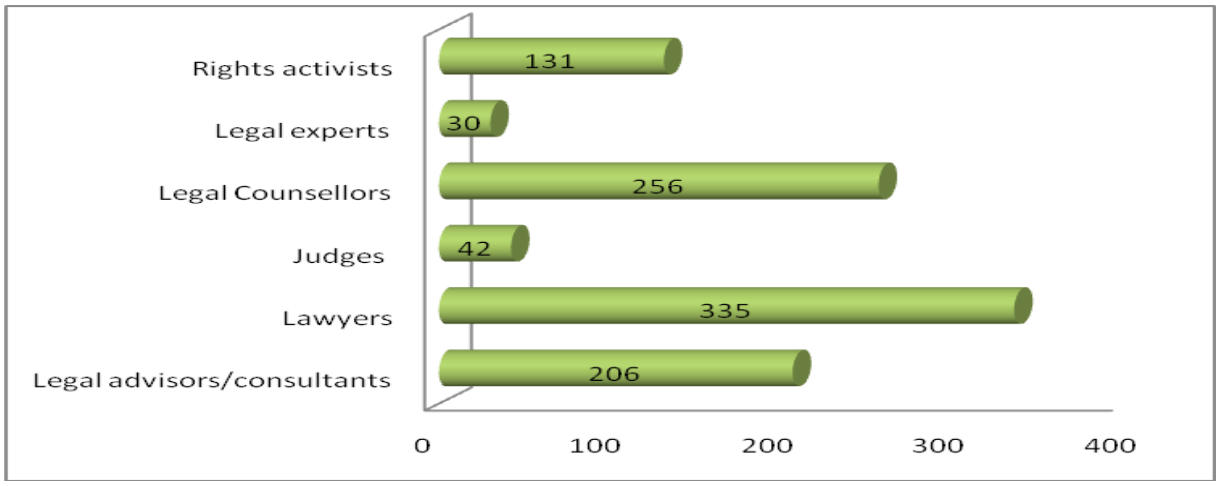






Legal Practitioners

At the same time, interviewers also interact **with a representative sample of 1000 legal practitioners** (Spread across 230 districts of India) to collecting useful data pertaining to legal provisions and practices pertaining to old people.



The survey was conducted during the month of **July 2012**.

<u>Sample Respondents</u>

I. Older Persons
II. Legal Practitioners

I. Older Persons:

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

II. Legal Practitioners

a) Legal advisors/consultants
b) Lawyers
c) Judges (Supreme court/High courts/ district courts)
d) Legal Counselors
e) Legal experts
f) Rights activists

Sample Units

The sample units were selected based on random sampling but taken care to incorporate the representative views of the country from six divisions as per following;

S. No	*States/UTs*	*Older Persons*		*Legal practitioners*	
		No of sample districts	*No of Respondents*	*No of sample districts*	*No of Respondents*
1.	**Region 1 – Delhi & NCR** Delhi & NCR (Parts of Haryana & UP)	15	7212	15	**175**
2.	**Region 2 – North India** Rest Uttar Pradesh, Rest Haryana, Punjab, Himachal Pradesh, Chandigarh & Uttarakhand	70	8011	55	**184**
3.	**Region 3 – South India** Andhra Pradesh , Tamil Nadu, Kerala & Karnataka	60	8839	50	**197**
4.	**Region 4 – East India** West Bengal, Orissa, Assam, Mizoram, Tripura & Nagaland	55	7052	45	**160**
5.	**Region 5 – West India** Rajasthan, Maharashtra, Gujarat & Goa	50	9784	35	**156**
6.	**Region 6 – Central India** Madhya Pradesh, Bihar, Jharkhand & Chhattisgarh	50	9102	30	**128**
	All India Total	**300**	**50000**	**230**	**1000**

EXISTING LAWS AND RELATED PROVISIONS

RELATED TO OLD PEOPLE

- **Constitution of India:** Article 41. Right to work
  - Protect **right to work** of every citizen, **including older persons**, but government's retirement policies do not support this Article and prefer younger generation's right to work.
  - Entry 24 in list III of **schedule VII** deals with the "Welfare of Labour, including conditions of work, provident funds, liability for workmen's compensation, invalidity and **old age pension** and maternity benefits.
  - Further, Article 41 of Directive Principles of State Policy has particular relevance to **Old Age Social Security**.
  - Item No. 9 of the **State List** and item 20, 23 and 24 of **Concurrent List** relates to **old age pension**, social security and social insurance, and economic and social planning.
- **Hindu Adoptions and Maintenance Act, 1956** (No. 78 of 1956) : Section 20, Maintenance of Children and **Aged Parents**
  - Act is applicable to Hindus, legal provisions related to **maintenance of aged parents** hardly utilized by people.
- **Muslim Law:**
  - Children have a duty to maintain their **aged parents** even under the law.
- **Code of Criminal Procedure Act, 1973** (No. 2 of 1974) : Section 125, Order for Maintenance of Wives, Children and Parents.
  - Act primarily protects interests of women and children, **aged parents** hardly get benefits of the act.
- **Protection of Women from Domestic Violence Act, 2005** (No. 43 of 2005)
  - Generally considered for protection of younger women, interests of **older women** ignored in practice.
- **Maintenance and Welfare of Parents and Senior Citizens Act, 2007**
  - Provision for food, clothing, residence, medical attendance and treatment
  - Provision for recreation centers and other amenities necessary for the senior citizens.
  - Due to lack of awareness in the society, no significant progress so far.

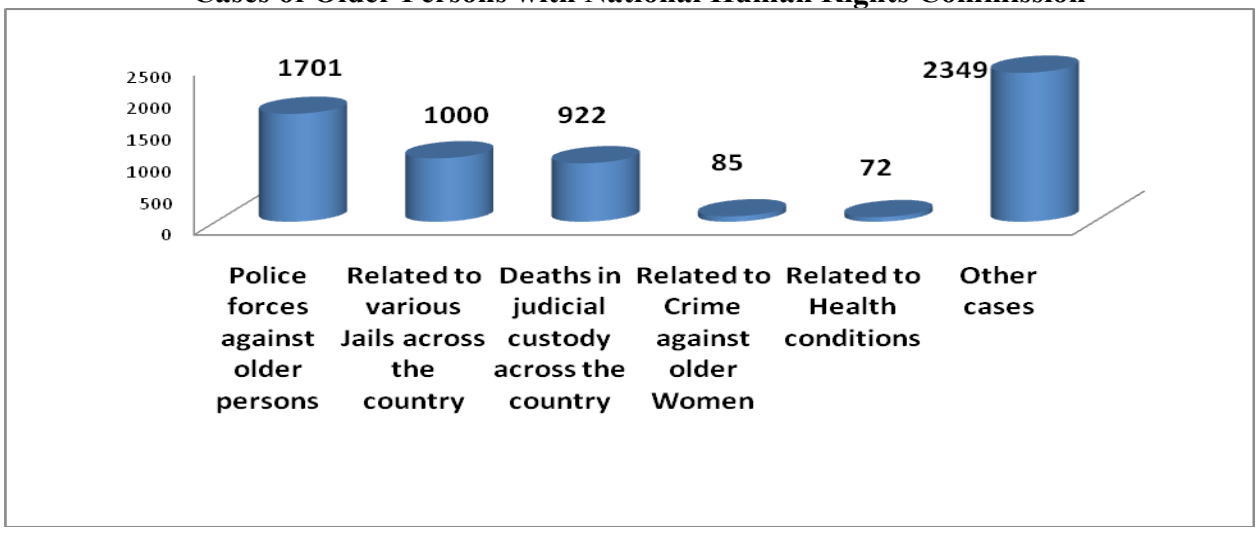
- Priority listing of cases, related to **senior citizens** by **Supreme Court of India** & **High Courts**
  - Matters related to senior citizens above the age of 65 years only.
  - In Delhi priority is being given to cases where Senior Citizens are parties and the cases which are pending for more than 7 years.

Though there are legal provisions to look after welfare of older persons in old age, but still there are no laws in India, that talk specially, about protection of Human Rights of Older Persons.

An overview of
Cases of Older Persons with National Human Rights Commission currently

- Total Nos. of cases pertaining to Older Persons with NHRC - 6129
- Related to Police force of various states & UTS - 1701
- Related to various Jails across the country - 1000
- Related to deaths in judicial custody across the country – 922
- Related to Health conditions – 72
- Related to crime against Women – 85

Cases of Older Persons with National Human Rights Commission



National Human Rights Commission is a premier authority to oversee human rights violation cases in India. Normally, people get their cases registered with NHRC, only when

they see no hope in formal judicial system or find it very tough to carry their struggle further.

These data clearly indicate that older persons have also been suffering from serious nature of human rights violation cases while living in inhuman conditions.

Older Persons (Convicts & under-trials) in Prisons

A large number of older persons are lodged in Indian Prisons as under trials and convicts across the country. Among the bizarre realities of modern society & lethargic judicial system, India has witnessed an exponential rise of geriatric prisoners–men and women in their 50s, 60s, 70s, 80s, and even 90s. They committed crimes decades ago and in many cases they are imprisoned as under trials for many years… now are frail and ill, yet remain imprisoned not only as a punitive measure, but on the ground that they are a threat to society. Many of these inmates want to get out of prison only so they can die as a free individual in the free world. People age faster behind bars than they do on the outside due to lack of family and social life. Older persons in prisons look 10 to 15 years older than their chronological age. Elderly prisoners have to face acute physical as well psychological stress due to accelerated ageing.

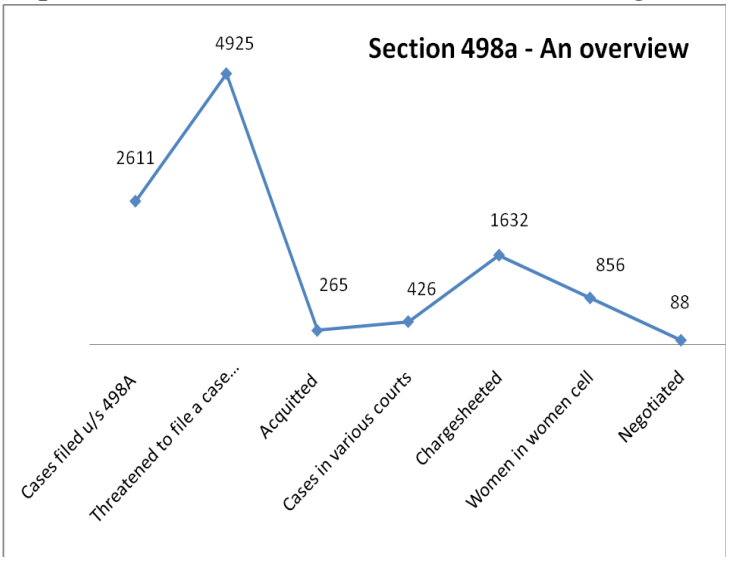
Many older offenders suffer from serious mental illness–some of it lifelong, and most of it produced by their imprisonment. Older offenders are of course more likely to suffer from serious medical conditions, and unlikely to receive adequate care they require. Needless to say, physical & psychological needs of an older person are completely different from younger persons. However, in the eyes of the law a prisoner is a prisoner irrespective of his or her age.

It has been found that jail administration across the country is not much concerned about human rights of older prisoners. As per provisions of law they in case give same treatment to all prisoners because legally they are expected not to discriminate because of old age.

Section 498A of Indian Penal Code (IPC) – An overview

According to a study of 498A related cases, due to its loopholes people often misuse this legal provision against senior citizens.

Senior citizens, particularly elderly women are further harassed through false cases of domestic violence and



dowry harassment and denied mental peace during the last leg of their lives by their daughters-in-law.

Alarmingly, this section is reportedly being used by younger generations particularly younger women as a pressure or torture technique to get fulfilled their all good or evil wishes by their ageing family members.

Legal Provisions & Violation of Human Rights of older Persons

Case Study – 1

Gopalanachari v/s State of Kerala, Writ Petition No. 350 of 1980.

Gopalanachari, a septuagenarian was languishing in a Kerala prison. In his petition he lamented that in his case the law has become lawless and justice has fallen as the first casualty, a lot shared by several other prison-mates.

While he was living in his house having loss of eyesight and hearing power due to old age, a policeman known to him earlier, saw him on a road near his house, saying that he has to enquire something, took him in a van to Arpukkara Police Station, after putting him in the lock-up for ten days produced him before the court after making the record as having arrested him on the previous night of producing him before the court.

Supreme Court Judgment on legal provisions violating Human Rights of Older Persons

> "We expect any government which has any regard for human rights not to use Section 110 of the Code, torture some fashion, against the weak and the poor merely because they belong to the 'have-not' class and can be easily apprehended as 'habitual' this or that or dangerous or desperate. We draw the attention of the State Government to the likely misuse of the preventive provisions and except it to issue suitable instructions to the police minions so that the law will be legitimated by going into action where it must strike and by being kept sheathed where there is no need for indiscriminate display. With these observations, we direct the release of the petitioner and Kutty Thankappan" - D*ecided by full bench of the Supreme Court of India comprising of O. Chinnappa Reddy, R. S. Pathak and V. R. Krishna Iyer, JJ. The judgment was delivered by Justice V. R. Krishna Iyer on 12.11.1980 [Reported in AIR 1981 SC 674]*

Case Study – 2

In W.P. 3915 (W) of 2010 (Kalpana Pal v/s State of W.B. and Ors.)

Elderly parents filed a batch of writ petitions in Calcutta High Court seeking direction for police to take appropriate measures against erring son and daughter-in-law and to protect right to life and property, guaranteed by Articles 21 and 300A of Constitution of India. The single judge went through plethora of case laws and decided each petition on merits. The judgment laid down guidelines for the police to follow when it is approached by parents complaining of violence against their children.

"i) immediately on receipt of a complaint which discloses cognizable offence it would be the duty of the police to register the complaint as FIR and commence investigation;

ii) if the complaint discloses a non-cognizable offence, the police ought to obtain orders from the Magistrate as required under law;

iii) it would be open to the police after receipt of a complaint to enter into a dialogue with the parents and the accused son/daughter-in- law and to coax and to cajole them to resolve their disputes and differences but in the process there must never be any coercion or compulsion;

iv) to suitably advice those parents who are oblivious of the recent enactments like the DV Act, 2005 and the 2007 Act and to seek remedies before the appropriate forum;

v) in a case where an allegation relating to dispossession from property is received, the police may conduct a probe to ascertain the worth of the allegations and if it is established that the parents have been dispossessed from their own property, a request to the children to restore possession in favour of the parents by resorting to amicable settlement could be made but if the children do not agree, no further step ought to be taken by the police for restoring possession and the parents advised to obtain appropriate orders from the Court of law;

vi) if the parents have already taken recourse to the DV Act, 2005/the 2007 Act, the police would be well advised from interfering in the disputes between the parties and leave the issue to be decided by the appropriate forum."

A. The Hon'ble Court noted the following complaint of the Petitioner:-

"The petitioner is the mother of the respondent No. 5, aged about 65 years. For reasons mentioned in the writ petition she is constrained to reside in the matrimonial home of her daughter. It has been alleged in the petition that the petitioner's husband and the father of the respondent No. 5 died testate on 2.1.2009. The residential house at 120D, Linton Street, Kolkata 700014 was bequeathed in favour of the petitioner. Coming to learn thereof the respondent No. 5 started pressurizing the petitioner to convey title thereof in his favour. Refusal to accede to the request was followed by physical and mental torture. The petitioner requested her daughter and son-in-law to dissuade the respondent No. 5 from indulging in pressurizing her, but to no avail. Gradually, the degree of torture on the petitioner was increased. Apart from abusing the petitioner, the respondent No. 5 slapped her with his slipper. The petitioner was made to work as maid in her own house and to perform all household chores. The respondent No. 5 started bringing pork while the petitioner used to take meal, knowing fully well that being a Hindu widow she would not be able to tolerate the same. Other acts of cruelty have been mentioned which need not be elaborated. Suffice to say that the respondent No. 5 made the life of the petitioner miserable for which she had to take shelter in

her daughter's matrimonial home. The petitioner had applied for probate of the will of her late husband. Served with notice of such proceedings, the respondent No. 5 broke the padlock on the bedroom of the petitioner and started assaulting her brutally. The petitioner complained to the police authorities on 12.1.2010. It is further alleged that the respondent No. 5 poured water on the body of the petitioner and disconnected the geyser forcing her to take her bath with cold water and made her to sleep on wet bed. A further complaint dated 5.2.2010 was lodged. It is alleged that the police officers of the local police station apart from calling the respondent No. 5 and warning him did not act in accordance with law by not taking cognizance of the complaint lodged by the petitioner. Feeling aggrieved thereby, this petition has been presented with a prayer for ordering the respondents 1 to 4 to take immediate action on the basis of such complaints lodged by the petitioner and to command the respondent No. 5 to allow her to stay at the said residential premises and not to create any disturbances in any manner whatsoever"

The Court directed as following:-

"I have perused the complaints annexed to the petition. The same prima facie disclose commission of cognizable offence. It is incomprehensible as to why the Officer-in-Charge, Beniapukur Police Station or his subordinates did not take appropriate action thereon as envisaged in law. It appears to be a clear case of non-discharge of statutory duty by the police. Inaction of the police to discharge statutory duty is well substantiated and, therefore, this writ petition stands disposed of with a direction upon the said Officer-in-Charge to take appropriate action in accordance with law on the basis of such complaints. Since the respondent No. 5 has not disputed the petitioner's right of residence, the petitioner shall be at liberty to inform the said Officer-in-Charge the date on and from which she would like to return and to continue to stay thereat. Once such information is received, the said Officer-in-Charge shall extend utmost cooperation and appropriate assistance, as is warranted in the circumstances, so that the petitioner may henceforth live peacefully and without any disturbance from the side of the respondent No. 5. The respondent No. 5 shall restrain himself from indulging in any act which is a cause of concern for the petitioner and affects her dignity and if any subsequent complaint is lodged against him by the petitioner disclosing commission of offence punishable under the penal laws, the police shall immediately take action."

B. In W.P. No. 3609 (W) of 2010 (Renuka Bala Mondal and Anr. v/s State of W.B. and Ors.) the Hon'ble High Court noted the complaint of the Petitioner as follows:-

"142. Parents of the respondent No. 5 have presented this writ petition complaining that he and his wife, the respondent No. 6 have been inflicting mental and physical torture and the police despite being informed have failed to act on their consequent complaint.

143. It is alleged in the petition that the petitioner No. 1 and her mother, Binapani Halder inherited a property left behind by Sacchidananda Halder (since deceased), her father. The property was not partitioned. However, Binapani Halder under compulsion executed a deed of gift in favour of the respondents 5 and 6 which was registered on 23.3.1998 in the office of the Sub-Registrar, Diamond Harbour. By the said deed the entire property of the deceased Sacchidananda Halder was transferred to the respondents 5 and 6 without the knowledge of the petitioner No. 1 who claims 50% share therein. Challenging the deed of gift and consequent transfer of property, the petitioner No. 1 has instituted title suit against the respondent No. 5 and the same is pending in the court of the learned Civil Judge (Junior Division), Diamond

Harbour. The respondents 5 and 6 have since taken over possession of a substantial portion of the property belonging exclusively to the petitioner No. 1 and creating pressure on her to convey the title thereof to the respondent No. 5. Refusal to accede to such request resulted in manhandling of the petitioner No. 2 by the respondent No. 6 by fists and blows. Despite receiving the complaint, the police authorities have not taken any action resulting in the present petition"

The Court held that:-

"146. On perusal of the writ petition I do not find any complaint lodged with the police authorities disclosing assault by the respondent No. 5. The petitioners have annexed to the petition copies of receipt issued by Falta Police Station endorsing the general diary entry number. In the absence of the complaints lodged by the petitioner with the police station, it is difficult for this Court to issue any positive direction.

147. I therefore dispose of the writ petition observing that if in future any complaint alleging cognizable offence committed by the respondents 5 and 6 on the petitioners is received by the local police station, it shall proceed to act in accordance with law.

148. However, nothing contained herein shall affect the civil proceedings pending between the parties and the Court below shall proceed to decide the issue pending before it uninfluenced by the result of this petition."

C. In W.P. 22614 (W) of 2009 (Sudhir Kumar Chakraborty v/s State of W.B. and Ors.) the Hon'ble Court noted the complaint of Petitioner as under:-

"150. The respondent No. 4 is the elder son of the petitioner, who is aged about 69 years. He lives on his retirement benefits. He has a house property which he purchased along with his wife jointly. The petitioner complains of the respondent No. 4 having no source of income but being addicted to drinks. The petitioner is after threatened for money and assaulted physically if money is not given. Sometimes circumstances compelled the petitioner to accede to the requirement of the respondent No. 4. He further complains of pressure being created by the respondent No. 4 to transfer the house property in his favour. Not being able to withstand the pressure from the respondent No. 4, complaint was lodged with the Inspector-in-Charge, Jagaddal Police Station. Despite receiving such complaint, the police it is alleged did not cause any probe. The respondent No. 4 was not even called at the police station. Accordingly, order has been prayed for on the police authorities to take appropriate steps on the complaint lodged by the petitioner and to save his life and property."

The Court held that:-

"151. Inspector-in-charge, Jagaddal Police Station has furnished written instructions to his learned Advocate. The same has been placed before me. It appears therefrom that the allegation that no enquiry was made, has been denied. However, on enquiry, it could be ascertained that the respondent No. 4 and his wife jointly inflicted mental torture on the petitioner and created pressure for money on several occasions. The allegation that the respondent No. 4 threatened the petitioner to hand over the house property has also been found true. Based on such local enquiry, the respondent No. 4 and his wife have been cautioned and

advised not to disturb the petitioner in any way. Prosecution vide Jagaddal PSPR No. 943/2009 dated 31.12.2009 under Sections 107/116 of the Cr.P.C. has been submitted. The respondent No. 4 has not appeared despite service. 152. Considering the written instructions furnished by the Inspector-in-Charge, I direct him to ensure that life of the petitioner and his wife is not endangered at the instance of the respondent No. 4. The Inspector-in-Charge shall maintain strict vigil so that the respondent No. 4 in future may not disturb the petitioner or his wife in any manner whatsoever and thereby affect their dignity. If at all any complaint is lodged by the petitioner alleging commission of cognizable offence, the Inspector shall proceed in accordance with law."

D. In W.P. 13564(W) of 2009 (Jaya Rani Sakhari and Anr. v/s State of W.B. and Ors.) the Hon'ble High Court noted the grievance of Petitioner as under:-

"154. The petitioner and her husband are aged about 60 and 70 years respectively. The petitioner's husband raised and constructed a dwelling house where they are residing with their married daughter, since deserted by her husband, as well as the respondents 3 and 4, their son and daughter-in-law respectively. It is claimed by the petitioner that the respondents 3 and 4 have been given permissive possession in respect of a portion of the dwelling house and that they are gratuitous licensees.

155. The petitioner and her husband due to old age have been suffering from various ailments and their daughter is looking after them. However, the respondents 3 and 4, who are in the employment of the Government, have never contributed towards their maintenance and other expenses pertaining to the dwelling house. However, for some time past, the respondents 3 and 4 have been creating various sorts of problems and harassing the petitioner and her husband in respect of peaceful enjoyment of possession of the dwelling house by resorting to various illegal activities with a view to dispossess and/or to evict them. Here also, it is alleged that pressure has been mounted on the petitioner and her husband to transfer the dwelling house and since the petitioner and her husband have not agreed to comply with such illegal demand, they have been subjected to persistent mental and physical torture inflicted by the respondents 3 and 4.

156. Finding no other alternative, the petitioner intended to lodge a complaint with the Officer-in-Charge, Baguiati Police Station to ensure that they are not forcibly dispossessed by the respondents 3 and 4. However, the police refused to receive the written complaint. Consequently, the complaint was despatched to the Superintendent of Police, North 24-Parganas as well as the Officer-in-Charge, Baguiati Police Station by registered post. However, no action having been taken, the petitioner presented this petition before the Court praying for an order on the respondents 1 and 2 to take appropriate legal action against the respondents 3 and 4 on the basis of the complaint being Annexure 'P-3' to the petition."

The Court held that:-

"157. The Officer-in-Charge, Baguiati Police Station has furnished written instructions to his learned advocate on the basis of enquiry conducted by an Assistant Sub-Inspector of Police. Prosecution has been submitted vide NCR 279 dated 30.6.2009 under Sections 107/116 of the

Cr. P.C. against the respondents 3 and 4 and both have been directed to maintain peace. It has further been observed in the written instructions that the dispute arises out of family problems and that no cognizable offence has taken place so far.

158. The respondents 3 and 4 have not appeared despite service.

159. Having considered the averments in the petition and the contents of the written instructions, I find that the petitioner has been residing with her husband and daughter in the dwelling house constructed by him. The police have submitted prosecution against the respondents 3 and 4 and, therefore, cannot be accused of total inaction. However, it shall henceforth be the duty of the police to ensure protection to the petitioner and her near ones and to take such action as is warranted in the circumstances according to law, if the respondents 3 and 4 breach order, peace and tranquility in and around the locale and disturb peaceful leading of life by the petitioner."

Case Study 3

K. Narayanasamy, an 80-year-old man was thrown out of his house by his children. He approached court for justice.

Court Order

1. The prayer in the writ petition is to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 3.9.2010 and enquire the same and take action as against petitioner's son under "The Maintenance and Welfare of Parents and Senior Citizens Act, 2007".

2. The learned Government Advocate takes notice for respondents.

3. The case of the petitioner is that he is aged about 80 years and he is having two sons and five daughters. According to him, all his sons and daughters got married and settled in their life. The petitioner owned a house property bearing Door No. 8/21, Gandhi Street, Taramani and his younger son, by name Venkatesan, got the Settlement Deed executed in favor of him allegedly by force in respect of the house property and after execution of the Settlement Deed, the petitioner was allegedly driven out from the said house and his articles were also thrown out and now, he is residing at No. 1, Kennedy Street, Than Thai Periyar Nagar, Taramani, Chennai-113 without any means. The petitioner's wife is no more and he is not able to go to his daughters' place.

4. Another house property was also given to the petitioner's younger son earlier. According to the petitioner, he has no means to maintain himself and his younger son is not paying any amount to the petitioner towards his maintenance. His younger son, namely, Venkatesan has sufficient means and is working abroad and getting good salary and his wife alone is residing in the said house at Taramani and she is not allowing the petitioner to reside in that house. In spite of repeated requests, neither his younger son Venkates annor his daughter-in-law extended any help to the petitioner. The petitioner's elder son, by name Sundarababu, is having

no means as he is unemployed. Pointing out the above grievances, the petitioner has submitted a representation on 03.09.2010 to the District Collector, Chennai for registering a case against the petitioner's younger son, namely Venkates Anand for ordering maintenance.

5. The respondent-District Collector is vested with power to register a case and proceed against the petitioner's younger son in terms of Section 8 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the Act) to conduct inquiry by summoning the concerned person and order maintenance. Section 9 of the Act clearly states that if children or relatives, as the case may be, neglect or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time direct. The maximum amount shall not exceed ten thousand rupees per month, which can be altered subsequently under Section 10 of the Act.

6. The respondent is a statutory authority bound to take action under the said Act. Keeping the matter for over one year is not an appreciable conduct on the part of the respondent. The petitioner is made to suffer due to inaction on the part of the respondent even after the welfare Legislation is enacted by the Parliament as early as in the year 2007 as Act 56 of 2007. Hence a direction is issued to the respondent to consider the grievance of the petitioner in the light of his representation dated 3.9.2010, followed by legal notice dated 16.8.2011 and order maintenance to the petitioner by following due process of law, within a period of two weeks from the date of receipt of a copy of this order. The writ petition is disposed of with above direction. No costs.

Writ Petition No. 27042 of 2011, **HIGH COURT OF MADRAS d**ecided on: 24.11.2011

Case Study 4

HC comes to aid of parents harassed by daughters-in-law

The Delhi High Court on Thursday spelt relief to a large number of aged parents tormented by their daughters-in-law, eyeing matrimonial property after separation from their husbands. The court ruled that a daughter-in-law cannot claim the right to live in a property owned by her in-laws or to inherit if her husband has moved out.
“One cannot shy away from the hard-hitting reality that it is not always the daughter-in-law who is berated but at times the in-laws who are at the receiving end of the daughter-in-law’s cantankerousness (crankiness). It should not be consigned to oblivion that the parents-in-law have every right to live in peace in their own property and the right to property vested in them cannot be snatched away and used as a tool to harass them,” said Justice Kailash Gambhir.

“The daughter-in-law has no right to stay in the said property especially after the exit of her husband from the property," Justice Gambhir added. Many harassed

parents — whose daughters-in-law continue to live with them even after separation from their sons with an eye on the property and maintenance, even when the son has left their home — can draw relief from this judgment.

The remarks came while delivered judgment in a suit filed by a mother-in-law Radha seeking a direction to her son and daughter-in-law to vacate her house. Her son Suraj had married Renuka on April 27, 2009. But soon serious differences arose between them after which Suraj moved out.

Radha complained of harassment at Renuka's hands. Renuka too filed a complaint of domestic violence, claimed maintenance and a decree declaring the matrimonial house as her sole and exclusive property. Perusing the files, the judge came to the conclusion that the property was owned by her mother-in-law and could not be treated as a joint family property.

- Media Report appeared in The Hindustan Times on August 04, 2012

(Names have been changed to hide identities)

http://www.hindustantimes.com/StoryPage/Print/846742.aspx

Human Rights of Older Persons & Supreme Court of India

Supreme Court has taken a very serious view in offences against the senior citizens. In Machhi Singh and others V/s State of Punjab (AIR 1983 SC 957) Supreme Court considered the question as to when death sentence should be imposed and held that one of the factors was personality of victim of murder. When the victim of murder was of a person rendered helpless by old age or infirmity it could not provide even an excuse, much less a provocation, for murder.

In Ramdeo Chauhan V/s State of Assam (AIR 2000 SC 2679) the accused committed a pre-planned cold-blooded brutal murder of four inmates of a house including two helpless women and a child aged 2 years during their sleep with a motive to commit theft. The accused also attacked with a spade another inmate of the house, an old woman, and a neighbor when they entered the house. The Court held that the young age (22 years) of the accused at the time of committing the crime was not a mitigating circumstance and death penalty was a just and proper punishment.

In State of U.P. v/s Dharmendra Singh (AIR 1999 SC 3789), 5 persons were murdered, an old man of 75 years, a woman, two boys aged and a girl, at night when they were asleep by inflicting multiple injuries to wreak vengeance. Supreme Court held that the ghastly and barbaric murder can be termed as rarest of the rare case and death penalty was just for such a diabolic act.

In Ronny V/s State of Maharashtra (AIR 1998 SC 1251), the accused was the nephew of the deceased and because of the relationship he gained access inside the house for himself and his friends. The victims were unarmed and the crime was committed for gain i.e. to rob the valuables of the deceased family. The accused then killed all three members and then committed rape on the lady who was the wife of his maternal uncle and as old as his mother. Considering the facts of the case Supreme Court held that it could not be said that the offences were committed under the influence of extreme mental or emotional disturbance as everything was done in a preplanned way, and hence death penalty was upheld

A personal experience- “Mr. Gupta, another old Mr. Gupta is in trouble, looking for help, can you appear as *amicus curie* for him” was a statement splitting the air as I entered the Supreme Court and was coming from Hon’ble Justice M.M. Punchhi, former Chief Justice of India and an ardent and vociferous supporter of Human Rights issues. This was yet another case representing the troubled relationship in common urban household. Mr. Gupta was 78 years old with an ailing 75 yrs. old wife and was living in a two bedroom flat with his elder son, who was married and had a wife and two children. Mr. Gupta had invested his entire earning in making

the house but had strained relationship with his son. He had approached the Supreme Court with a letter petition for eviction of his son from the house. The Court was finding it difficult to give any relief as any citizen can approach the Supreme Court in writ jurisdiction only for violation of fundamental rights. The son was holding a letter written by Mr. Gupta to Municipal Corporation of Delhi, giving a room on rent of Rs.5 per month to enable the son to start some domestic industry in the living room, which never took off. It was submitted before the Supreme Court which the court appreciated that there was violation of human rights in forcing an old man and his wife to continue to live with his children, who had no respect, esteem and reverence for them and directed the trial court to expeditiously look into the matter.

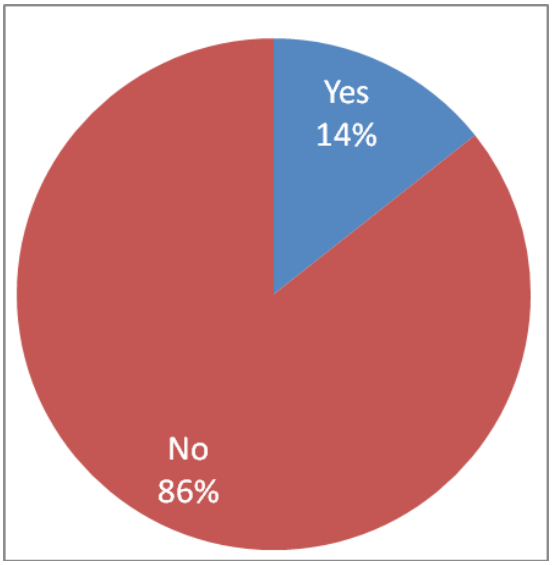
Violation of human rights of old is unknown to the true Indian culture. Highest devotion and admiration for the old in the family parents and teachers is echoed in both the great epics. In *Ramayan*, *Shri Ram* just walks into the deep forest for a 14 years exile and leaves the kingdom to respect the vows of his old father *Dashrath.* In *Mahabharat* Bhishm who ends as great old sire, in his young age takes the vow not to marry and have children to keep his father happy and allow his step mothers children to enjoy the kingdom. Respect for the elders and old people in the family at all occasions and get their true blessings, which act as protective umbrella and divine shield to ward off all evils, is deeply ingrained in the Indian heritage and culture. On all occasions from the time of birth, birth days, passing examinations, getting jobs, engagements, marriage and beyond, reverence for the elders is deep and all pervasive.

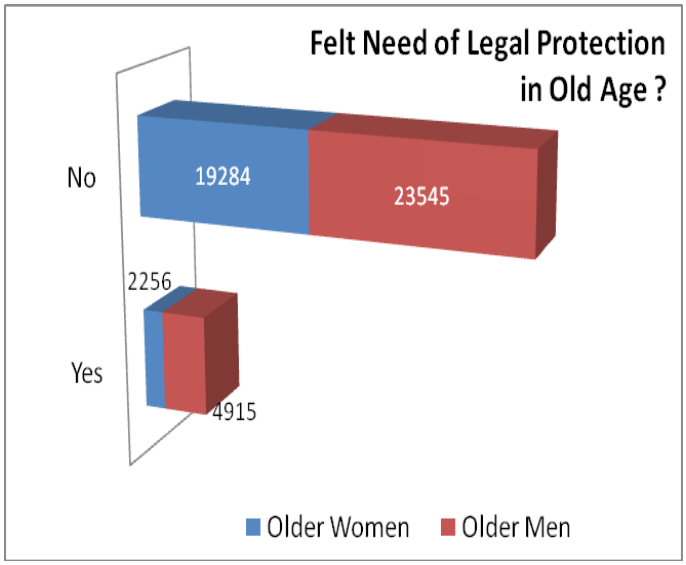
- ***Aruneshwar Gupta, President, Law Consults***

MAJOR FINDINGS OF THE STUDY

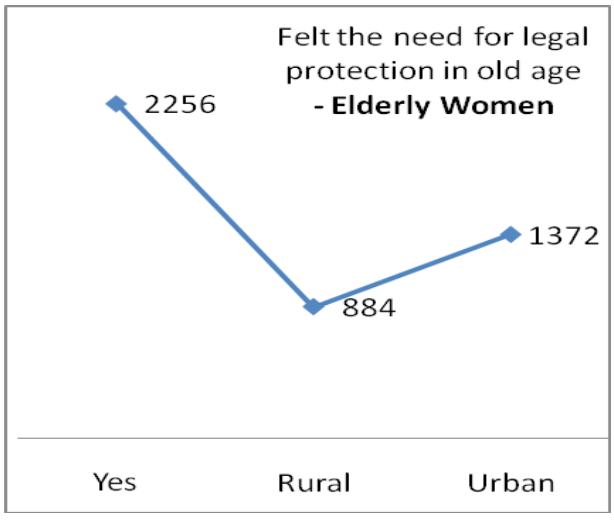
Need of legal protection in old age

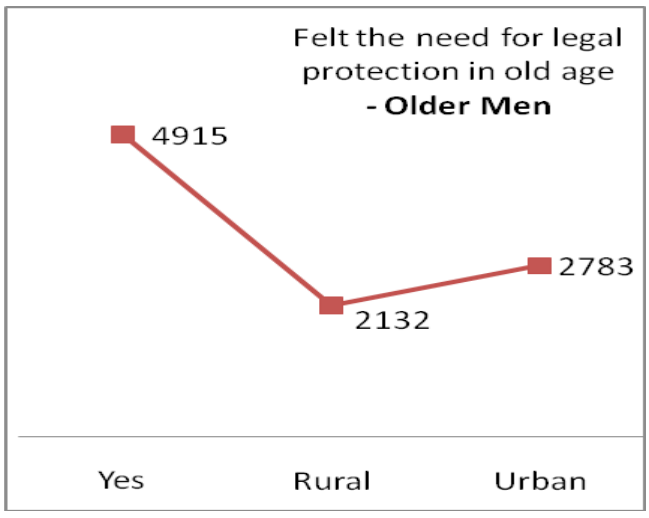
❖ Only 14.34% of the respondents felt the need of legal protection in old age. When asked about the need of legal protection in old age to older persons, only 7171 older persons out of 50000 older persons interviewed said that there were some occasions in their life when they felt that they should go for legal action against their counterparts.





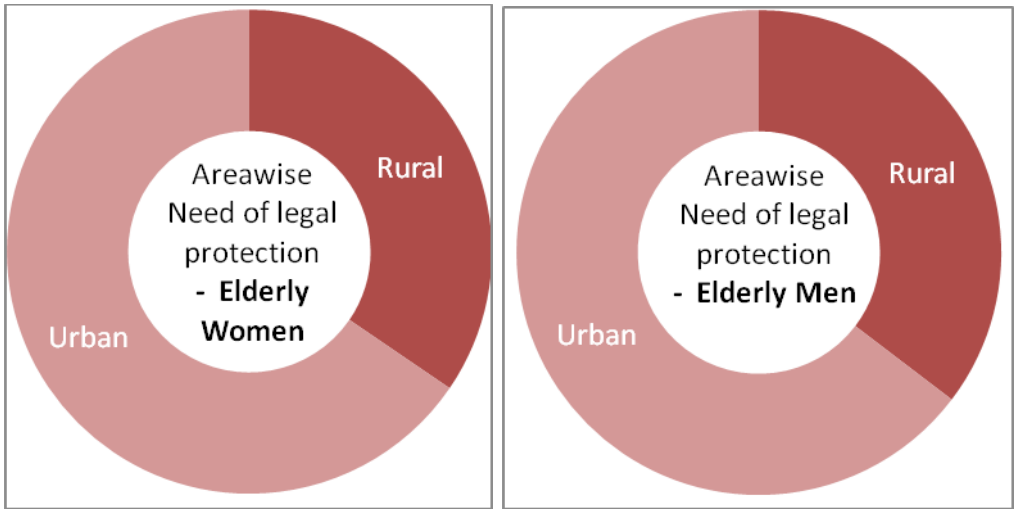
❖ Every sixth older men (i.e. 17.27%) said that they wanted to take legal action at some point of time in their life, while in the case of older women only 10.47% older women said that they felt need of legal protection in their old age.





❖ In rural areas, overall only 10.60% older persons (7.46% elderly women & 12.84% rural elderly men) agreed that they felt the need to take legal protection in old age, whereas in urban areas almost double of Rural areas i.e. 19.28%. 14.16% urban elderly women and almost 1/4th (23.47) urban elderly men had made their mind to take legal route to sort out their problems.

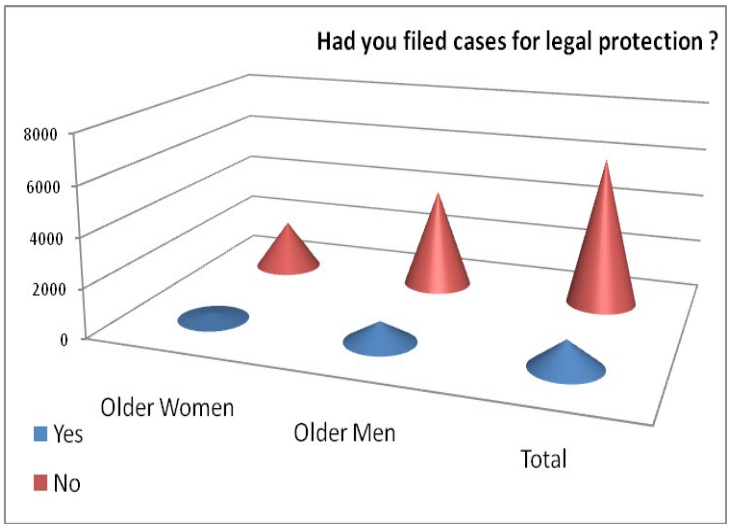
❖ Out of total 7171 older persons who felt the need of legal protection at some point of time in their old age, majority of them (57.94% were from urban areas, while remaining 42.06% older persons were from rural areas.

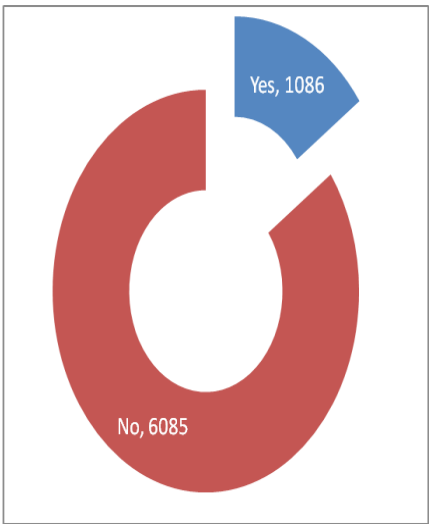


❖ When data of older persons, who felt the need of legal protection further analyzed, it was found that rural elderly women were far behind rural older men in thinking about legal actions. In rural areas only 29.31% elderly women in comparison to 70.69% older men told that they were in need of legal protection. In urban areas 33.02$% urban elderly women in comparison to 66.98 urban elderly men thought to take legal step to get justice.

Filing Legal cases by older Persons

❖ When asked about actually registering cases or filing petitions, out of 7171 older persons only 1086 (15.14%) had opted for legal route. Again 5 of every six older persons (84.86%) did not file any legal case for seeking justice.

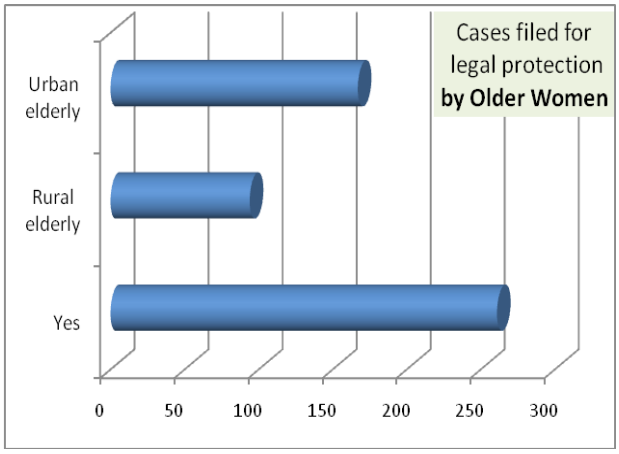


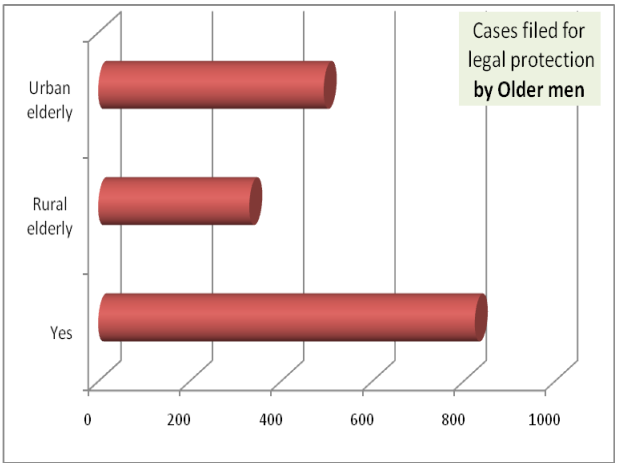


❖ Out of 1086 older person, who went ahead with legal route, 825 were older men against remaining 261 older women.

❖ When this data was further classified, it was found that majority of cases 60.87% were filed in urban areas while 39.13% cases were filed by rural older persons.

❖ In rural areas only 94 elderly women filed legal cases against violators, while in urban areas 167 elderly women opted for legal action in old age.

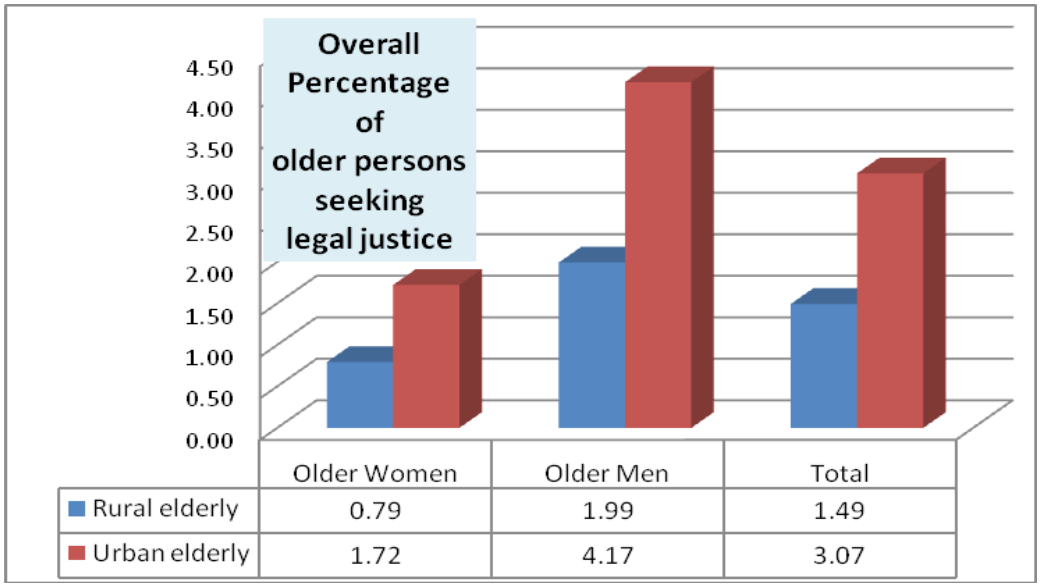




❖ Data collected from sample respondents during the survey suggest that only 1.49% rural elderly persons had taken legal route to solve their issues, while in urban areas 3.07% of total urban elderly interviewed said that they had filed cases for legal justice in old age.

❖ It was found that less that 1% (0.79%) of rural elderly women had filed cases for seeking legal justice in old age with various legal bodies, from Lok Adalat to Supreme Court of India.

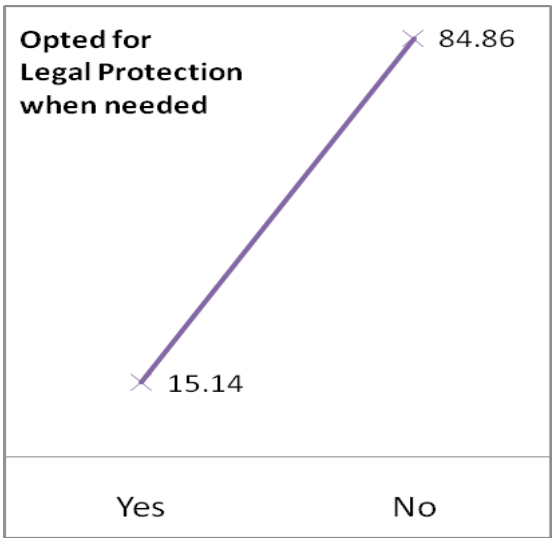
❖ Out of total 16603 rural older men, only 1.99% said that they had to opt for legal action in old age and filed their application for justice with various courts of justice.

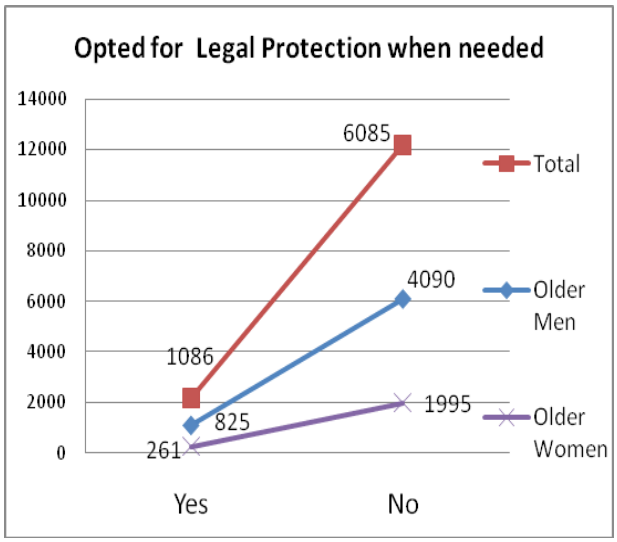


❖ In urban areas, percentage of legal justice seeking older women was just 1.72 in comparison to 4.17 % of urban elderly persons.

Factors responsible for discouraging older persons

❖ 84.86% of older persons who felt the need of legal protection in old age, did not file their cases with any legal authority due to various reasons. Out of 7171 older persons, felt the need of legal protection, 6086 older persons never filed legal cases.





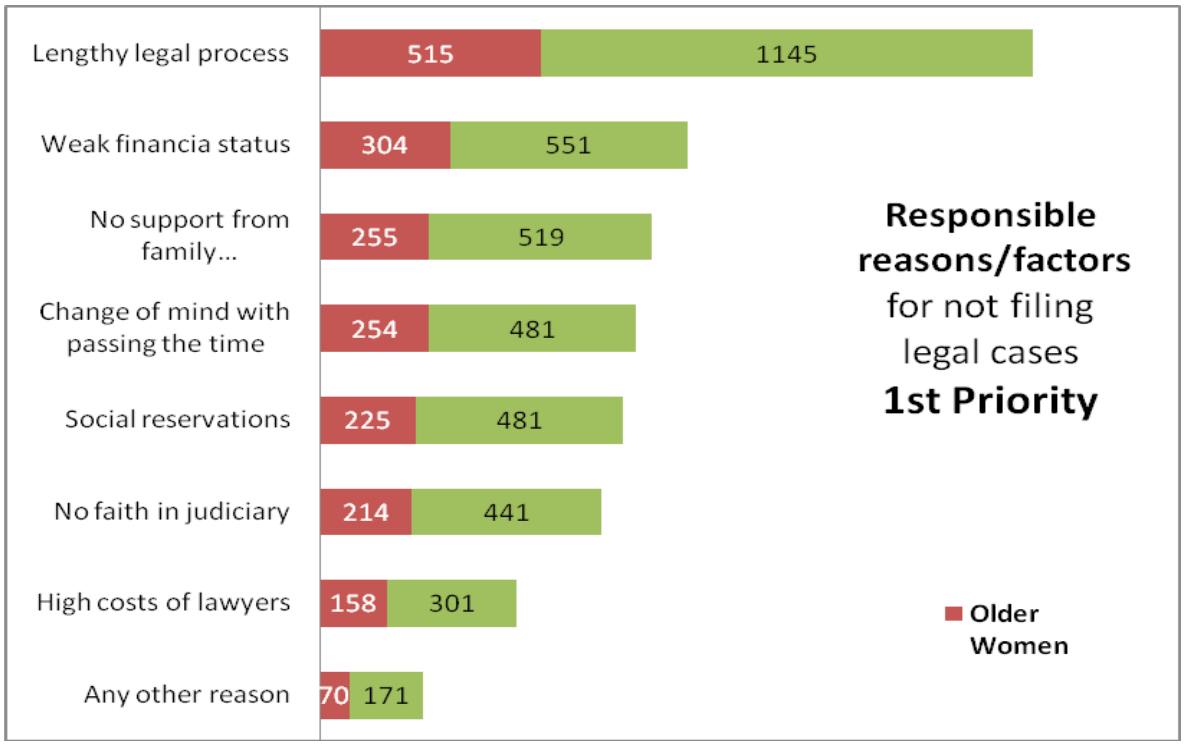
- 88.43% elderly women in comparison to 83.21% elderly men opted for not to go ahead with legal action, in order to seek justice in old age.

First priority given by respondents to various responsible factors

❖ When asked to give priorities to the reasons/factors responsible for stopping older persons to seek legal justice, as per first priority given by respondents, it was found that :

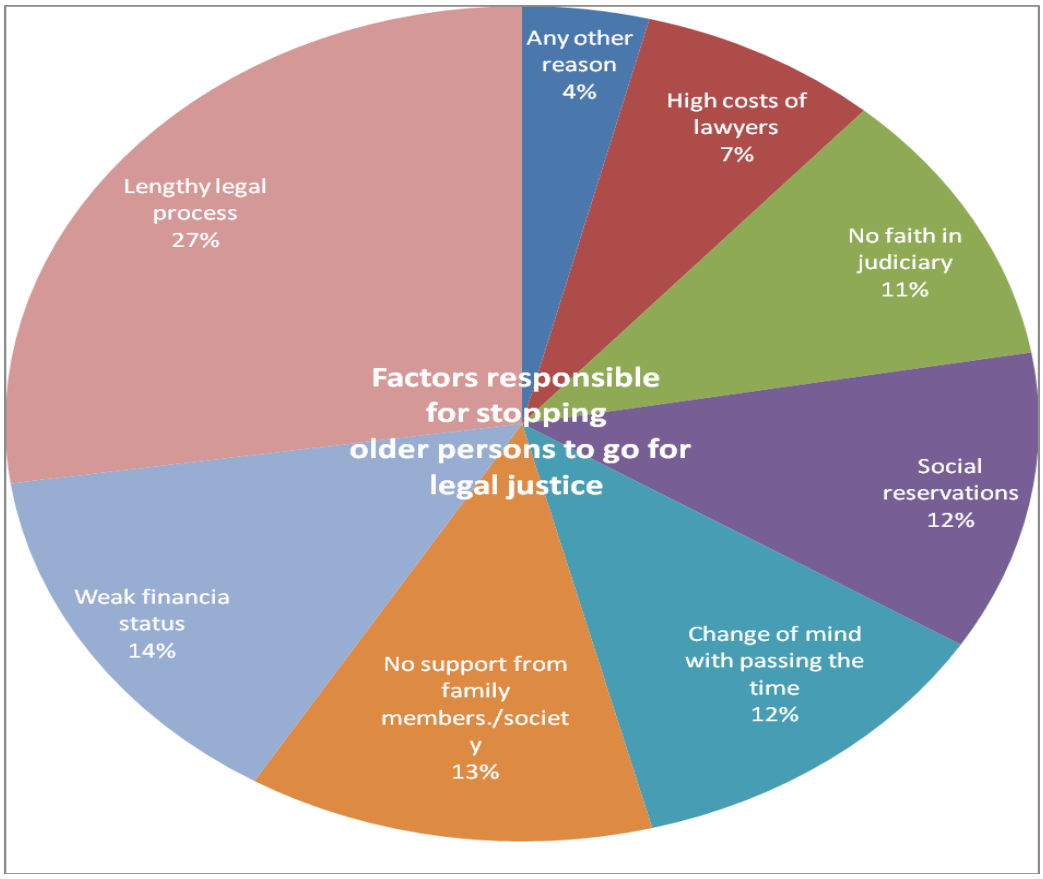
- Overall 27.28% of older persons (25.81% older women & 28% older men) who thought about legal procedure but did not move further, did this due to lengthy legal process. They wanted not to waste their time or did not want to visit courts in old age.

- 14.05% older persons (15.254 older women & 13.47%) wanted to go for legal justice, but due to their weak financial condition, they had not enough money to pay fees of lawyers, etc.



- 12.72% older persons were not supported by their family members to opt for legal route for justice, hence they dropped their plan to file case in any court.

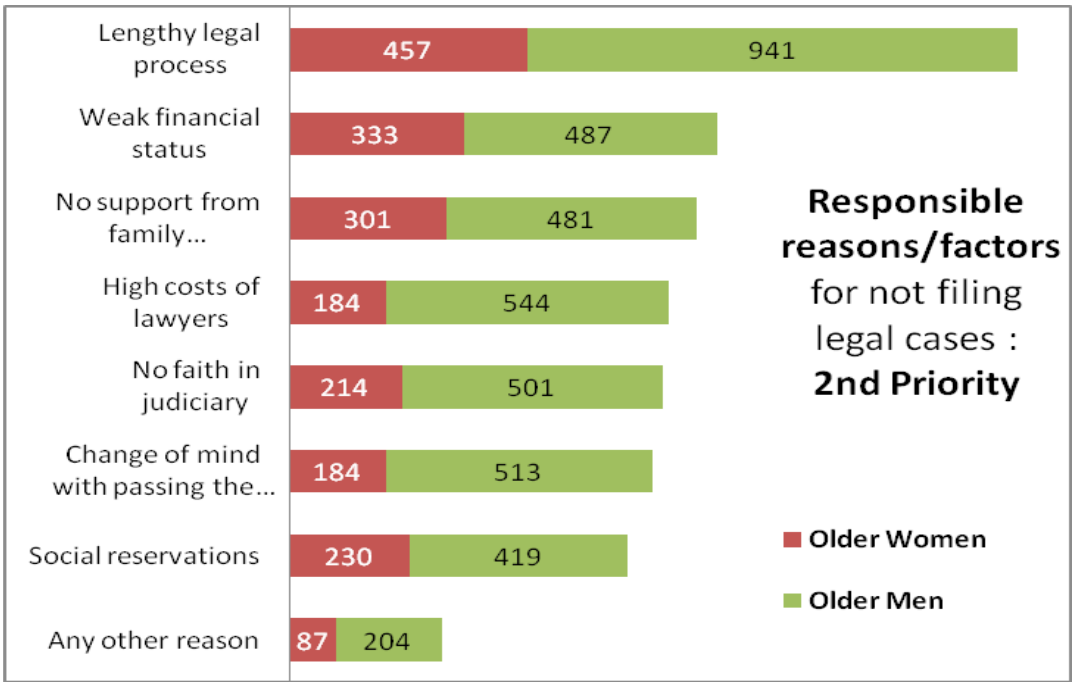
- 12.08% older persons just dropped their plan to take legal suite against concerned due to change of mind with passing of time, as their problem were not of serious nature.



Second priority given by respondents to various responsible factors

- When asked to give second most priority to the responsible reasons/factors for apathy towards legal system, it was revealed that lingering legal process and weak financial status in old age are gain second most responsible factors, over all 22.96% and 13.49% older persons respectively agreed with these reasons.

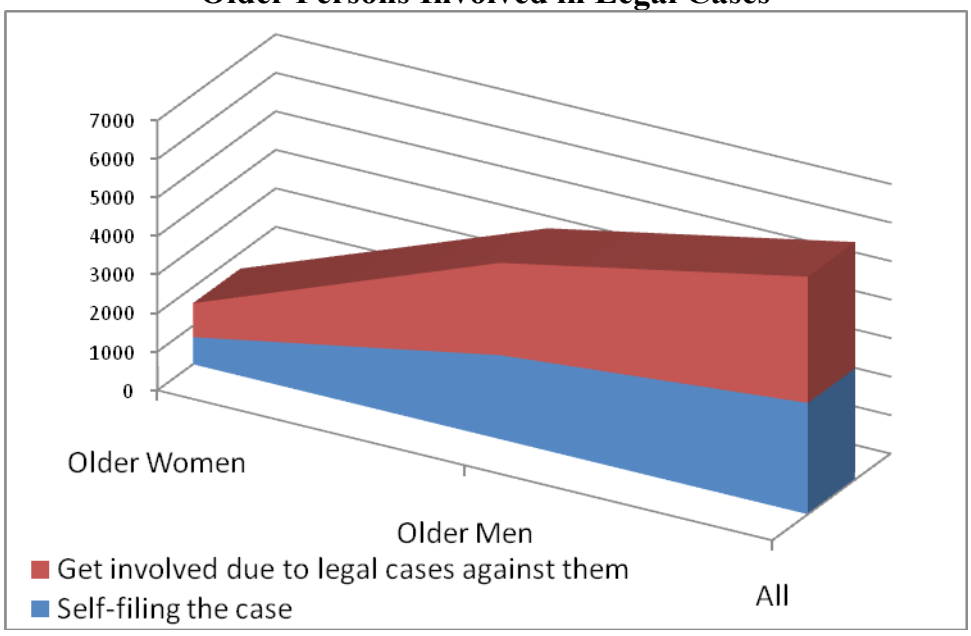
- While lengthy legal procedure was major reason in second priority for both, older men & older women, for older women second major reason was their weak financial status in old age, and for older men it was high costs of lawyers, that deterred them to leave the idea to fight for legal justice.



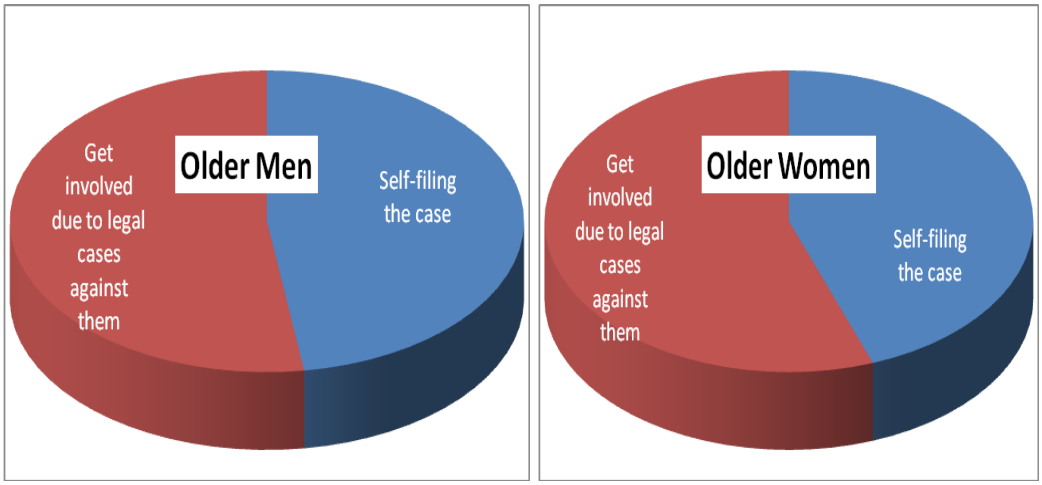
Legal Cases of older Persons: Filed by them v/s Filed against them

❖ When information collected from older persons respondents analyzed, it was found that majority of cases (53.15%) were filed by other against older persons or were against them, whereas 46.85 % cases were filed by older persons themselves for seeking legal justice.

Older Persons Involved in Legal Cases



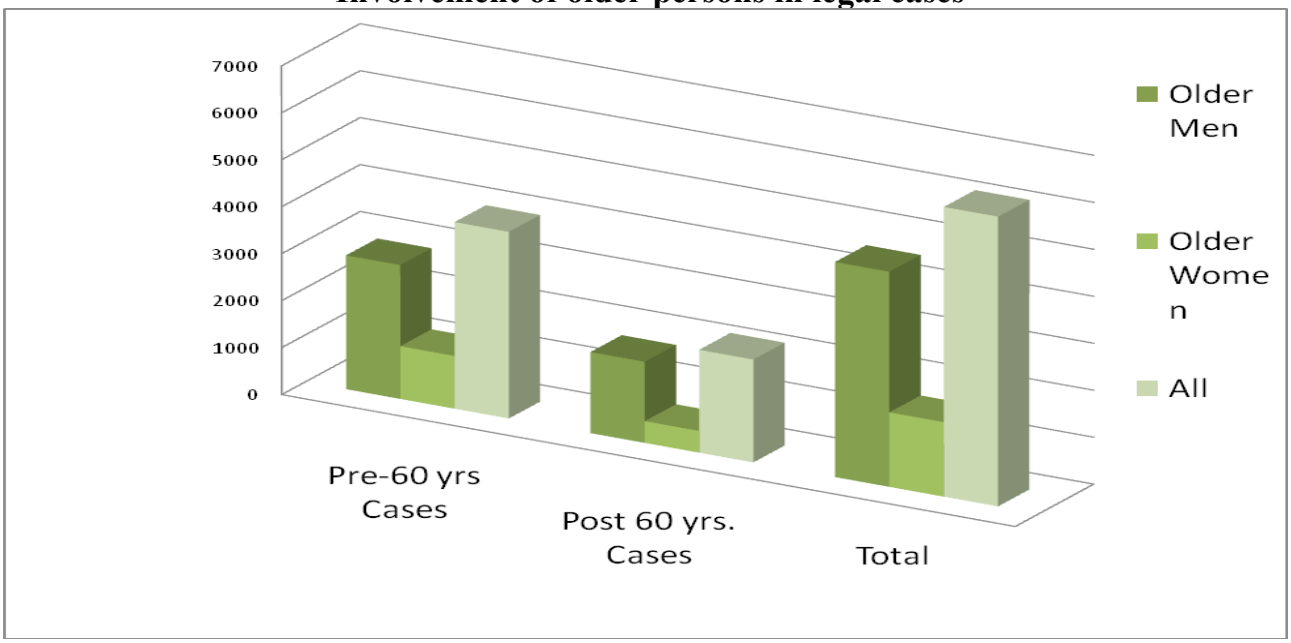
❖ Out of total 6167 cases in which older persons were involved, 2889 cases were filed by older persons and 3278 cases were found filed against them. 44.42 % older women had filed their cases for legal justice whereas 55.58% older men opted to take legal steps to sort out their problems.

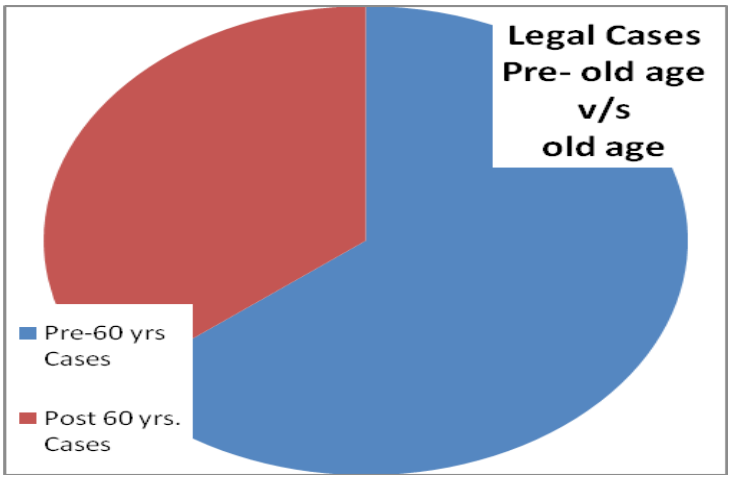


❖ From the study it was found that almost 2/3rd (64.47%) cases in which older persons were involved, were found old and older persons are involved in these cases since when they were below 60 years of age.

❖ In only 35.53% cases out of total cases filed by or against older persons were actually filed by older persons in old age or were filed against older persons.

Involvement of older persons in legal cases



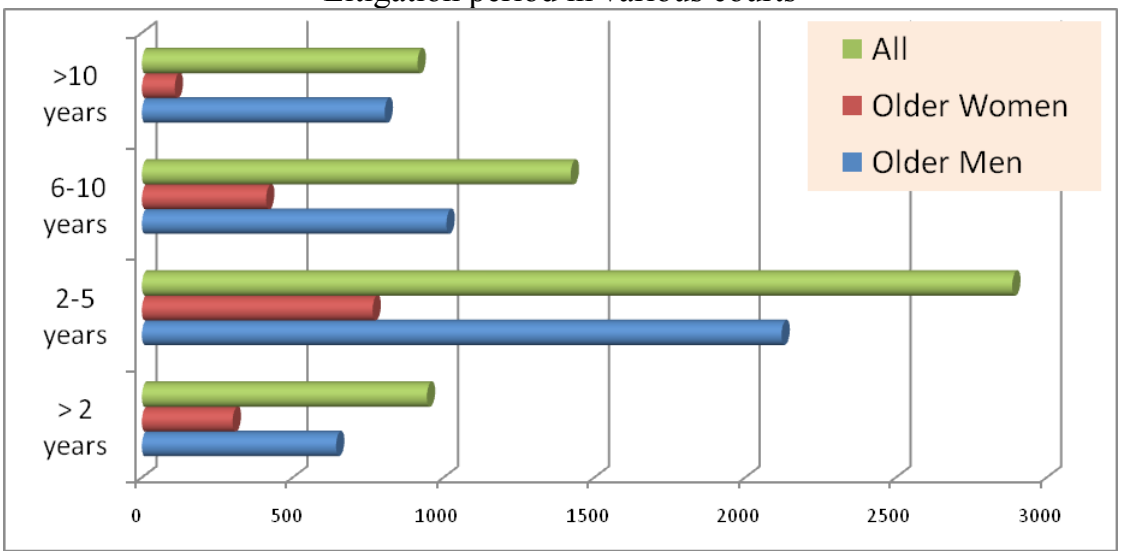


Litigation Period

❖ According to 2886 out of 6167 court cased in which older persons are involved, 46.80% cases were pending in various courts from 2 to 5 years and over 38% cases of older persons are pending for more than 5 years.

❖ Over 14.82% court cases of sample respondents with legal cases, admitted that they are fighting legal battle for more than 10 years and still no judgment were given to them.

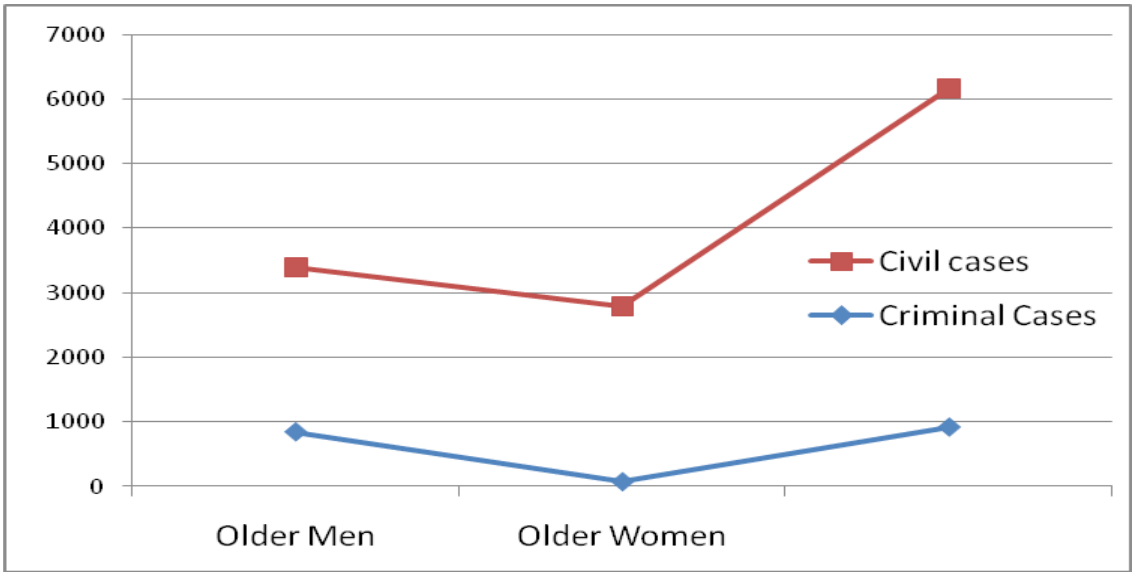
Litigation period in various courts



❖ Even 109 older women out of total 1587 older women found with legal cases pending with courts, have been struggling to get legal justice for more than 10 years with various courts.

Kinds of legal cases of older persons

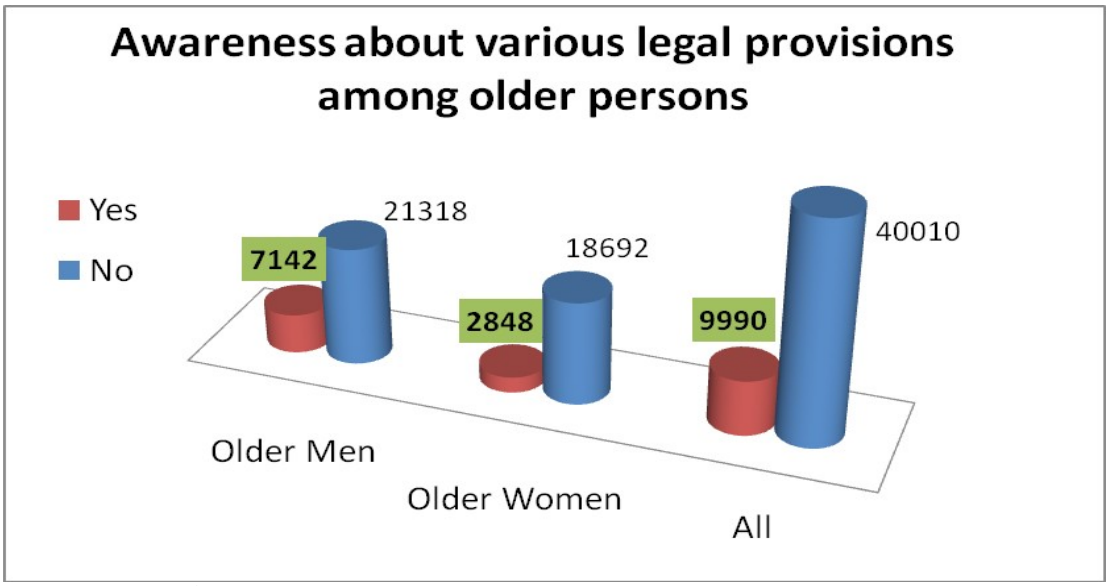
❖ 85.11% older persons (5249 out of total 6167 older persons involved in court cases) were found fighting civil cases in various courts while 14.89% older persons were involved in criminal cases.



❖ Out of total 918 criminal cases 844 (91.94%) cases were of older men alone. Older women found involved in only 74 criminal cases during the survey.

Awareness about the elderly friendly Legal provisions

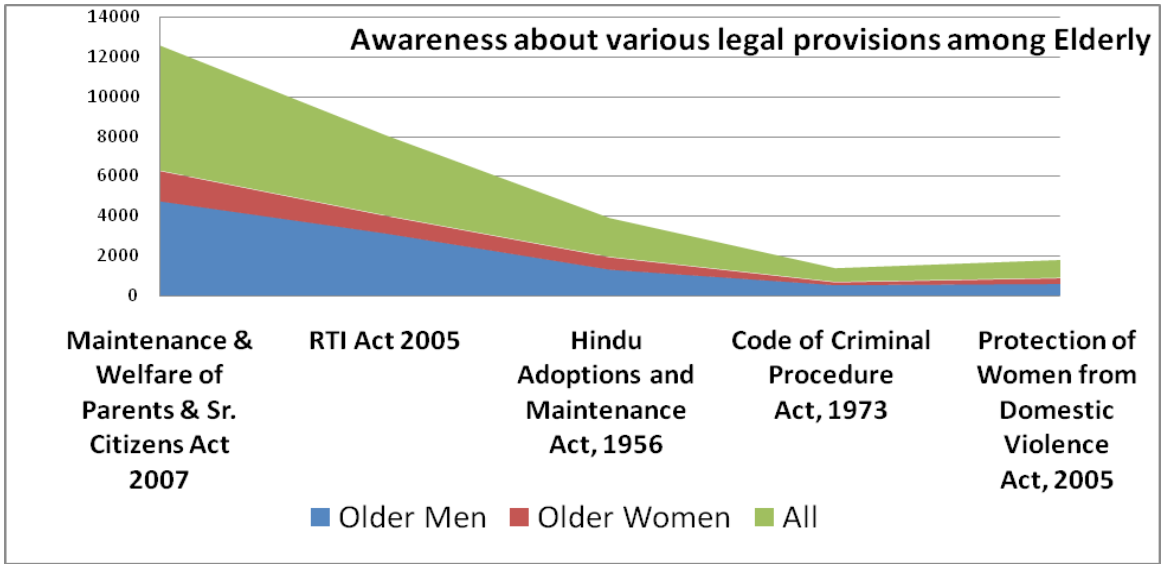
❖ Only 19.98% older persons (9990 older persons out of total 50000 older persons) admitted that they are aware of some elderly friendly legal provisions available in the country.



❖ Approx. 4/5th (80.02%) of sample respondents had no knowledge of any special legal provisions for older persons.

❖ In comparison to older men, older women were less aware about the special legal provisions/ Acts in India. Only 13.22% older women in comparison to 25.09% older men have some knowledge of older persons friendly legal provisions.

❖ When asked about some special legal provisions and acts made for the welfare and empowerment of older persons, only 6274 i.e. 12.55% older persons accepted that they have heard about Maintenance & Welfare of Parents & Sr. Citizens Act 2007. When data further analyzed, it was found that older women have very less knowledge about the Act and only 7.06% older women admitted that they know some provisions of this Act. 16.7% older men said that they know about the act.



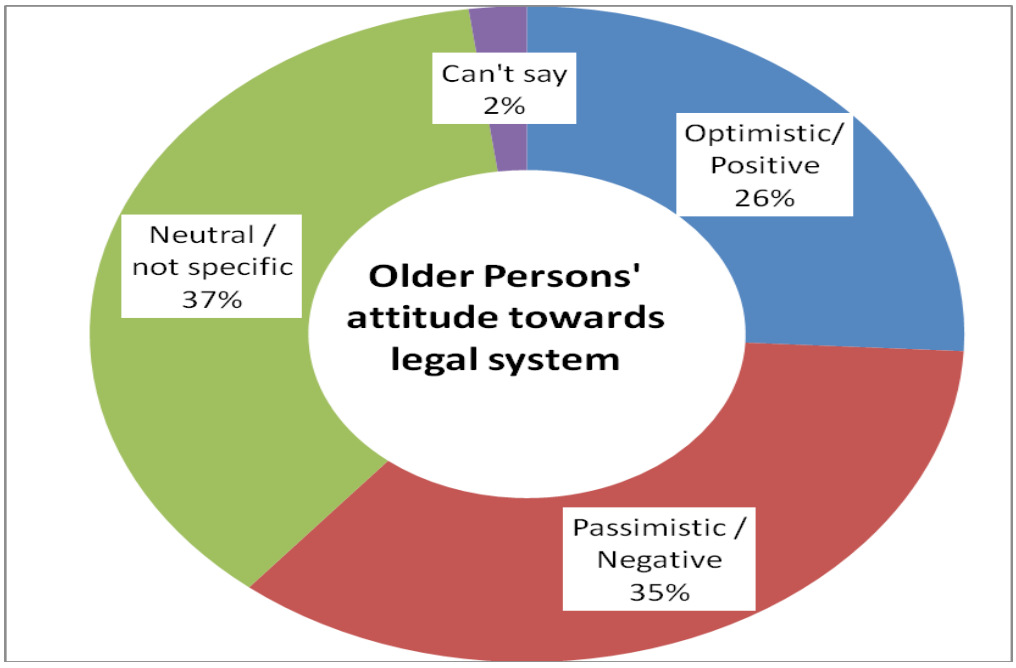
❖ Second most popular legal provision from the point of view of older persons was RTI Act 2005. However, only 8.06% older persons (11.05% older men & 4.10% older women) admitted that they had heard about the legal provisions of the RTI Act.

❖ About other legal provisions regarding older persons, awareness among respondent older persons was negligible.

Attitude towards legal system

❖ Older persons seem to be pessimistic towards legal system of the country. It was reportedly found from the study conducted among 50000 older persons that only 25.83% older persons (12915 older persons) expressed their optimism or positive attitude towards legal system of the country.

❖ More than 1/3rd respondents (35.13% older persons) had expressed their apathy towards legal procedures due to various reasons. Alarmingly, 38.9% older persons have not much idea about the legal system, therefore they could not determine their attitude and preferred to remain neutral.



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 from legal practitioners include judges,

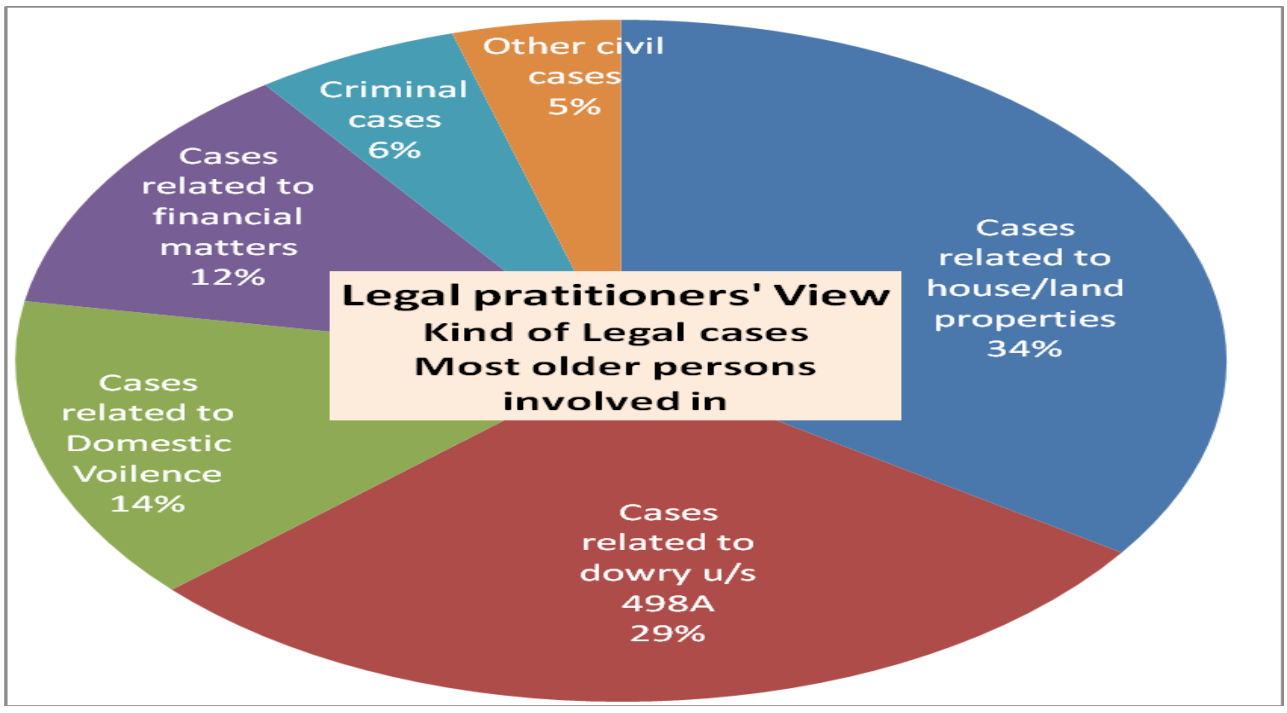
legal advisors, counselors and human rights activists regarding older persons legal problems.

❖ According to legal practitioners, number of court cases pertaining to older persons has risen over the years. Out of total 1000 legal practitioners interacted, 345 said that in their opinion majority of older persons are involved in house/land property related cases.

❖ 288 legal practitioners opined that older persons are involved in legal suites related to section 498a (anti dowry legal provision to protect women's interests).

❖ 145 people dealing with legal matters, interviewed during the survey said that most of the older persons, who are involved in legal cases, are involved in cases of domestic violence, etc.

❖ According to 122 legal practitioners (approx. 12%) majority of older persons are fighting legal cases related to financial matters of having been cheated of their deposits or non-payment of their dues in various courts of India.



Kinds of legal cases, older persons involved in

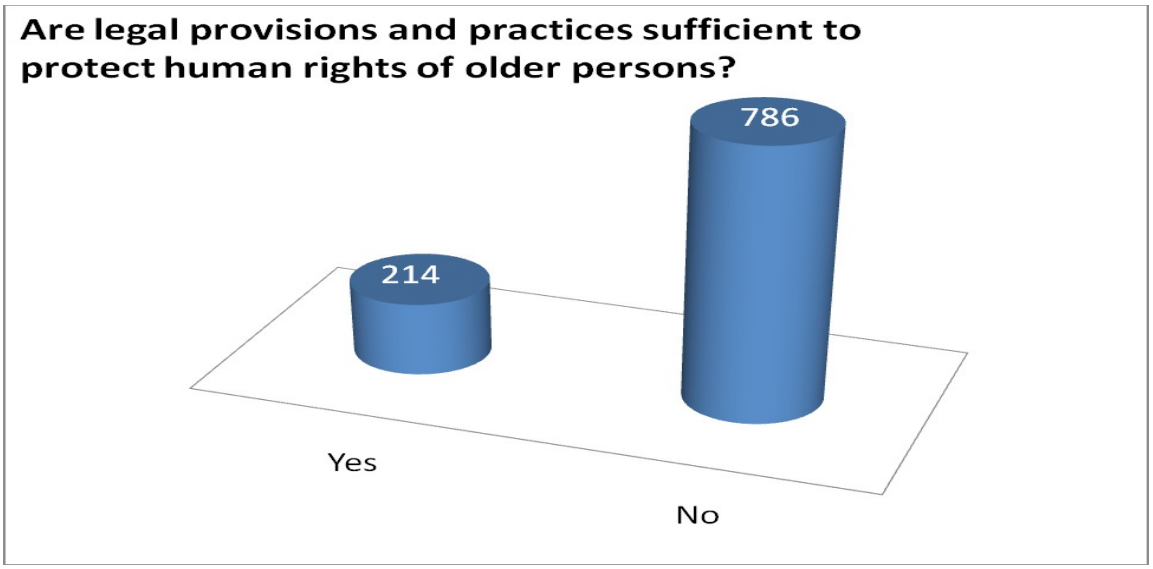
❖ As per responses received from sample 1000 people dealing with various legal matters across the country, older persons are involved in property related legal cases.

According to 34.5% legal practitioners most of the older persons, who visit courts, have legal issues pertaining to their land/house properties.

❖ Out of 1000 legal practitioners 288 said that cases filed against older persons u/s 498a is major legal concern of older persons, as most older persons are involved in such cases.

❖ When interviewers asked these selected people with legal background about the role and importance of existing legal provisions & practices in India so far as protection of Human rights of older persons are concerned, only 21.4 % i.e. 214 respondents agreed that existing legal provisions and practices are sufficient to protect human rights of older persons.

❖ More than 3/4th (48.6%) respondents said that these legal provisions are not enough to protect rights and interests of older persons across the country. They were in favour of more favourable laws and policies for older persons.



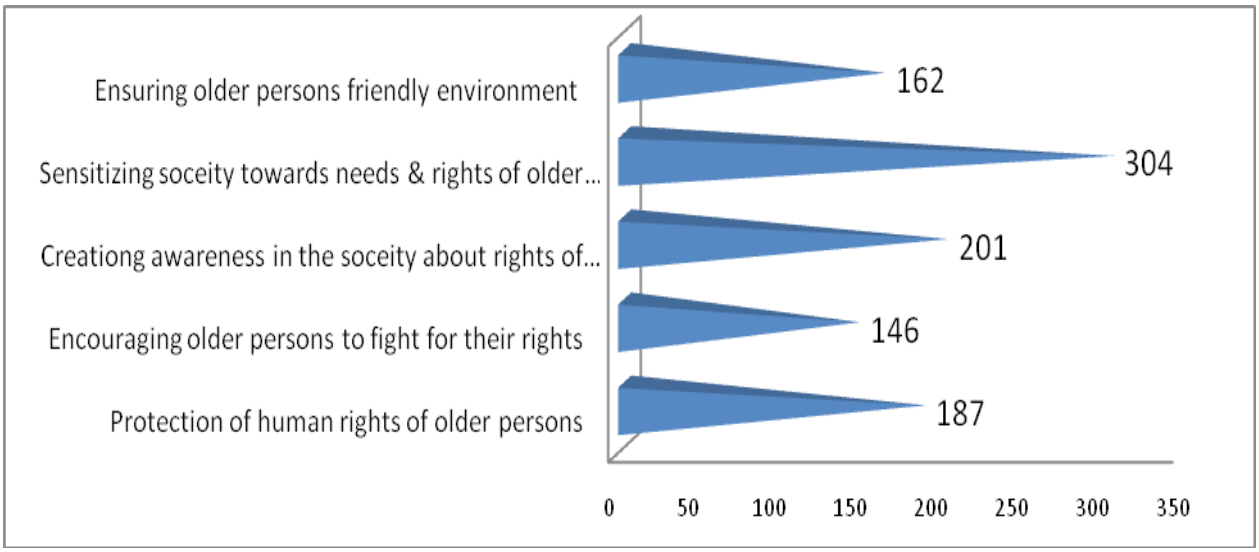
❖ Under the survey it was attempted to assess the impact of legal system on various aspects of older persons' human rights protection. It was found that judiciary can play a bigger role in sensitizing society towards needs & rights of older persons. Out of 1000 respondents 304 admitted that judiciary can play an important role in Sensitizing the society towards needs & rights of older persons.

❖ 20.1 % respondents said that effective and strong legal provision and practices will play most important role in creating awareness in the society about legal and human rights of older persons.

❖ According to 18.7% respondents judiciary plays most important role in protection of human rights of older persons, while 162 persons were of the view that effective legal

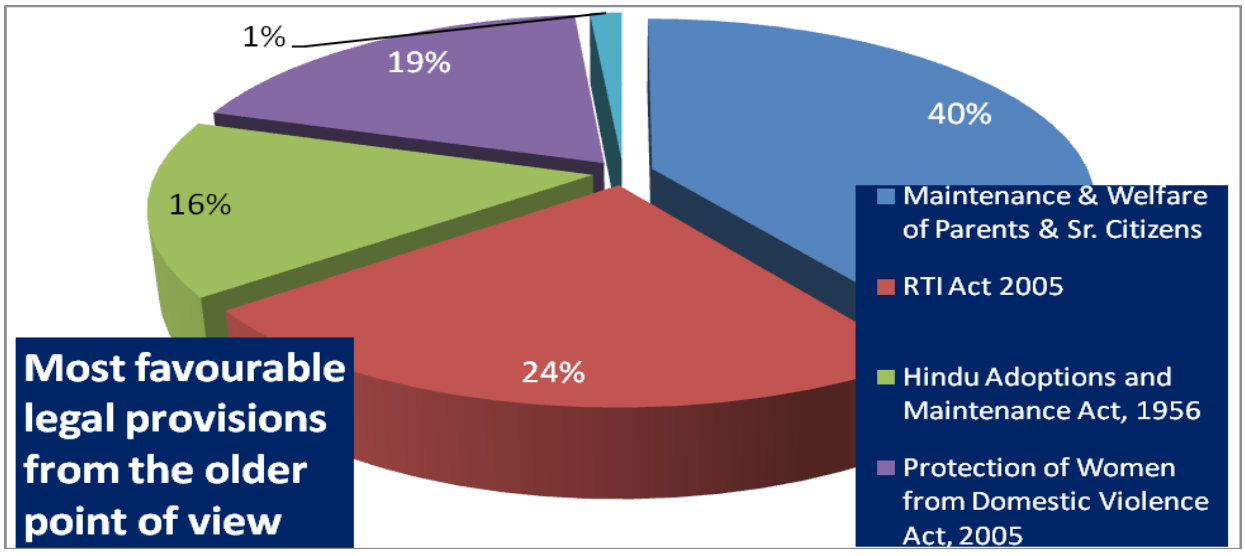
system plays most important role in ensuring older persons friendly environment in the society.

❖ 146 respondents said that provisions for legal protection in old age encourages older persons to fight for their rights.



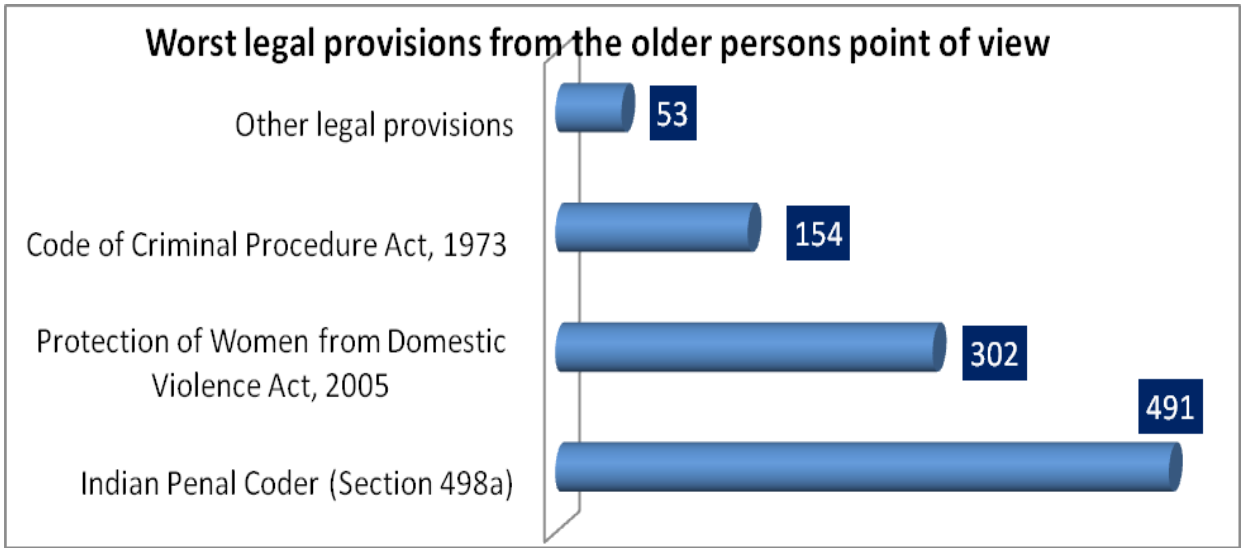
❖ When data obtained from the 1000 sample respondents analysed, it was found that 40.1% respondents said that most favourable legal provision from older persons point of view is Maintenance and welfare of Parents & Senior Citizens Act, 2007, which has many provisions in favour of older persons.

❖ After that RTI Act 2005 was found as most fabourable legal act, which provides great help to older perosns in old age.



❖ When asked about the legal provisions and practices which are being misused by people against older persons i.e. the worst legal provisions from the older persons point of view, it was found that Section 498a of Indian Penal Code has affected most older persons negatively. According to almost half of the respondents with law background (49.1%), admitted that older persons victims of this provision.

❖ As per 302 respondents' statements, domestic violence act is worst legal provision as many young generation women misuses this act in their favour.



Representative statements of respondents

"I am 63-year-old separated woman with no financial income and suffering from arthritic. I live with my son and daughter-in-law. They had been harassing me for 5-6 years and verbally abuse me almost daily for petty things. Now they denied me to even see my 1-year-old grandchildren's face. My life has become hell. I can't leave them as there is no on to support me. I quietly suffer this entire nuisance. I can't take legal action against them, firstly I have no money to hire lawyers and secondly I am doubtful about legal proceedings, if I could not get legal justice in time, I would be on footpaths."

-Sumati Prajapati, a *63*-year-old woman Bhopal, MP

"I have been fighting my legal battle for 15 years, since I was 50, but all in vain. I have to spend a lot of money and precious time but due to lethargic court proceedings I could not get anything till now. It has become tough for me to take this court case ahead due to falling health conditions, but at this stage I cannot surrender. This turtle paced legal system has forced me to hang on court premises."

-Vikram Behl, 65-year-old person, Gurgaon, Haryana

"Though my children do not take care of me, I could not pull them in court. It's a matter of our social prestige. If people in our society would know about our court visits, it would be a shame for all of us."

-Sukhdev Shukla, 75 years, Allahabad, UP

"I prefer to suffer harassment and torture by my family members instead filing court cases. Simply I don't want another round of torture in old age."

-Hameeda Ansari, a 69-year-old lady, Hyderabad, Andhra Pradesh

"In spite of my repeated efforts, police was not interested to file my FIR, when I reported an incidence of looting my house at gunpoint. Instead they suggest me to don't indulge into a legal battle in Old Age."

- S C Gupta, 75-year-old man, Sirsa, Haryana

"I have been sleeping on streets for more than 10 years. After death of my husband my children kicked me off from our own house. They forced me to wander here & there in old age without any kind of support, medical care and medicines. Any how I am alive today."

- Madhumati Biswas, 81-year-old widow, West Dinajpur, West Bengal

Elderly always remain at receiving end.

OBSERVATIONS

India today is passing through an era of transition. From being a traditional society for thousands of years the social norms are changing very fast.

While the older generations still clings to its traditional value system and beliefs younger people find it rather cumbersome to carry the burden of traditional responsibilities and at the same time live up to expectations of a cut throat, fast paced and competitive life.

Most old people themselves as an individual are not well prepared for their own old age and therefore their family members, society or the government... no one seems to be informed and aware about how deal with Old Age.

While the traditional family support system is diminishing for old people so far they don't even have any social security as well.

In any case, it seems, in India today there is a trend of manipulation of law and legal provisions by unscrupulous people to satisfy their own personal needs.

Elder abuse has become the norm with most families, surpassing in many cases. Younger family members do not even realize that their elders are being abused / neglected / discriminated by them.

Increasingly old people in India today need effective legal provisions and its proper implementation to protect themselves against adverse circumstances.

Most old people after retirement have to change their lifestyle completely. They become financially, socially, emotionally, physically and in every other way disabled. They suddenly find themselves cut off from their network of friends and also realize that they cannot maintain their lifestyle anymore because they do not earn enough or in most cased do not earn at all.

Most old people are not more looked up to or respected for their experience, knowledge and wisdom. Usually they fall prey to wrong doers, within their families and society.

While in urban areas particularly amongst the educated and aware old people, there is an acknowledgement about some of the legal provisions available to protect their rights, it was found that in rural and backward areas (read almost 70%) of the country awareness or knowledge about elderly friendly legal provisions is negligible.

Old people everywhere are always hesitant in getting involved with court cases they seem to be reluctant to visit courts even for their own good. Even those who are somehow involved they also continue to regret their involvement in court cases or any kind of legal formalities. Most old people in India prefer to compromise instead of attending court hearings and often pay heavy prices by giving up their rights and interests.

During the course of interactions it was observed that there is a significant path of younger old (60 to 70 years) particularly in urban areas, who are better educated and sensitive towards their rights… they never hesitate to raise a voice and also to seek legal route to settle their problems in old age.

While Old Age management is becoming a significant subject for all concerned across India the sensitivity to address the needs and rights of old people is still at its recessant stage.

It is quite obvious that India's social, traditional and cultural norms need to be complimented. By comprehensive and effective legal provisions as well as practices to protect human rights of old people in a sensitive and humane way.

It demands a complete review of all the legal provisions and practices to protect Human Rights of old people in India.

CONCLUSION

The population of old people in India is increasing dramatically. However, as is the case with most developing countries in India too they have so far remained marginalized and under privileged with more focus on children, women and youth in the society.

Now with ever increasing number of old people their voice is difficult to be ignored. Their needs & rights are seeking every one's attention. Their demand for equitable share in the mainstream is reaching unprecedented levels. It is becoming increasingly difficult to ignore their human rights for the authorities, judicial system and the government.

Though legal provisions and practices have very little to do with old age, but it certainly determines the path of building and developing an environment full of social harmony towards elderly. Therefore there is an urgent need to relook at the existing legal provisions and come up with more equitable, effective and strong legal provisions to encourage older persons-friendly legal practices in the country. The same should be followed by spreading of awareness with equal zeal.

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