



THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZEN ACT, 2007: EXPLORING LEGAL PROTECTION OF RIGHTS AND DIGNITY OF ELDERLY IN INDIA

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ABSTRACT:

Everybody naturally ages throughout their lifetime. It's a process resulting in a decline in functional capacity due to physiological changes. Senior citizens bring valuable assets to society through their diverse experiences, ideas, knowledge, and expertise. The elderly play a crucial role in preserving customs and traditions from the past. It is crucial that they receive dignity and respect, considering the contributions they have made throughout their lives. It is unjust to subject them to feelings of disgrace simply because they are no longer able to work due to the natural process of aging. Laws must be in place to safeguard the rights of the elderly, ensuring they receive sustenance and dignified treatment. In the Constitution of India, Directive Principles of State Policy (DPSPs) and the Right to Maintenance provided in the personal laws are available to address these concerns. Additionally, The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 safeguards the rights and interests of the elderly and senior citizens of the nation. Common challenges faced by the elderly include unemployment, financial insecurity, health issues, malnutrition, psychological and social difficulties, as well as elder abuse. National efforts have been made to protect the interests of the elderly, although there are currently limited legislative measures in India. However, the central government has introduced various schemes and policies over time to safeguard the well-being of the elderly, although these initiatives may only reach a small portion of the population due to implementation challenges and lack of awareness. The moral obligation to care for parents is universally recognized. Supporting infant children is essential for the continuation of our society, and similarly, it is equally important to enforce the duty of caring for the elderly to ensure their happiness.

KEYWORDS: Rights of elders, Protection, Maintenance, Dignity & Welfare, Awareness

INTRODUCTION:

"As long as one is fit and able to earn and support one's family, all the kith and kin and dependents attached are affectionate to him, no sooner one becomes old and infirm and one's earnings cease, no one cares to enquire of his well-being even in one's own home."– Adi Shankaracharya.³²

The primary objective of laws and policies is to protect the rights and well-being of all

individuals, particularly those who are unable to care for themselves. Vulnerable members of society, such as children, women, and the elderly, require special attention and safeguards. Various measures have been implemented by the government to ensure the protection of this demographic. The aging process is an unavoidable aspect of life, and as people age, they face a variety of obstacles, such as problems with their physical and mental well-being and increased dependency. Throughout history, the elderly have been revered for their wisdom and contributions to society.

³² Jagadguru Adi Shankaracharya, *Bhaja Govindam*, (Nov. 15, 2023, 08:03 PM), <http://mastersofspirituality.blogspot.com/2012/10/bhaja-govindam.html>



However, in today's fast-paced world, adults and children often neglect the very individuals who have played a crucial role in their lives. This neglect can lead to elder abuse or the placement of elders in care facilities. The reasons for concealing such abuses may include protecting the abusers from punishment or embarrassment. It is imperative that the elderly be provided with the necessary protection and basic rights to live with dignity and independence. If their children are unwilling to care for them, the law should empower the elderly to sustain themselves. This can be achieved through mandatory financial support from their children, government pensions, sustenance allowances, or the availability of old-age homes.

While aging is a natural part of life, it brings forth various challenges for the elderly. They often worry about health issues, financial instability, and loneliness. The first concern is inevitable due to the aging process, while the second issue may arise from poverty or poor financial planning during their working years. The third concern may stem from the loss of a spouse or having children who live abroad. Disturbing instances of neglect, exploitation, abandonment, and property disputes involving elderly parents are on the rise.

The younger generation sometimes perceives senior citizens as a hindrance to their independence, leading to neglect and mistreatment. It is disheartening to witness elderly individuals from affluent families living on the streets after being mistreated by their own children. In today's so-called modern society, economically inactive older individuals are often seen as burdens on limited family resources.

The mistreatment of parents and senior citizens has become a significant issue in India, necessitating legal intervention to address this social challenge. Consequently, The Maintenance and Welfare of Parents and Senior Citizens Act (MWPSCA) was enacted in 2007 to provide care and support to elderly parents and

senior citizens, serving as a benevolent law that safeguards their rights.

REVIEW OF LITERATURE

Dr Indira Jai Prakash (Oct 2007) observed that it will not be easy for a poor and demoralized old person to approach the tribunal to fight against their own family members. A supportive and user-friendly machinery is required for people to feel emboldened to act for their rights.³³

The Maintenance and Welfare of Parents and Senior Citizens (MWP) Act, 2007 defines a senior citizen as any Indian citizen aged 60 years or more. The Act addresses issues related to the maintenance of parents and senior citizens, the establishment of old-age homes for indigent senior citizens, provisions for improving health care services for senior citizens, and measures to protect their lives and property. These issues are vital for the dignity and well-being of senior citizens.³⁴

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 envisages not only protection of aged by the family but through its expansive approach by placing the responsibility for creating the appropriate physical infrastructure and social systems on the Governments to ensure their welfare. This is indeed a progressive legislation that gives legal backing to the moral obligation of the younger generation to provide care and support to their parents and elders.³⁵

Sonali Public Shiksha samiti (2012) revealed in a survey conducted in rural Rajasthan, Chhattisgarh, Gujarat and Madhya Pradesh that when asked if the MWPSCA Act had brought any change among the respondents, 98.5% to 99.5%

³³ Sarabjit Kaur Sran, *Maintenance and welfare of parents and senior citizens act and Indian values: A Study*, Journal of Positive Psychology, Vol 3, 196.

³⁴ Thomas Gregor Issac and others, *Maintenance and Welfare of Parents and Senior Citizens Act 2007: A Critical Appraisal* (2021) 43(5_suppl) Indian Journal of Psychological Medicine, (Sept. 25, 2023, 05: 03 PM), <http://dx.doi.org/10.1177/02537176211043932>.

³⁵ Ajitha. E, *The Maintenance and Welfare of Parents And Senior Citizens Act 2007 An Analysis*, (Nov. 05, 2023, 09:00 PM), <http://hdl.handle.net/10603/181563>.



of them said NO to it. The merits of the Act need to be told to the rural older people through NGOs. Various questions relating to the legislation such as “Whether the new legislation is ineffective? Is there any change seen for the last two years after the implementation of the Act in the rural area?” got negative replies to all the above questions from the respondents.³⁶

OBJECTIVES & IMPORTANCE OF THE STUDY

The elderly members of the family are the senior citizens of society. There are many rules that regulate interactions between family members. For nearly every potential family conflict that might emerge, including marriage, divorce, bigamy, adultery, cruelty, succession, inheritance, maintenance, adoption, guardianship, etc., there are provisions, if not separate laws. This research entails an analysis of the provisions and pros and cons of this act and the various rights and privileges available to the elderly, parents, and senior citizens. Therefore, the research work will be helpful to ageing parents and senior citizens to find solutions, help generate new ideas, strengthen family relations, and pave the way towards social solidarity. The research work will ultimately contribute to improving the overall well-being and quality of life for these individuals. By understanding the provisions and benefits of this act, ageing parents and senior citizens can make informed decisions about their rights and privileges. Additionally, the research work may also provide insights into potential areas of improvement in the existing policies, leading to better support systems for these individuals and fostering a more inclusive society.

1. The primary objective of the study is to analyse the Maintenance and Welfare of Parents and Senior Citizen Act and understand the various rights and privileges available to the elderly, parents, and senior citizens.

2. To analyse the objectives of MWPC Act and assess the extent to which it addresses the issue.
3. To understand the importance of elders and aged persons and the difficulties or the challenges they face.
4. To study the level of awareness among people regarding the Maintenance and Welfare of Parents and Senior Citizens Act.
5. To evaluate the implementation of the MWPC Act and challenges in implementation.
6. To assess the effectiveness of the MWPC Act in protecting the rights of the elderly, parents, and senior citizens and identify the gaps in the legal framework.
7. To propose recommendations for enhancing the effectiveness of the MWPC Act in protecting the rights of the elderly, parents, and senior citizens.

RESEARCH QUESTIONS

1. To what extent has the MWPC Act addressed the issues of the elderly, parents, and senior citizens in India?
2. How effective has the implementation of the MWPC Act been in protecting the elderly?
3. How do cultural, social, ethical, and economic factors impact the effectiveness of the MWPC Act?
4. What are the key challenges in the implementation of the MWPC Act, and how can they be addressed?
5. How can the effectiveness of the MWPC Act be enhanced?
6. How has the MWPC Act been received and perceived by the public?
7. Are people aware of the MWPC Act?

HYPOTHESIS

1. The MWPC Act has been effective in protecting the rights of parents and senior citizens in India, but the challenges in its implementation need to be addressed. This act is not sufficient to tackle the challenges in the future due to the increase in complexity of problems.

³⁶Supra Note 2.



2. The legal framework provided in the MWPSA Act is inadequate to address the complex issues, and there is a need for additional protective measures to protect the rights.
3. The cultural, social, ethical, and economic factors in India have a significant impact on the implementation and effectiveness of the MWPSA Act.
4. Existing legal provisions and laws are misused to the detriment of parents and senior citizens.
5. The MWPSA Act has been perceived positively by the public.
6. Lack of awareness of the laws and legal provisions among the people is an obstacle to the proper implementation of the act.

RESEARCH METHODOLOGY

This research is based on qualitative, descriptive information acquired from secondary sources such as statutory enactments, articles, case studies, websites, journals, and research studies. The collected data will be analysed, interpreted, and comparatively studied in light of the problem, hypothesis, and objectives.

THE DEVELOPMENT OF LEGAL PROTECTIONS FOR SENIOR CITIZENS

A number of UN global initiatives on aging have pushed for the need for legislative and policy measures to protect senior citizens and advance their well-being. The United Nations Principles for Older Persons (1991), the Vienna International Plan of Action on Ageing (1982), and the Madrid International Plan of Action on Ageing (2002) are a few examples. India is a signatory to these international initiatives. Article 41 of the Indian Constitution is a guiding principle of public policy that has made it possible to promote the welfare of senior citizens.

In 1999, the Indian government created a national policy on older people to guarantee that they lead meaningful, dignified, and

peaceful lives. For the important issues this policy addresses—financial protection, housing, health care and nutrition, and welfare—to be implemented effectively, legal provisions are required.³⁷

The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007 was introduced in the Lok Sabha on 20th March, 2007. It received the assent of the President of India on 29th December, 2007 and the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, No. 56 of 2007 was published for general information in the Gazette of India (Extraordinary) Part II- Section I, dated 31st December, 2007.

The aim of the law is to make more efficient provisions for the well-being and welfare of parents and senior citizens, which are guaranteed and recognized by the Constitution. The underlying intent is to provide statutory backing to ensure the elderly are maintained by their family. It is widely believed that families are the perfect environment for senior citizens and parents to flourish in terms of security, care, and dignity. The legislation aims to create an enabling mechanism for the elderly to claim need-based maintenance from their children in light of this fact and to ensure that the children uphold their moral obligation to their parents. Additionally, it calls for the establishment of an appropriate mechanism to guarantee senior citizens access to better medical care, the institutionalization of an appropriate mechanism to safeguard the lives and property of the elderly, and the construction of old age homes in every district.

The legislature has made a sincere effort to introduce numerous bills, including the Needy and Neglected Senior Citizens and Orphans and Runaway Children (Care and Rehabilitation and Welfare) Bill, 2005, the Abandoned and Neglected Widows and Old Women (welfare and Rehabilitation) Bill, 2007, and the Destitute, Indigent and Neglected Citizens (Care, Protection and Welfare) Bill, 2005, in response to

³⁷Supra Note 3.



the growing problems facing the elderly. However, for one reason or another, these bills were unable to be included in the laws of the land. However, the legal struggle to pass legislation to protect parents and senior citizens did not end here.

However, the legal struggle to enact legislation to protect parents and senior citizens did not end here. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, was eventually passed after the legislators fought their strength. It aims to end the suffering of this weaker segment of society while providing reassurance that the children won't neglect their moral obligations. The Act embodies and reflects the deeply rooted moral principles and parental moral duties that are part of Indian tradition. The Act undoubtedly requires children to remember their obligations and responsibilities to their parents and elders.

According to this Act Senior Citizen means any person being a citizen of India, who has attained the age of sixty years or above. In this Act Maintenance means, provision for food, clothing, residence and medical attendance and treatment.

The MWPSCA provides:³⁸

- A senior citizen, including parent, who is unable to maintain himself/ herself from his/her own earning or out of the property owned by him/her is entitled to make an application for maintenance allowance by his/her children/relative/heir.
- If a senior citizen or a parent is incapable, he/she can authorize any other person or organization for filing an application for maintenance on his/her behalf.

- Application filed for monthly allowance shall be disposed of by the Tribunal within 90 days | Proceedings of maintenance application shall be taken in any district (a) where the senior citizen or parent resides/ last resided or where the children or relative resides.
- Maintenance allowance up to Rs. 10,000/- per month can be awarded.
- Maintenance allowance shall be deposited by children/ relative within 30 days from the date of announcing the order by the Tribunal.
- Any senior citizen or a parent, aggrieved by an order of a Tribunal can prefer an appeal to the Appellate Tribunal within 60 days from the date of the order of the Tribunal.
- No party to a proceeding before a Maintenance and Appellate Tribunals shall be represented by a legal practitioner.

NEED FOR THE MAINTENANCE AND WELFARE OF SENIOR CITIZEN ACT, 2007

Heinous and horrible crimes are committed against elderly citizens, and not all of them are reported. There has been a drastic increase in elderly abuse. There is growing concern about the safety and security of elderly citizens. Our culture shows that elderly members of society and parents are treated on par with God. Parents who were compared to God and addressed "Matrudeo Bhava", "Pitrudeo Bhava" etc., who were the country's once-revered elders, are becoming increasingly marginalized, which was not the normal social practice. Consequently, the elders are now exposed to emotional neglect, feelings of rejection, dwindled physical and financial support, and social insecurity, making ageing a major social challenge.³⁹

³⁸ Help Age India, *Preliminary Study on Effectiveness of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007*, (Nov. 15, 2023, 04:05 PM), <https://www.helpageindia.org/wp-content/uploads/2018/01/Preliminary-Study-Effectiveness-Maintenance.pdf>.

³⁹ Runa Thakur, *Philosophy of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 in India: An Appraisal*, International Journal of Advancements in Research & Technology, Volume 1, Issue 4, (Nov. 03, 2023, 10:00 AM), https://www.researchgate.net/profile/Runa-Thakur/publication/258650270_Philosophy_of_Maintenance



The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (MWPSCA) was enacted to address the need for a simplified and cost-effective process for providing maintenance support to elderly parents and senior citizens. Despite existing non-statutory efforts and provisions for maintenance, the cumbersome and slow procedural requirements have hindered effective resolution of the issue. Recognizing these challenges, lawmakers introduced the MWPSCA to streamline the process.

The Act, consisting of 7 chapters and 32 sections, aims to establish and manage institutions and services, uphold the rights guaranteed and recognized by the constitution, and facilitate adjudication and disposal of related matters in the best interest of elderly parents and senior citizens.

In 2019, an amendment bill was proposed in the Lok Sabha to enhance the implementation of the Act. However, due to the impact of the COVID-19 pandemic, the bill is still pending clearance by Parliament.

With a focus on establishing registration and minimum requirements for Senior Citizens' Care Homes, Multi-Service Day Care Centers for Senior Citizens, and Institutions offering Homecare Services for Senior Citizens, the proposed amendment bill introduces significant changes to the Act. Along with the appointment of Senior Citizens Nodal Officers in each Police Station, it also suggests the formation of Special Police Units for Senior Citizens in each district. The bill also aims to create a Senior Citizen Helpline and impose severe penalties on those who abandon or neglect their parents or senior citizens.⁴⁰

[and Welfare of Parents and Senior Citizens Act 2007 in India An Appraisal/links/566fb11c08aacc0bb67bf17a6/Philosophy-of-Maintenance-and-Welfare-of-Parents-and-Senior-Citizens-Act-2007-in-India-An-Appraisal.pdf](https://www.legalserviceindia.com/legal/article-7302-every-senior-citizen-has-right-to-live-with-dignity.html)

⁴⁰ Koneru Anuradha, *Every Senior Citizen has Right to live with dignity*, (Nov. 12, 2023, 06: 03 PM) <https://www.legalserviceindia.com/legal/article-7302-every-senior-citizen-has-right-to-live-with-dignity.html>.

A fine of up to Rs 5,000 or a jail sentence of up to three months, or even both, are possible penalties for abandoning a parent or senior citizen under the current Act. According to the amendment bill, the penalty could now be three to six months in jail, a fine of up to Rs 10,000, or both. Furthermore, the Tribunal may issue a warrant to recover the outstanding amount if children or family members disobey a maintenance order. A one-month jail sentence or until the fine is paid, whichever comes first, could be imposed for failure to pay the fine.

DIFFICULTIES FACED BY AGED / ELDER PERSONS / SENIOR CITIZEN:

- 1) Elderly people often experience neglect, especially those who are vulnerable or reliant on others.
- 2) They require support and care on a physical, mental, and emotional level, and when they do not receive it, they suffer from neglect or abandonment.
- 3) This problem frequently results in isolation and is brought on by evolving lifestyles, demanding careers, television and other distractions, the move toward nuclear families, and re-evaluated priorities.
- 4) As people age, they go through a variety of anatomical and physiological changes that have an impact on their mental health, behaviour, and attitudes. Physiological issues, which worsen with age and include a loss of physical strength and endurance, can result from this.
- 5) Aging is also associated with failing health, with older people being more vulnerable to non-communicable diseases.
- 6) Lack of access to good food, aid, and healthcare further complicates their health problems.
- 7) Economic problems are fundamental to all other issues faced by the elderly.



Retirement leads to a loss of employment and a significant reduction in income, causing acute financial difficulties.

- 8) Housing for the elderly should be suitable for their living patterns and health conditions, but often the available housing is inappropriate and unsuitable.
- 9) Economic insecurity is another problem faced by the elderly when they are unable to sustain themselves financially.
- 10) A number of factors, including competition from younger people, long-term malnourishment, the aging of the body and mind, a lack of resources, and an ignorance of their rights and benefits, limit their capacity to continue being economically productive and independent.
- 11) Seniors frequently express their feelings of loneliness or isolation. Although some people choose to isolate themselves, their families or communities frequently do so on purpose.
- 12) Elder abuse is defined as the ill-treatment of aging individuals, including physical, emotional, or psychological harm.
- 13) Verbal abuse is the most common form of elder abuse, followed by neglect, material abuse, and physical abuse.
- 14) Boredom is another issue faced by the elderly, resulting from a lack of motivation to be useful or productive and a lack of meaningful activities or personal goals.
- 15) Mal-nutrition and Non availability of proper medicines.
- 16) Harassment, Defamation, and Assault.

LEGAL PROTECTION OF RIGHTS AND DIGNITY OF ELDERLY IN INDIA

In Indian culture, the elders of the household are revered and consulted for every decision made within the family. The significance of elders is

acknowledged, and it is common for children to continue living with their parents even after getting married in order to care for them. Unlike Western countries, many Eastern countries have a tradition of living in the same house as their parents, carrying on their legacy, and providing for their needs. While Western influence has had some impact on our society, many people still hold these customs in high regard.

Unfortunately, there has been an increase in cases of elder abandonment, as well as instances of mental abuse and neglect. To address these issues, laws have been established under the Criminal Procedure Code, Constitution, personal laws, and other regulations. It is important to empower the elderly to assert their rights and demand safety. Old-age homes are available for those who have been abandoned or isolated, but not everyone can access them due to various reasons such as lack of required documents or funds, inadequate facilities, and degrading conditions.

The government must ensure that the elderly do not have to compromise their dignity or respect in order to receive the care and support they deserve. It is our responsibility to stand up for our elders, who were there for us when we were young. In traditional societies, individuals adhered to their moral obligation to care for their parents and elders with great diligence. However, in the modern era, there has been a noticeable decrease in the fulfilment of this moral duty due to various factors. Consequently, legal measures have been implemented to safeguard the rights and well-being of parents through the enactment of different laws.

The 2011 census shows that the elderly population (60 years of age and older) of India comprises 103.8 million people. The proportion of the elderly population has been on the rise and as per the SRS (Sample Registration System) Statistical Report 2017 issued by the Office of the Registrar General & Census Commissioner, India, Ministry of Home Affairs,



Government of India (GOI), the percentage of the elderly population (60 years of age and older) has increased from 5.3 percent in 1971 to 8.2 percent in 2017. The increasing number of older people in India's population is mainly due to the general improvement in health care facilities over the years. The major challenge is to ensure that the elderly do not merely live longer but also lead a secure, dignified, and productive life.⁴¹

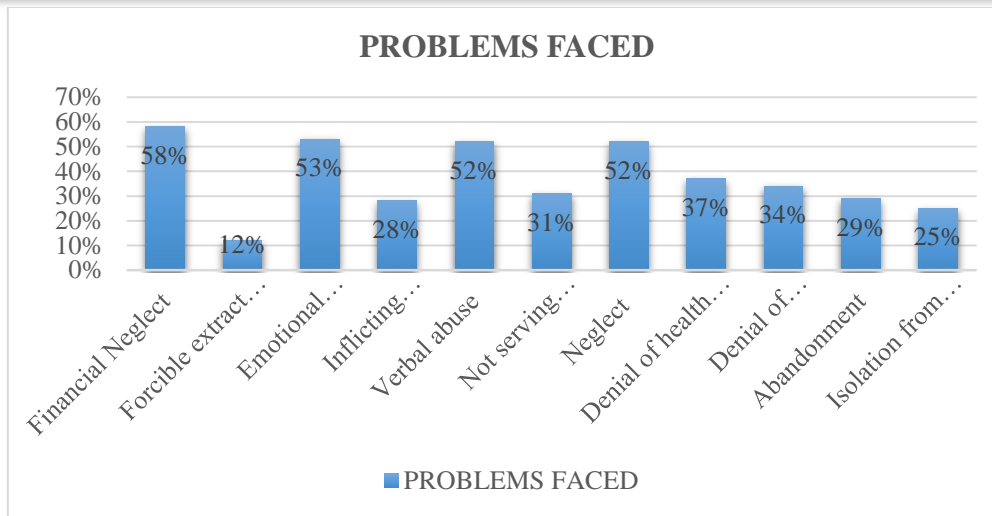
A 2015-16 All India Senior Citizens' Confederation (AISCCON) survey shows that 60% of elderly people living with their families face abuse and harassment, 66% are either 'very poor' or below the poverty line and 39% have been either abandoned or live alone. Thus, there is a need to take care of elderly, with a focus on social and mental well-being, economic and social security and elder abuse.⁴²

In a study, financial neglect (58%) is what most petitioners have faced at the hands of the defendants. The other experiences were 52% neglect, 52% verbal abuse and rude talk, 53% emotional abuse or insult, 37% denial of health care requirements, 34% denial of personal needs and clothing, 31% not serving food at proper times, 29% abandonment, 28% inflicting physical pain, and 25% isolation from family and friends. 12% faced forcible extraction of money.⁴³

⁴¹National Human Rights Commission of India, *Rights of Senior Citizen*, (Nov. 08, 2023, 09:10 AM) https://nhrc.nic.in/sites/default/files/9%20Right%20of%20Senior%20Citizens_compressed.pdf

⁴² <https://wishesandblessings.net/blog/old-age-homes-in-india/>.

⁴³ Study on the Working of the MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT 2007 IN KERALA, (Nov. 19, 2023, 09: 35 AM), <https://spb.kerala.gov.in/sites/default/files/inline-files/MAINENDWLFREARENTSSRCITIZENSKr.pdf>.



In yet another study, 40 per cent of the respondents said that most favourable legal provision from an older person's point of view was MWPSA Act which has many provisions to favour senior citizens. "Adult Protection Legislation looks good; but, does not make available the services and assistance in a humane and dignified manner that an old person needs in all circumstances and environments"⁴⁴. A study by Indira Jai Prakash underlined the difficulty of a poor and demoralised older person to approach the tribunal to fight against their own family members. A supportive and user-friendly machinery at local level or in the neighbourhood was required for people to feel emboldened to act for their rights. Filing legal proceedings against own children/relative is a very sensitive issue and needs to be tackled in a totally different way which is not envisaged in this Act.⁴⁵

The major source of information for this Act was friends as reported by 40 petitioners (34.8 per cent), followed by close relatives and newspaper 25 (21.8 per cent). For 17 petitioners (14.8 per cent) the source of information of this Act was some of the government officials and for 4 of them (3.5 per cent) it was word of

mouth and only 2 of them got this message from some radio news/FM channel. The petitioners just knew about the Act, but had no information about the process of application or the entitlements and rights granted to them under the Act. None of the petitioners knew that, they could authorise any individual or organisation to file the petition on their behalf and attend the hearings etc. Similarly, none of the petitioners knew about the ceiling of Rs 10,000 per month for maintenance allowance.⁴⁶

Amongst petitioners, 57% were in the broad category of illiterate, literate and primary schooling, 7 per cent each studied up to graduate and post graduate level and 6 per cent of the petitioners had a professional degree. It is heartening to note that lack of education does not handicap an elderly from approaching the Tribunal for getting justice. But, lack of education does hamper a person's ability to deal with the system especially if s/he suffers from other handicaps like lack of income, social support etc. So, it would be better if the process takes into consideration and sets up some special facilitator.⁴⁷

In cases Sunny Paul & Anr. v. State NCT of Delhi & Ors⁴⁸ the High Court of Delhi & Ors. and in Dattatrey Shivaji Mane v. Lilabai Shivaji Mane & ors⁴⁹ the Bombay High Court while highlighting

⁴⁴ Sonali Public Shiksha Samiti, A study of effectiveness of social welfare programmes on senior citizen in rural Rajasthan, Chattisgarh, Gujrat and Madhya Pradesh submitted to Planning commission, Government of India, 2012.

⁴⁵ Indira Jai Prakash. HelpAge India Research & Development Journal, Vol. 13 No.3 Oct. 2007.

⁴⁶ *Supra* Note 7.

⁴⁷ *Supra* Note 7.

⁴⁸ CM No. 11669/2017.

⁴⁹ WRIT PETITION NO.10611 OF 2018.



the object of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Senior Citizen Act) held that the Act permits a senior citizen including parent who is unable to maintain himself from his earning or out of property owned by him and if such senior citizen is unable to lead a normal life to apply for such relief i.e. eviction under Section 4 of the Act not only against his children but also the grandchildren. It means it recognized the right of the senior citizens to evict children from their home.

In Pramod Ranjankar & Anr. v. Arunashankar & Ors⁵⁰ The High Court of Chhattisgarh recognized the right of senior citizen over immovable property and eviction of abusive children.

In Dr. Ashwani Kumar v. Union of India & Ors.⁵¹ The Supreme Court directed the government to gather information on old age homes and medical and geriatric care facilities in each district and submit status reports. The court emphasized that the elderly were not aware of their human rights guaranteed by the Constitution and state governments. The SC directed the Centre to prepare a plan to publicize the provisions of the MWPSA Act and other statutory rights of the elderly. The central government was also asked to conduct a review to monitor the progress of the Act by state governments. The court also noted that some schemes were outdated and called for a relook at them. The Supreme Court emphasized the need for continuous and periodic monitoring to ensure the effective implementation of the MWP Act, 2007, and to promote the well-being of senior citizens. The pension amount was also directed to be revised to make it more realistic.

ISSUES AND CHALLENGES IN AVAILING THE MAINTENANCE SUPPORT

Budgetary Cap for Maintenance

The limitation of Rs. 10,000 as the maximum amount of maintenance that may be claimed

each month is an important restriction of this clause. The arbitrary ceiling amount fixation prevents those with greater economic capacity from obtaining an adequate maintenance amount. This will discourage people from requesting relief under this provision.

Lack of knowledge

Many elderly people are unaware of the MWPSA Act, 2007, in general. 12% of elderly people, according to the LASI (Longitudinal Ageing Study in India), are aware of the Act even ten years after it was put into effect. Due to the stigma associated with filing a formal complaint about one's children, the elderly are also likely to hesitate to seek relief, even if they are aware of the Act.

Administration of Justice

Under this provision, the administration's senior executives, who have numerous other competing priorities and responsibilities, are in charge of providing maintenance relief. There are no particular tribunals tasked with the exclusive enforcement of this Act. Conversely, in the event that the government fails to allocate adequate budgetary resources, the establishment of a reliable system for carrying out this act will have substantial economic ramifications and may pose a standalone obstacle to its successful execution.

Delay in the Completion of Appeals in Higher Courts

The delay brought on by appeals that remain pending in the High Courts and Supreme Court of India may interfere with the prompt conclusion of trials in these cases. This delay may be the result of the requirement for mandatory safeguards for all parties involved in putting the MWP Act of 2007 into effect.

ESTABLISHMENT OF OLD-AGE HOMES

The MWP Act of 2007's Chapter III and Sections 19(1) and (2) deal with the issue of the need for old age homes for elderly people in need of assistance as well as a plan for their management. However, because the word

⁵⁰ CRMP No. 600 of 2018.

⁵¹ Writ Petition No. 193/2016.



"may" was used in place of the word "shall" in the sections of the MWP Act, 2007, there is no provision in the Act holding the state executive responsible for carrying out these provisions.

ENCOURAGING SENIOR CITIZENS TO RECEIVE MEDICAL CARE

Because physical and mental health issues are so common among senior citizens, health care is one of their top concerns. This aspect's significance has been acknowledged by the MWP Act, 2007, which addresses it in Chapter IV. This Act has made it necessary to have enough beds, separate waiting areas, and facilities for treating degenerative, terminal, and chronic illnesses. It has also made it mandatory to support research and the development of specialized geriatric health facilities

POLICIES / SCHEMES / PROGRAMMES FOR WELFARE OF THE ELDERLY

Policies, schemes, and programs have been implemented in India to ensure the welfare of the elderly population. The National Policy for Older Persons, approved by the Government of India on January 13, 1999, aims to expedite welfare initiatives and provide motivation to the elderly. This policy includes various measures, such as the establishment of a pension fund for those who have worked in the unorganized sector, the construction of old age homes and day care centers in every 3-4 districts, the creation of resource centers and re-employment bureaus for individuals over the age of 60, and concessional rail/air fares for travel within and between cities. Additionally, legislation has been enacted to require all public hospitals to provide mandatory geriatric treatment.

The Ministry of Justice and Empowerment has announced the establishment of the Age-Well Foundation and the National Council for Older People, which seek the opinions of the elderly to improve their quality of life. Efforts are also being made to educate schoolchildren about the value of living and working with the elderly,

establish a 24-hour support line, and prevent social ostracism of the elderly.

The government policy emphasizes the timely payment of pensions, provident funds, gratuities, and other benefits to prevent financial hardship among the elderly. It also supports the development of tax policies that cater to the needs of the elderly. Furthermore, the policy prioritizes the healthcare needs of the elderly.

Tax breaks are available to the elderly under Sections 88-B, 88-D, and 88-DDB of the Income Tax Act. The Life Insurance Corporation of India (LIC) offers various schemes for senior citizens, including Jeevan Dhara Yojana, Jeevan Akshay Yojana, Senior Citizen Unit Yojana, and Medical Insurance Yojana. The 'Annapurana Yojana' was launched by former Prime Minister A.B. Bajpai to provide 10 kg of food every month to unattended elderly individuals. It is recommended that 10% of the houses built under government schemes for the urban and rural low-income segments be made available to the elderly through low-interest loans. Additionally, the Indra Gandhi National Old Age Pension Scheme is in place to provide financial support to the elderly.⁵²

RECOMMENDATIONS:

1. For the Act to serve its intended purpose, more publicity is required. People need to be made aware of elder abuse.
2. The general public should be sensitized about the problems faced by the older population. Newspapers, radio, television, social media and other mass media should be used to create awareness.
3. To tackle the psychological and emotional needs of senior citizens, state governments should establish help lines and counselling centres.
4. NGOs, community organizations, and the corporate sector should be involved in this program.

⁵²Supra Note 9.



5. Schoolchildren should be made mindful of how to communicate with and engage with the elderly.
6. Before arresting an elderly person in a false dowry case, precautions should be taken and a procedure should be established to conduct an investigation.
7. There is a need for a separate, active, and dedicated ministry.
8. Strict guidelines should be made for the time-bound disposal of the cases by the tribunals.
9. Online filing and tracking processes should be encouraged.
10. The tribunals should be strengthened with adequate staff, training, and infrastructure to handle the petitions.
11. More tribunals should be established for the timely disposal of cases and to prevent overburden on a particular tribunal.
12. A separate police cell should be established to address the concerns of the elderly.

CONCLUSION:

Ageing is a natural process that should not be met with embarrassment or helplessness. It is unfortunate that individuals feel the need to hide their age due to the fear of being judged as weak or vulnerable. These societal taboos surrounding age must be eradicated. Discrimination based on age needs to be acknowledged and eliminated. In order for progress to occur, it is essential that everyone is allowed to be their authentic selves and have the freedom to pursue their desires. The elderly are an integral part of our families, and their overall well-being, including their mental health, must be properly attended to. Those who have cared for others throughout their lives deserve to pass away with dignity and without neglect. The government should ensure that the elderly do not have to rely on others for their basic needs, such as shelter, food, and allowances. Meeting the needs of the elderly should not be seen as a burden. Person-centred care for older individuals should focus on effective

communication, privacy, personal identity, and addressing feelings of vulnerability. Policymakers and professionals should adopt similar approaches to tailor policies and practices to the specific needs of older individuals.

It is crucial to provide necessary health kits and basic amenities free of charge to the elderly. The government must ensure the proper application of laws to protect the vulnerable. Treating individuals with dignity means treating them with humanity. The Maintenance and Welfare of Parents and Senior Citizen Act 2007 was enacted not only to protect the maintenance rights of elderly parents and senior citizens but also to provide them with a better quality of life so that they can live with dignity. This Act addresses not only the maintenance rights of elderly parents and senior citizens but also proposes provisions such as establishing old age homes for abandoned parents and providing improved medical facilities for them.

The 2019 Amendment strengthened the Act's ability to protect the lives and dignity of elderly parents and senior citizens. Therefore, it is important to respect our elders and learn from those who have walked the path before us. Someday, sooner than we may realize, we too will be old.