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EFFECTIVENESS OF THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007 IN PREVENTING ELDER ABUSE

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ABSTRACT

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, thus prevents elder abuse in India by casting a duty of maintenance on the children/relatives of an indigent senior citizen above 60 years. Section 4 grants rights to food, shelter, and medical care, while Sections 7-10 establish summary tribunals for swift relief up to ₹10,000 monthly.

The Act also covers physical, emotional, and financial neglect. Section 3 gives way to the welfare of seniors, as opposed to other conflicting laws of property, succession, maintenance, and guardianship; however, courts in operation try to view it in harmonious keeping with the Domestic Violence Act, as reflected in the case of Smt. S. Vanitha v. Deputy Commissioner, 2020. Tribunals under the said provision revoke property transfers of an exploitative nature under Section 23 and order evictions for protection, ably supported by Supreme Court judgments placing great value on human dignity.

The strengths include 'available' remedies against economic abuse, while under-reporting, tribunal delays, and shortcomings on how to deal with psychological violence, having to depend upon either of the two acts. That is, IPC or DVA; each has weaknesses. Reforms sought: Increased caps, broadened definitions, and integrated social services as suggested by the WHO. Thus, while the Act scores high on the remedial aspect, its preventive inputs need to be strengthened.

Introduction:

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007¹ (MWPC Act) was introduced in response to the rising trend of elder abuse, abandonment, and exploitation for economic advantage in India, and filled a lacuna through a statutory obligation of maintenance and an administrative summary, quasi-judicial judicial recourse. The nature of abuse of seniors is considered universally, and in India, encompasses physical, mental, and financial abuse, as well as neglect and abandonment, generally committed through a relationship of trust, very often within the familial relationship. Section 4² of the MWPC Act establishes the legal right of parents and senior citizens to receive maintenance from their offspring or stipulated relatives in case they cannot maintain themselves, but sections 5-10³ regulate Maintenance Tribunals and the procedural speedy relief. The Supreme Court, in the case of Smt S Vanitha vs Deputy Commissioner, Bengaluru Urban District, 2020 SCC Online SC 1023⁴, has characterized the Act as a well-intentioned statute aiming to secure the rights and well-being of senior citizens, especially in relation to disputes over their rights and the residence rights of women as provided in the Protection of Women from Domestic Violence Act, 2005⁵.

Conceptual Framework:

Elder Abuse and ‘welfare’ As suggested by the WHO, elder abuse can be described as an act or failure to act, one or a series of, carried out within any relational circumstance where there is an expectation of trust, resulting in harm or distress for an older person. The areas covered include physical, psychological, financial, and negligence, and statistics have also indicated children and close family members as abusers within a variety of global cultures, including the Indian subcontinent.

The MWPC Act articulates the issue of elder protection in relation to the principles of “maintenance” and “welfare.” According to section 2(b), maintenance includes food, clothing, residence, and medical attendance and treatment under the MWPC Act⁶. Also, under section 2(k), welfare includes food, healthcare, and all other amenities necessary for senior citizens⁷. In the S Vanitha case, the scope of the provision of “welfare” under the MWPC Act was

¹ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (India).*

² *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, § 4 (India).*

³ *Id. §5 to Id. §10.*

⁴ *S. Vanitha v. Deputy Comm’r, Bengaluru Urban Dist., 2020 SCC OnLine SC 1023 (India).*

⁵ *Protection of Women from Domestic Violence Act, No. 43, Acts of Parliament, 2005 (India).*

⁶ *Maintenance & Welfare of Parents & Senior Citizens Act, No. 56, Acts of Parliament, 2007, § 2(b) (India).*

⁷ *Maintenance & Welfare of Parents & Senior Citizens Act, No. 56, Acts of Parliament, 2007, § 2(k) (India).*

interpreted in a purposive or expansive manner to cover the aspect of protecting the life and property of senior citizens beyond mere giving of money.

Legislative background and purposes:

The Statement of Objects and Reasons mentions that many parents and seniors were being abandoned and were not being maintained by their children and relatives, contrary to the tradition of taking care of them, and in view of existing law, such as section 125 CrPC⁸.

It is asserted that seniors were being left destitute and did not have any source of income, and that an easy, cheap, and quick way was required to ensure that there was protection of life and property. Section 3 gives the Act a paramount status over conflicting provisions in other laws, indicating the legislative intent to give precedence to the welfare of senior citizens. However, in *S Vanitha*, it was held by the Supreme Court that the “paramount status” given by section 3 should be given a harmonious treatment with other beneficial legislations like the Domestic Violence Act so that the rights of senior citizens and women are kept safe, and neither act loses its efficacy. This approach taken by the judiciary is extremely relevant for your socio-legal analysis, as it shows that courts try to strike a balance between other related vulnerabilities in a family while dealing with senior abuse.

Important Safeguarding Provisions And Their Applicability:

Maintenance and right to life with dignity:

Under section 4(1)⁹, the right to apply for maintenance is granted to parents and senior citizens who are unable to support themselves from their own earnings or property in favour of their sons, daughters, or specified relatives. Under section 4(2)¹⁰, it is also clarified that “such maintenance shall be sufficient to enable the senior citizen to lead a normal life, meaning thereby that the objective is not only limited to survival but also includes a sense of dignity in living.”

In some of its judgments, this expression has been given a broad interpretation. It may be noted in particular in the case of *Harbhajan Singh vs. State of Punjab & Ors.* (P. & H. H. December

⁸ *Code of Criminal Procedure, No. 2, Acts of Parliament, 1974, § 125 (India)*

⁹ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, § 4 (1) (India).*

¹⁰ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, § 4 (2) (India).*

6, 2006/2007 PLR)¹¹, where it was held, in a case involving senior citizens, that “by MWPC Act, a welfare legislation, whose purpose is to secure respect, dignity, and security in old age,” Proactive orders by a competent authority designed to protect a senior citizen from harassment and deprivation can be upheld. While being highly particular in some matters, being “proactive” in maintaining a senior citizen's sense of liberty is often followed in other judgments.

Tribunals and summary procedure:

Sections 7 to 10 cover Maintenance Tribunals, which in 'The Code of Criminal Procedure' have jurisdiction regarding Maintenance Tribunals under different sections: section 7 gives a legal right to the State Government to establish Tribunals in every sub-division in the State¹²; under section 8 there has to be a summary procedure¹³; while section 9 of the Code gives a legal right to the Tribunal to award a certain amount of maintenance every month 'with a ceiling of Rs 10,000 in any State, as may be altered from time to time under State laws¹⁴. Section 5 allows applications on behalf of the senior citizen by any person or organization, as they may authorize or even suo motu, as under certain State laws, in cases when elders may be frightened or physically incapable of approaching a court of law to file a suit¹⁵.

In *S. Vanitha v. S. Srinivasan*, Their Lordships of the Supreme Court did recognize that tribunals constituted under the Act can also direct eviction of minors or in-laws, if necessary, for the protection of the life or property of senior citizens, though they should give careful consideration to such claims in line with principles of natural justice¹⁶. More recent decisions, summarized in judicial reviews quoted in comments and blogs, indicate that tribunals are often approached for directions for residence and eviction orders in addition to maintenance, showing an increasing protective role of tribunals beyond mere maintenance.

Effect on Reporting and Remedy Accessibility:

Sections 5 and 6 reduce formalities: a complaint can be made in a jurisdiction where the senior knows habitually resides, and representation by counsel is often limited as a means of keeping

¹¹ *Harbhajan Singh v. State of Punjab & Ors.*, 2007 PLR 271 (P&H HC Dec. 6, 2006) (India).

¹² *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*, § 7 (India).

¹³ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*, § 8 (India).

¹⁴ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*, § 9 (India).

¹⁵ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*, § 5 (India).

¹⁶ *S. Vanitha v. Deputy Comm'r, Bengaluru Urban Dist.*, 2020 SCC OnLine SC 1023 (India).

this a formal and free procedure. The above sections are formulated in a manner that encourages seniors, even those from less privileged circumstances, to pursue a course of action against abuse and economic abuse. However, government and nongovernment sources report that its use remains limited compared to the prevalence of senior abuse, which remains a serious reality in India. In some instances, High Court directions may also be required to make this possible. As far as the MWPSA Act and High Courts' rulings on it are concerned, High Courts have advised District Magistrates and Tribunals to dispose of maintenance-related claims promptly and to take the initiative to support vulnerable elders actively, emphasizing the Act as a beneficent legislation aimed at securing their rights. However, research on socio-legal and NGO surveys reveals the impediments of potential intimidation by sons and daughters against whom elders may file claims for maintenance; lack of independence from children, and social acceptance of children being taken to court by their elders to restrict elders from resorting to the MWPSA Act as a protective and remedial measure.

Working of Maintenance Tribunals:

Maintenance:

The intention is for the tribunal procedure and jurisdiction to remain accessible and non-technical, though effectiveness is uneven between states. While section 8 of the law prescribes a summary procedure¹⁷, section 9(3) specifies disposal within 90 days, which can be extended by a further 30 days under section 9(3)¹⁸; section 11 grants jurisdiction wherever the senior citizen resides. While in certain states the tribunal has earned appreciation for its liberal approach to respecting residence, ejecting offending offspring, and strictly enforcing maintenance orders, in other states, delays, inadequate manpower, and inadequate infrastructure are major factors impeding effectiveness¹⁹.

In law reports analyzing cases involving the Supreme Court and High Court judgments, it was stated that there have been instances of tribunals exceeding their scope of powers to an unwarranted extent, such as evicting persons without a valid connection to a maintenance issue and eventually requiring judicial reversal. In a contemporary judgement by the Bombay High Court, it was held that evictions under the Senior Citizens Act are not valid if there is no maintenance plea and the requirements of sections 4 and 5 are also not satisfied, reiterating

¹⁷ . *id.* § 8.

¹⁸ . *id.* § 9(3).

¹⁹ . *id.* § 11.

once again that the Act is essentially concerning maintenance and welfare and not an eviction Act per se. Such judicial precedents affect your study: despite the strong powers of the tribunals, their operations must remain grounded within the conceptual framework of elderly safeguard and protection, and not as an alternative dispute resolution method for property-related concerns.

Property and financial abuse: Section 23 and important case law:

Financial exploitation is the most prevalent form of Elder Abuse, including Coerced Transfers, Unlawful use of finances, and Denial of property rights. Section 23(1) MWPC Act specifically tackles the problem by permitting senior citizens to seek that a transfer of property, whether by gift or otherwise, shall be declared null and void, if the transfer was made on the condition that the transferee would give and deliver the basic amenities and physical requirements, and the said condition has been violated. Section 23(2) gives force to the pre-existing residential rights of senior citizens, and together with state laws, directs the tribunals to order the eviction of children or relatives in order to give full force and effect thereto²⁰.

In the case of S Vanitha, the Supreme Court had examined section 23 and held that the transfer made by senior citizens can be contested if the implicit condition of maintenance is not satisfied; also, eviction can be ordered, if necessary, for the sake of their happiness, but the rights of a daughter-in-law under the Domestic Violence Act have to be judged differently. More recently, cases of the revocation of gift deeds, drawn up by mothers in favor of their sons, based on section 23, due to the non-maintenance of the parent by the son, have been recorded in reports of decisions of the Supreme Court, and the necessity of interpreting section 23 in the background of the object of the Act, protecting the honor and happiness of seniors, was emphasized. The High Courts, particularly the Punjab and Haryana and Delhi benches, have also held the orders quashing the gift deed and evicting abusive daughters/daughters-in-law from the homes of senior citizens on multiple occasions, relying on section 23 as a powerful safeguard against property-related abuse of seniors. This jurisprudence demonstrates that the Act offers a real remedy for financial abuse, although this may only happen after the fact and after a lot of damage has been done.

²⁰ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, § 23 (India).*

Limits Related To Psychological And Physical Abuse:

This Act has the strongest language on economic neglect and exploitation of property; however, the language of the Act remains weak when relating to psychological, emotional, and physical abuse. Though section 2(k)²¹ uses the term “welfare,” and courts grant more general protective orders at times, there remains no clear definition of the term “elder abuse,” nor a separate civil protective orders system such as the Domestic Violence Act, and no specific crime defined within the Act related to elder abuse. This leaves physical violence, intimidation, and emotional cruelty to either fall within the purview of the Indian Penal Code and the Domestic Violence Act specifically for older women or fall within the remit of the police in general.

In certain instances, writ petitions filed in the High Court have filled these gaps, and the Court has ordered the police to safeguard senior citizens against harassment and abuse at the hands of relatives under the general benign applications of the MWPSA Act and the protection of life and property under it. Notably, this is ad hoc and specific to each particular case, and there is no overall assessment and monitoring through the MWPSA Act itself. In socio-legal studies and reports, it has been asserted that such a specific application has weakened the overall preventive capacity of the MWPSA Act against all forms of elder abuse.

Interactions In Different Legal Systems:

The preponderant provision in Section 3 of the MWPSA Act indicates that, in the event of a dispute, the MWPSA Act will prevail, but the judiciary has consistently demanded that there should be a balance when considering other protective legislation. In the case of S Vanitha, the Supreme Court indicated that though the Senior Citizens Act is a special act with over-riding provisions, the right to reside, being a right to residency enjoyed by a woman residing in a joint household as a wife, cannot merely be annulled by an eviction decree, and judicial bodies are required to strike a balance between the two rights depending on the circumstances of the case. This was similarly reflected in the interpretation of later decisions rendered by High Courts, which either upheld the right to residency in the absence of gross abuse of seniors or gave primacy to eviction in cases where the activities of the daughter-in-law created a hostile environment for the life of the senior citizen.

²¹ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, § 2(k) (India).*

Criminal law (for example, sections 323, 406, and 506 IPC) (115(2)²², 316(3)²³, 351(2)²⁴ BNS) the Domestic Violence Act, and personal law for maintenance (for example, section 125 CrPC) (section 114²⁵ of BNSS) are still in place alongside the MWPC Act and add to a complex landscape with multiple laws and frameworks that co-exist and often act in isolation from one another. WHO and UN documents recommend a comprehensive and rights-based framework where civil and criminal justice interventions, alongside health and social care systems, join forces for prevention and response to abuse of elders. In contrast, India's framework appears complex and is characterized by multiple provisions dealing with specific aspects: the MWPC Act is relevant for maintenance and property rights; criminal laws pertain to specific offenses; and social welfare provisions are only remotely connected to legal provisions for support and services for elders. The multi-setting nature and multiple laws that exist in this context form a highly relevant theoretical consideration for judging 'effectiveness'.

Societal Attitudes, Caregiving Burden, And Gendered Vulnerability:

The Act also presumes that the responsibility for the elders rests with the children and relatives, adhering to the familial traditions of India, whereas it does not consider the shifting demographics and the effect of migration and economic situations, which puts more burden on fewer relatives. International studies have established that caregiver stress, lack of support, mental health issues, and substance abuse are identified risk factors for elder abuse; however, none of the above are provided for in the MWPC Act. Thus, this act is responsive after the fact, or rather, post-failure situations of neglect and abuse. Vulnerabilities based on gender are also highly pronounced. Senior women are more likely to be widows, own few or no assets, and be dependents of in-laws or sons for residence. They also stand to be highly vulnerable to dispossession and violence. A good number of section 23²⁶ cases pertain to widowhood in connection with an attempt to nullify property transfer that was forced by threats or promises of provision for welfare, whereby courts often reversed such transfer orders or evicted abusers, indicating the potency of this legislation in empowering senior women. Would-be data from NGOs, however, indicates that many senior women do not necessarily turn to judicial platforms because of socialization, economic dependence, and possible disintegration of families.

²² *Bharatiya Nyaya Sanhita, No. 45, Acts of Parliament, 2023, § 115(2) (India).*

²³ *Bharatiya Nyaya Sanhita, No. 45, Acts of Parliament, 2023, § 316(3) (India).*

²⁴ *Bharatiya Nyaya Sanhita, No. 45, Acts of Parliament, 2023, § 351(2) (India).*

²⁵ *Bharatiya Nagarik Suraksha Sanhita, No. 46, Acts of Parliament, 2023, § 144 (India).*

²⁶ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, § 23 (India).*

Preventive Effectiveness: Strengths And Weaknesses:

MWPC Act:

- Enforces a binding duty of maintenance (section 4²⁷) and an accessible tribunal (sections 7-10²⁸), which might prevent some neglect by making the repercussions clearer.
- Offers strong tools for resisting financial abuse under section 23, with robust support from Supreme Court and High Court decisions that overturn abusive transfers and evictions.
- Has been interpreted purposefully by the courts being a rights-securing beneficial statute, which safeguards the dignity and welfare of seniors, going beyond financial pecuniary relief.

However, as a preventive approach, it is affected by the following limitations:

- Under-reporting of abuse cases is severe because of stigma, dependence, and a lack of awareness; hence, few cases ever make it to the tribunals.
- Institutional weaknesses: The capacity of the tribunals, the inefficiency in the system that leads to delays, the lack of enforcement of maintenance orders, and sometimes an overreach of the tribunal
- “Narrow focus on maintenance and property, with little direct attention to psychological, emotional, or physical abuse, no integrated social-care or counseling component, and no data-driven monitoring of risk.”

However, these flaws imply that the Act is quite effective on the individual case level when the application is considered, particularly from the point of view of maintenance and property, but that the prevention of elder abuse is only partly accomplished at the population level.

Developments in policies and policy reform trends:

Proposed reform in the policy debates and recent literature includes the increase or abolition of the ceiling on maintenance; widening the definition of “children and ‘relative’”; improvements in the enforcement machinery; and provision for the formal eviction order while protecting the residency rights of women. There are also some proposals that propose a tighter leash on the

²⁷ Id. § 4.

²⁸ Id. §7. To Id. § 10.

elderly homes under section 19²⁹, improvement in the registration of senior citizens, and development of helpline and outreach services that might better route complaints regarding abuse into the tribunal system.

The WHO and other international agencies have suggested a multi-faceted approach incorporating legal protection, economic security, medical and social services, public education campaigns, and support for caregivers to avoid elder abuse. Transferring these findings to the Indian context would imply: linking social workers and counselors to the tribunals; training presiding Officers of tribunals on the nature of elder abuse; establishing a referral system between tribunals and the Police/Welfare Departments; and incorporating mental and emotional forms of elder abuse in the legislative framework. These legislative and policy interventions would greatly strengthen the socio-legal efficacy of the MWPC Act to prevent elder abuse.

Conclusion:

The MWPC Act of 2007, with its main provisions in sections 4³⁰, 5 to 10³¹, and 23³², and by virtue of judicial precedents such as S. Vanitha and following decisions by the Supreme Court and High Courts, has empowered senior citizens to claim maintenance and residence and to set aside exploitative transfer of properties. At the dispute resolution level, the law remains a powerful antidote against both neglect and financial exploitation. Nevertheless, the absence of a reduced prevalence of elder abuse, the under-reporting, and the narrow focus of the Act on psychological or physical abuse indicate that the Act has a partial preventive effect. The implications of a socio-legal approach, therefore, are that the Act has made a major normative and remedial shift, but in terms of eliminating elder abuse, its prevention is dependent on broader institutional strengthening and social care/human rights frameworks for aging.

²⁹ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, § 19 (India).*

³⁰ *Id.* §4.

³¹ *Id.* § 5 to *id.* §10.

³² *id.* § 23.