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# **SAFEGUARDING THE RIGHTS OF ELDERLY CITIZENS IN INDIA: A CRITICAL ANALYSIS OF THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007 AND ITS IMPACT ON SENIOR WELFARE**

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## **Abstract**

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, represents a landmark legislation in India aimed at safeguarding the rights and ensuring the welfare of senior citizens. This study presents a comprehensive critical analysis of the Act's key provisions, evaluating its effectiveness in protecting elderly individuals through mechanisms for maintenance, property rights, and institutional support. Drawing upon existing literature, judicial pronouncements, and empirical evidence, the research examines the Act's strengths and limitations, with particular focus on the definitions of "parent" and "senior citizen," the constitution and functioning of Maintenance Tribunals, provisions relating to maintenance obligations, transfer of property, and the retrospective application of the Act.

The study further assesses the Act's real-world impact on elderly welfare, identifies persistent implementation challenges, and highlights structural and operational gaps. Based on this analysis, it offers actionable recommendations for strengthening the legal framework and improving enforcement. This research contributes meaningfully to the contemporary discourse on elderly rights in India and provides valuable insights for policymakers, judicial authorities, social workers, and civil society organizations committed to enhancing the dignity and well-being of senior citizens.

**Keywords:** Old- Age Person, Elderly People, Human Rights, Dignity, Protection, Social Security

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## RESEARCH OBJECTIVE

The goal of this research paper is to closely look at the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and how it affects the well-being of older people in India. The paper will look at the main parts of the law, its good and bad points, and whether it is working well to meet the needs of seniors. It will also discuss how families and society play a part in taking care of older people, and compare the rights and support given to seniors in India with those in other countries. The study wants to add to what is already known about the rights and welfare of older people in India and offer suggestions for making the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, better. It will also look at the difficulties in putting the Act into practice and suggest ways to overcome these challenges.

## INTRODUCTION

The world is seeing a big change in its population, with more older people than ever before. In India, the number of elderly people is expected to grow to 158.7 million by 2025.<sup>3</sup> The Parents and Senior Citizens Act (MWPSA) was passed in 2007.<sup>4</sup>

This Act aims to set up a system that helps take care of older people by providing them with money support, health care, and other forms of help. However, even though this Act was made, the well-being of older people in India is still a big problem. Many older people still struggle with issues like not having enough money, poor health, and being lonely, with not enough help or resources available. In this situation, it is important to look at how the rights of older people in India have changed over time, how the MWPSA has affected their well-being, and what problems there are in making sure the Act is properly followed.

Many traditional societies of the past considered family harmony to be an important factor governing family relationships. This reverence for the family was reinforced by philosophical traditions and public policy. In some traditional societies, older widows are abandoned. In some places, accusations of witchcraft, often connected with unexplained events in the local community, such as a death or crop failure, are directed at isolated, older women. Growing old is an irreversible process which every human being has to encounter. Nobody can escape it. With a growing population of older persons, safeguarding the human rights of such individuals

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<sup>3</sup> Dey S and others, "Health of the Elderly in India: Challenges of Access and Affordability" (NCBI Bookshelf, January 1, 2012) accessed November 10, 2024

<sup>4</sup> Maintenance and Welfare of Parents and Senior Citizens Act 2007

has become an emerging concern. As societies age, it becomes increasingly essential to address the unique legal and social challenges faced by senior citizens. Every elderly person being also a human being is entitled to certain rights. These rights encompass a spectrum of fundamental principles, including dignity, equality, healthcare, financial security, and protection against abuse and neglect. India has various platform and rules, regulation to protect the rights of old age person and provide them a dignified life. In India mainly two legislation deals with the protection of old age persons right as “National Policy for Older Persons, 1999 and the “Maintenance and Welfare of Parents and Senior Citizens Act, 2007.” These two key legal instruments play an indispensable role in safeguarding the well-being and dignity of India’s older population. However, even with these initiatives, there is a difference between what is and what ought to be. News reports are filled with incidences of age-based discrimination or neglect.

This paper gives a look at the history of older people's rights in India, from early laws to today. It also looks at how the MWPSCA has helped older people, including how well it has worked in giving them support and care. The paper also discusses the difficulties in putting the Act into practice, such as problems with management, lack of resources, and not enough knowledge among the people who need the help. Finally, the paper compares how older people's rights are handled in India with those in other countries, showing what works well and where there is room for improvement. By studying how older people's rights have developed in India and looking at the effect of the MWPSCA on their well-being, this paper hopes to increase understanding of the challenges and chances in caring for older people in India. It is also hoped that the findings will help improve policies and actions aimed at supporting older people in India, and lead to better and longer-lasting solutions for the growing number of older people in the country.

### **The Evolution of Senior Citizens' Rights in India: A Historical Perspective**

The rights of older people in India have changed a lot since the time of British rule. The way society has come to understand and support the needs of older adults has developed step by step over the years. This section looks back at the history of how the rights of seniors in India have evolved, starting from the early laws up to today.

The Hindu Adoptions and Maintenance Act, 1956, was among the first legislations to address the maintenance of parents, setting a precedent for later legislation. The Act provided for the maintenance of parents by their children, marking a significant step towards recognizing the

rights of senior citizens. However, the Act had limitations, as it did not provide for the welfare of senior citizens beyond maintenance. The Constitution of India, through Articles 41, 42, and 46,<sup>5</sup> underscores the state's responsibility towards the elderly, laying the groundwork for the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (MWPSCA). Article 41 of the Constitution provides for the right to work, education, and public assistance in cases of unemployment, old age, and disability. Article 42<sup>6</sup> ensures that the state shall make provisions for securing just and humane conditions of work, including maternity relief, and for ensuring that children and youth are not employed in occupations harmful to their health and morals. Article 46<sup>7</sup> provides for the promotion of educational and economic interests of the weaker sections of society, including the elderly.

who are 60 years of age or older, and "maintenance" includes things like food, clothing, shelter, and medical care. The Act requires children and other relatives to support senior citizens financially, and it sets up Maintenance Tribunals to help resolve any disagreements. Additionally, the Act allows for the creation of old-age homes and other facilities aimed at improving the well-being of senior citizens.

Despite these advancements, the changing demographics and family structures pose new challenges for elder welfare. The traditional Indian family structure, which has historically been the primary support system for the elderly, is undergoing significant changes due to urbanization and economic pressures. This shift has led to increased isolation of senior citizens, highlighting the need for societal awareness.

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has played a big role in making people aware of the rights of senior citizens and offering legal help. However, there are still problems in making sure the law is followed properly and many elderly people don't know about their rights. A study by HelpAge India found that 45% of senior citizens are not aware of their rights, showing the need for more awareness and better implementation efforts.

The case of **Smt. S. Vanitha v The Deputy Commissioner, Bengaluru Urban District & Ors. (2020)**<sup>8</sup> is an example of how the Act can help. In this case, a Maintenance Tribunal ordered the son to pay maintenance to his mother, showing how the Act can be used to protect

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<sup>5</sup> "Article 41: Right to Work, to Education and to Public Assistance in Certain Cases" (Constitution of India, December 22, 2022) accessed November 14, 2024

<sup>6</sup> "Article 42: Provision for Just and Humane Conditions of Work and Maternity Relief" (Constitution of India, December 22, 2022) accessed November 14, 2024

<sup>7</sup> "Article 46: Promotion of Educational and Economic Interests of Scheduled Castes, Scheduled Tribes and Other Weaker Sections" (Constitution of India, December 22, 2022) accessed November 14, 2024

<sup>8</sup> Supreme Court of India, "SMT. S. VANITHA v. THE DEPUTY COMMISSIONER, BENGALURU, URBAN DISTRICT & ORS." (The Amikus Qriae, October 22, 2023) accessed November 14, 2024

the rights of senior citizens.

### **The Role of Family and Society in Caring for Senior Citizens: A Critical Examination**

The traditional Indian family, which has been the main support system for the elderly, is changing because of several factors. Urbanization and economic pressures are making it harder for families to care for their elderly. This has led to more loneliness and isolation for seniors, highlighting the importance of awareness and support from society. As the number of elderly people grows, it's important to look at the role of family and society in taking care of seniors and find out the challenges and limits in existing care systems.

**Changes in Traditional Family Structure** The traditional Indian family is changing due to various factors, including:

- **Urbanization:** Many young people are moving to cities for work, leaving their elderly parents behind in rural areas.
- **Economic Pressures:** The rising cost of living and economic pressures are causing family members to work outside the home, leaving elderly parents to take care of themselves.
- **Nuclearization of Families:** The traditional joint family system is moving towards smaller, nuclear families, where elderly parents are often left to care for themselves.

### **Challenges and Limitations of Family and Societal Care**

Even though family and society play an important role in caring for the elderly, there are several challenges and limitations in providing proper care:

- **Emotional Support:** Many elderly people lack emotional support and companionship, which can lead to loneliness and isolation.
- **Physical Care:** Elderly parents may need help with daily activities, which can be difficult for family members to provide.
- **Economic Assistance:** Senior citizens may need financial support, which can be a big burden on family members.
- **Lack of Awareness:** Many family members and caregivers are not aware of the needs and rights of senior citizens, leading to inadequate care and support.
- **Insufficient Resources:** Many families don't have enough time, money, or skills to provide proper care and support to elderly members.

## **Importance of Community-Based Support Systems**

To fill the gaps in family and societal care, community-based support systems are important.

These include:

- **Home Care Services:** Services like nursing care, physical therapy, and social support can help elderly people at home.
- **Adult Day Care Centers:** These centers offer socialization, meals, and activities, which can help reduce loneliness and isolation.
- **Senior Centers:** These centers can provide meals, transportation, and social activities to support seniors.
- **Volunteer Programs:** Volunteer programs can offer emotional support and companionship, helping to reduce feelings of loneliness and isolation.

## **COMPARATIVE ANALYSIS OF SENIOR CITIZENS' RIGHTS IN INDIA AND OTHER COUNTRIES**

Looking at how India handles elder care compared to countries such as Japan, the United States, and the United Kingdom, there are clear differences in their legal setups and social support systems. India mainly relies on families to take care of the elderly, whereas other countries have stronger systems in place for institutional care and social security.

In Japan, for example, the Long-Term Care Insurance System provides comprehensive care services, including home care, adult day care, and institutional care.<sup>9</sup> In the Medicare program provides health insurance coverage<sup>10</sup>. In the United Kingdom, the National Health Service provides comprehensive health care services, including longterm care.<sup>11</sup> Adopting best practices from these countries, such as community-based care and enhanced social security, could improve the welfare of senior citizens in India.

### **• Challenges And Limitations Of Implementing The Act**

The implementation of the Maintenance and Welfare of Parents and Senior Citizens Act (MWPSCA) faces numerous challenges and limitations that hinder its effective execution. These challenges can be broadly categorized into three main areas: administrative challenges,

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<sup>9</sup> Matsuda S and Yamamoto M, "Long-Term Care Insurance and Integrated Care for the Aged in Japan" (2001) 1 International journal of integrated care e28

<sup>10</sup> Hoffman ED Jr, Klees BS and Curtis CA, "Overview of the Medicare and Medicaid Programs" (2000) 22 Health care financing review 175

<sup>11</sup> "England" (Commonwealth Fund) accessed November 13, 2024

resource constraints, and limited awareness among the target population.

- **Administrative Challenges**

One of the main problems in administration is that the Maintenance Tribunals don't have enough capacity or proper facilities to carry out their duties under the Act. These tribunals often struggle with too many cases, causing delays and making the justice system less efficient. Also, they might not have the right skills or enough support to handle complicated matters, which can lead to decisions that are not consistent or reliable.

Another administrative challenge is the lack of coordination and communication between different government departments and agencies responsible for implementing the Act. This can lead to duplication of efforts, inefficiencies, and a lack of accountability, ultimately affecting the overall effectiveness of the Act.

- **Limited Awareness**

Limited awareness among the target population is another significant challenge in implementing the MWPSA. Many senior citizens may not be aware of their rights and entitlements under the Act, which can limit their ability to access the benefits and services provided. Additionally, the Act may not provide for sufficient awareness-raising and education programs to inform senior citizens about their rights and entitlements.

### **Collaboration and Partnerships**

To tackle these challenges, it's important for the government, NGOs, and community groups to work together. The government should offer the necessary resources and infrastructure to make the Act work well. At the same time, NGOs and community organizations can help by spreading awareness and offering support services.

These organizations can offer important services like counseling, healthcare, and social support to older people. They can also explain the Act and its rules, and provide education and training to help seniors understand their rights and what they are entitled to.

- **Enhancing Capacity and Infrastructure**

To enhance the capacity and infrastructure of the Maintenance Tribunals, the government should provide additional resources and funding to support their operations. This can include training and capacity-building programs for tribunal members, as well as the provision of necessary infrastructure, including courtrooms, offices, and equipment.

### **Ensuring Effective Enforcement Mechanisms**

To ensure effective enforcement mechanisms, the government should establish a robust monitoring and evaluation system to track the implementation of the Act. This can include regular reporting and feedback mechanisms, as well as the establishment of a complaints and grievance redressal system. In conclusion, the implementation of the MWPSCA faces numerous challenges and limitations, including administrative challenges, resource constraints, and limited awareness among the target population. To overcome these challenges, collaboration and partnerships between government, NGOs, and community organizations are essential. The government should provide resources and infrastructure for the effective implementation of the Act, while NGOs and community organizations can play a critical role in raising awareness and providing support services.

### **• CONCLUSION**

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, is a major law that has helped protect the rights and well-being of older people in India. Although a lot has been done to give legal help and spread awareness, there are still problems with how the law is carried out and enforced. To fix these issues, it's important that the government, charities, and local groups team up to fill in the gaps and make sure the law works properly.

Looking ahead, more research should be done to see how effective the law has been over time and to find new ways to care for the elderly. This could involve learning from successful approaches, coming up with new care models, and using technology to make services easier to access. By working together and focusing on the needs of older people, we can make sure they get the care, respect, and dignity they deserve. In the end, our aim should be to build a society that supports and values its older members, giving them the chance to live healthy, happy, and meaningful lives.

### **• LIST OF LITERATURES REVIEWED –**

- 1) A Narrative Review of National Programmes for the Elderly in India: The Geriatric Care Policy needs to mainstream Aging in Development<sup>12</sup>

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<sup>12</sup> Ugargol AP, "A Narrative Review of National Programmes for the Elderly in India: The Geriatric Care Policy Needs To..." (unknown, November 1, 2019) accessed November 12, 2024

- 2) Reforms in Legal Aid and Awareness with Regard to the Aged in India: A Case for an Inclusive Approach<sup>13</sup>
- 3) Rights of Senior Citizens in India<sup>14</sup>
- 4) Human rights and legal protection to elderly persons in India<sup>15</sup>
- 5) Protection of Human Rights of Senior Citizens in India: A Study of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007<sup>16</sup>
- 6) Critical Analysis of the Legal Approach to Protect the Elderly Population in India<sup>17</sup>
- 7) Awareness and Perception of Senior Citizens on the Implementation of R.A. 9994 in San Isidro, Nueva Ecija, Philippines<sup>18</sup>



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<sup>13</sup> K R and Singai C, “Reforms in Legal Aid and Awareness with Regard to the Aged in India: A Case for an Inclusive Approach - PMC” 13 Jindal Global Law Review

<sup>14</sup> Agrawal A, “Rights of Senior Citizens in India” (LawBhoomi, December 15, 2023) accessed November 12, 2024

<sup>15</sup> 7 Biswas M, “HUMAN RIGHTS AND LEGAL PROTECTION TO ELDERLY PERSONS IN INDIA” (2023) 9 International Education and Research Journal (IERJ)

<sup>16</sup> “PMC Journal List” (PMC) accessed November 14, 2024

<sup>17</sup> Rafi S, “CRITICAL ANALYSIS OF THE LEGAL APPROACH TO PROTECT THE ELDERLY POPULATION IN INDIA” (unknown, November 23, 2019) accessed November 13, 2024

<sup>18</sup> 0 Cablao JY and others, “Awareness and Perception of Senior Citizens on the Implementation of R.A. 9994 in San Isidro in Nueva...” (Macrothink Institute, Inc., June 26, 2019) accessed November 14, 2024