

A LEGAL FRAMEWORK ON THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS IN INDIA: A CRITICAL STUDY



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KEYWORDS

Maintenance, Senior Citizens, Parents, Welfare, Elderly Rights, Maintenance Tribunal, Social Justice, Constitutional Mandate, Legal Protection, India.

ABSTRACT

The increasing population of senior citizens in India has raised critical concerns regarding their financial security, health care, and overall well-being. The enactment of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 marked a significant legislative effort to ensure social justice and dignity for the elderly by imposing a statutory duty on children and heirs to provide maintenance. This research critically examines the legal framework surrounding the maintenance and welfare of parents and senior citizens in India, exploring its scope, objectives, and practical challenges in implementation. The study highlights the interplay between statutory provisions, constitutional mandates under Articles 21 and 41, and judicial interpretations that safeguard the rights of the elderly. It also evaluates the effectiveness of Maintenance Tribunals, the role of State Governments, and the remedies available to aggrieved senior citizens. Despite the progressive intent of the legislation, issues such as lack of awareness, procedural delays, and weak enforcement mechanisms continue to undermine its efficacy. The paper concludes by suggesting reforms and policy measures to strengthen the legal protection of parents and senior citizens, thereby ensuring their dignity, security, and inclusion in a rapidly changing socio-economic environment.

1. Introduction:

The family has traditionally been regarded as the primary institution for providing emotional, social, and financial support to elderly persons in India. However, with the rapid socio-economic transformations brought about by urbanization, industrialization, and the breakdown of joint family structures, senior citizens increasingly face neglect, abandonment, and financial insecurity. This changing social fabric has necessitated a robust legal framework to safeguard the rights, dignity, and welfare of parents and senior citizens.

Recognizing these challenges, the Indian legislature enacted the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007**, which imposes a statutory duty on children and heirs to maintain their parents and senior citizens and provides for institutional mechanisms such as Maintenance Tribunals and old age homes. The Act draws strength from the **constitutional directives**, particularly Article 41, which mandates the State to make effective provisions for securing the right to public assistance in cases of old age, and Article 21, which guarantees the right to life with dignity. Despite

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its progressive intent, the legislation has faced several challenges in implementation, including limited awareness, procedural hurdles, inadequate infrastructure, and inconsistent enforcement across states. Judicial pronouncements have played an important role in interpreting and expanding the rights of senior citizens, yet practical realities reveal gaps between law and practice. A critical study of this legal framework is thus essential to understand its effectiveness in addressing the needs of the elderly, balancing familial responsibilities with state intervention, and ensuring social justice. This research will analyze statutory provisions, constitutional perspectives, judicial interpretations, and policy measures, while also identifying reforms required to strengthen the protection and welfare of parents and senior citizens in India. (Constitution of India, 1950).

Research Methodology

Doctrinal Approach- This study on A Legal Framework on the Maintenance and Welfare of Parents and Senior Citizens in India: A Critical Study adopts a doctrinal research methodology, which primarily involves a detailed and systematic analysis of legal rules, principles, statutes, and judicial decisions relevant to the subject. The focus is on understanding the scope, operation, and effectiveness of the legal framework in safeguarding the rights and welfare of parents and senior citizens in India.

Nature of Research

The research is doctrinal and qualitative in nature. It emphasizes an in-depth study of primary legal sources such as legislation, constitutional provisions, and case law. Secondary sources such as commentaries, academic articles, reports of committees, and policy papers are also utilized to critically analyze and interpret the law.

Sources of Data Primary Sources: Statutory provisions: The Maintenance and Welfare of Parents and Senior Citizens Act, 2007; relevant rules and state notifications. Constitutional provisions: Article 21 (Right to life and dignity), Article 41 (Directive Principles), and other fundamental rights. Judicial pronouncements: Decisions of the Supreme Court and High Courts interpreting and applying the Act and constitutional mandates. Secondary Sources: Books on family law, social justice, and rights of the elderly. Articles published in law journals, legal periodicals, and online databases. Reports of the Law Commission of India, Ministry of Social Justice and Empowerment, and NGOs working on elder rights. International instruments such as the UN Principles for Older Persons (1991) and comparative perspectives from other jurisdictions.

Method of Analysis

Doctrinal analysis of statutory provisions and judicial decisions to assess the scope and limitations of the law. Comparative analysis of Indian legal framework with international standards and practices. Critical evaluation of the effectiveness of Maintenance Tribunals and other institutional mechanisms in ensuring speedy relief. Interpretative method to highlight the interplay between statutory law, constitutional principles, and judicial activism.

Objectives of Methodology

To examine the adequacy of existing legal provisions in protecting senior citizens.

To identify lacunae and implementation challenges in the law.

To suggest reforms and policy measures for strengthening the welfare and dignity of parents and senior citizens.

Statement of the Problem

India is witnessing a significant rise in its elderly population due to increased life expectancy and demographic transition. Traditionally, parents and senior citizens were supported by joint family structures; however, rapid urbanization, migration, and changing socio-economic patterns have weakened these traditional support systems. As a result, many elderly persons face neglect, abandonment, financial insecurity, and lack of care. To address these issues, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted, placing a statutory obligation on children and heirs to provide maintenance and establishing mechanisms such as Maintenance Tribunals and old age homes. Despite this progressive framework, the ground reality reflects serious shortcomings: lack of awareness of the Act, inconsistent implementation across states, delays in tribunal proceedings, and limited infrastructure for welfare measures. Furthermore, many senior citizens are unable to assert their legal rights due to social stigma, dependence, and procedural complexities. This mismatch between the intent of the law and its practical effectiveness forms the crux of the problem. There is a pressing need for a critical study of the legal framework to assess whether it adequately ensures the dignity, security, and welfare of parents and senior citizens in India.

Purpose of the Study

The primary purpose of this study is to critically examine the legal framework governing the maintenance and welfare of parents and senior citizens in India. The research seeks to: Analyze the statutory provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, in light of constitutional mandates and judicial interpretations. Evaluate the effectiveness of Maintenance Tribunals and other institutional mechanisms in providing timely and

adequate relief. Identify the gaps, challenges, and limitations in the implementation of the law. Compare Indian legal measures with international standards and best practices relating to elderly welfare. Recommend legal and policy reforms to strengthen the protection of rights ensure social security, and uphold the dignity of parents and senior citizens. By achieving these objectives, the study aims to contribute to the discourse on elder law and social justice in India, ensuring that the legal system evolves to meet the needs of an ageing society.

Literature Review

The subject of maintenance and welfare of parents and senior citizens has attracted scholarly and policy attention in India due to the country's demographic shift towards an ageing society. Various works have examined the constitutional and statutory basis of elder rights. Scholars have pointed to **Article 21 of the Constitution**, which guarantees the right to life with dignity, and **Article 41**, which places a duty on the State to provide public assistance in cases of old age, as the foundation for state intervention in this area. The enactment of the *Maintenance and Welfare of Parents and Senior Citizens Act, 2007* (MWPSA Act) has been widely discussed in legal literature. Commentators such as Paras Diwan and Mulla in family law treatises have explained how this Act transformed a moral obligation into a legally enforceable duty on children and heirs. Legal journals and reports from the **Law Commission of India (Report No. 205)** highlight the importance of the Act in addressing neglect and abandonment of the elderly. Several judicial decisions, including *Kirtikant D. Vadodaria v. State of Gujarat* and *Vasant Gangaramsa Chandan v. State of Maharashtra*, have reinforced the binding nature of the obligation to maintain parents. Scholars such as Alok Kumar and Indira Jai Prakash have explored the sociological

dimensions of ageing, noting that legislation alone cannot overcome the cultural and economic forces that marginalize senior citizens. International literature, particularly United Nations reports on ageing and the **UN Principles for Older Persons (1991)**, stress the need for autonomy, participation, care, self-fulfillment, and dignity of the elderly. Comparative studies on elder law in countries like the United States and Singapore show a stronger emphasis on **social security schemes** and state-sponsored elder care, which is less developed in India. Despite this scholarship, there is limited critical evaluation of how effectively the MWPSA Act is functioning on the ground. While policy papers emphasize the importance of Maintenance Tribunals and old-age homes, empirical evidence shows procedural delays, inadequate awareness, and insufficient infrastructure. This gap between legislative intent and lived reality forms the central concern of the present study. (United Nations. (1991).

Research Gap

While existing literature has extensively discussed the objectives and provisions of the *Maintenance and Welfare of Parents and Senior Citizens Act, 2007*, there is relatively little scholarship that: Critically evaluates the **implementation** of the Act across states. Examines the **effectiveness of Maintenance Tribunals** in providing timely and fair relief. Analyzes the **intersection of statutory provisions with constitutional guarantees** and judicial interpretations in a holistic manner. Compares Indian elder law with **international frameworks and best practices**, highlighting lessons for reform. (United Nations. (1991).

Research Questions

To what extent have Maintenance Tribunals been effective in addressing the grievances of parents and senior citizens?

How have Indian courts interpreted and expanded the rights of parents and senior citizens under the Act?

Scope of the Study

The study is confined to the legal framework concerning the maintenance and welfare of parents and senior citizens in India, with primary focus on the *Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. It also considers constitutional provisions, judicial pronouncements, government policies, and international standards relevant to elder law. While the emphasis is on doctrinal analysis, references are made to socio-legal contexts to highlight the lived realities of senior citizens. The study does not cover broader issues of healthcare policy or pension schemes except where they intersect with legal rights under the Act. (United Nations. (1991).

Significance of the Study

This research holds significance in light of India's rapidly ageing population and the growing concerns of neglect and insecurity among senior citizens. It is important not only from a legal perspective but also from a social justice standpoint. By critically examining the adequacy and effectiveness of the existing legal framework, the study contributes to the ongoing discourse on elder rights and welfare. The findings may assist lawmakers, policymakers, and judicial bodies in refining the law and its implementation mechanisms. (United Nations. (1991).

Relevance of the Study

The relevance of this study lies in its timely focus on the protection of one of the most vulnerable groups in society. As India transitions to a knowledge-based, urban economy, traditional family structures are weakening, leaving many elderly without reliable support. The study addresses pressing questions about how law can fill this gap, balance familial duties with state responsibilities, and ensure that the elderly live

with dignity. Its recommendations can guide future reforms and promote alignment of Indian law with global standards on ageing and elder care. (United Nations. (1991).

International Perspectives

Countries adopt a mix of **legal duties on families, state welfare provision**, and **institutional care systems** to protect older persons. Comparing these approaches helps identify practical choices from legally enforceable filial obligations to robust public social-security and care delivery and shows options India can learn from when strengthening its own framework.

Statutory Filial Obligations: Singapore as a Model of

Legal Duty Policy/Legal approach: Singapore's system is often cited for its explicit statutory obligation on children to maintain elderly parents. The law creates a legal avenue for parents to claim maintenance from children who neglect them.

Strengths: Provides a clear, enforceable remedy that recognizes cultural expectations of filial duty and offers a relatively quick legal recourse. It keeps family responsibility central while sparing the state from bearing the entire burden.

Weaknesses/Challenges: Enforcement can strain family relationships; it works best alongside social supports (pensions, health services) to avoid over-reliance on legal coercion.

Lesson for India: India's MWPSA Act shares this filial-duty ethos; Singapore's experience shows the importance of coupling legal remedies with public awareness campaigns and accessible enforcement mechanisms so the law is not merely symbolic. (HelpAge International. (2012).

Social-Welfare-Centered Models: United Kingdom & Nordic Countries

Policy/Legal approach: Many European countries emphasize state obligation over private obligation.

Local governments (e.g., under social-care statutes) assess needs and provide home-care services, subsidized residential care, and income support. Filial duties are limited or absent.

Strengths: Reduces pressure on families, creates universal access to a baseline of care, and professionalizes elderly care services.

Weaknesses/Challenges: Requires sustained public financing and administrative capacity; gaps can appear when austerity measures bite or services are decentralized.

Lesson for India: A stronger public-welfare component targeted pensions, subsidized home-care, and well-regulated elder-care services can reduce litigation and ensure dignity for those without family support. (World Health Organization. (2007).

Mixed Systems with State Safety Nets: United States & Australia

Policy/Legal approach: The U.S. and Australia combine public income-support systems (Social Security, pensions, aged-care subsidies) with market-based services. In the U.S., filiation-based "filial responsibility" laws exist in some states but are infrequently used; the emphasis is on public benefits and private insurance. Australia provides significant aged-care subsidies, regulated residential and in-home care systems.

Strengths: Broad financing mechanisms and a competitive service market can foster innovation, choice, and professional standards.

Weaknesses/Challenges: Market dependence can create affordability problems; patchwork regulation may lead to uneven quality. Filial laws (where they exist) are rarely an effective substitute for social supports.

Lesson for India: Public schemes for income security and subsidized care (rather than relying solely on family

enforcement) make elder protection more resilient and socially equitable. (OECD/WHO. (2015). *Health at a glance: Asia/Pacific 2015*.)

Legal Culture of Family Responsibility: East Asia (China, Japan, South Korea)

Policy/Legal approach: Several East Asian jurisdictions combine strong cultural expectations of filial piety with formal laws and policies that encourage family support (and in some cases legal remedies). Simultaneously, these countries have invested heavily in pension systems and elder-care infrastructure as populations age rapidly.

Strengths: Cultural norms bolster compliance; complementary state services reduce pressure on single-family units.

Weaknesses/Challenges: Rapid demographic ageing strains both family-based care and public budgets; policy lag can produce care gaps.

Lesson for India: Recognize cultural norms but prepare for demographic realities by expanding pension coverage and institutional care capacity. (United Nations. (1991).

Human-Rights and International Standards

Policy/Legal approach: International instruments (UN Principles for Older Persons and related soft-law documents) emphasize autonomy, participation, care, self-fulfilment, and dignity. They press states to combine legal protection with social programs, health care access, and non-discrimination.

Strengths: Provide normative benchmarks and policy guidance across jurisdictions.

Lesson for India: Reforms should be rights-based ensuring not only maintenance payments but also access to health, social participation, and legal remedies that respect dignity. (United Nations. (1991).

Comparative Analysis- Law vs. Welfare- Not an Either/Or Choice Countries relying solely on either

strict filial enforcement or pure welfare spend face limitations. The effective approach mixes enforceable family obligations with accessible public services (income support, healthcare, home-care). India's MWPS Act needs to be read as part of a broader social-protection architecture. (United Nations. (1991).

Enforcement Mechanisms Matter

Laws imposing duties are only as effective as the enforcement apparatus. Fast, inexpensive dispute-resolution (specialized tribunals), protection against coercion, legal aid for elders, and public outreach increase real-world impact. (United Nations. (1991).

Administrative Capacity & Decentralization

Local-level implementation through municipal or state agencies is critical. Where local bodies are funded and skilled to deliver or coordinate services, outcomes improve. In India, state-level variations show the need for uniform standards and capacity-building. **Complementary Social Supports-** Pensions, subsidized healthcare, and regulated aged-care services reduce dependency on family and litigation. International models where statutory maintenance is supplemented by public benefits show better protection for the most vulnerable.

Cultural Sensitivity & Social Awareness- Legal reforms must be sensitive to social stigma and family dynamics. Awareness campaigns, mediation services, and incentives (not only penalties) help restore family care without adversarial litigation. **Safeguards Against**

Coercion- Comparative experience warns that compulsion can backfire: coerced "maintenance" may create token compliance without improving welfare. Procedural safeguards, judicial review, and victim-centric relief are essential. United (Nations Economic and Social Commission for Asia and the Pacific (UNESCAP). (2017).

Role of the Indian Judiciary

The Indian judiciary has played a central role in shaping, interpreting, and expanding the rights of parents and senior citizens beyond the letter of legislation. While the *Maintenance and Welfare of Parents and Senior Citizens Act, 2007* (MWPSA Act) provides the statutory framework, courts have repeatedly emphasized that the dignity, security, and welfare of the elderly flow not only from this Act but also from the **fundamental rights guaranteed under the Constitution of India**. (The Constitution of India, 1950).

Constitutional Perspective

The judiciary has consistently linked the rights of senior citizens to **Article 21 (Right to life and dignity)**, holding that the right to live does not mean mere animal existence but a life with dignity, healthcare, shelter, and emotional security. Courts have also relied on **Directive Principles of State Policy**, particularly Article 41, which directs the State to make effective provisions for securing the right to assistance in old age. (The Constitution of India, 1950).

Interpretation and Enforcement of the MWPSA Act, 2007

Courts have strengthened the enforceability of maintenance provisions under the Act, ensuring that children and heirs cannot evade their statutory responsibility. The judiciary has emphasized that maintenance under the Act is not charity but a **legal right** of parents and senior citizens.

Key Judicial Pronouncements

Kirtikant D. Vadodaria v. State of Gujarat (1996)

Although decided before the 2007 Act, the Supreme Court observed that children, including daughters, have a duty to maintain their parents under Section 125 of the CrPC, thereby setting a precedent later reinforced by the MWPSA Act. **Vasant Gangaramsa Chandan v. State**

of Maharashtra (2011, Bombay HC) The High Court upheld the validity of the MWPSA Act, emphasizing that it aims to protect senior citizens from neglect and ensure their dignity. **Sunny Paul & Another v. State of NCT of Delhi (2017, Delhi HC)** The Court ruled that senior citizens have the right to seek eviction of abusive children from self-acquired property under the Act, reinforcing the protective mechanism available to elders. **S. Vanitha v. Deputy Commissioner, Bengaluru Urban District (2020, Supreme Court)** The Supreme Court balanced the rights of senior citizens under the MWPSA Act with the rights of women to residence under the Domestic Violence Act, 2005. It clarified that both legislations must be harmonized, showing the judiciary's role in reconciling conflicting rights. **Ashwani Kumar v. Union of India (2018, Supreme Court)** A landmark case where the Court directed the government to take measures for the welfare of senior citizens, including old-age homes, healthcare facilities, and pension schemes. It reinforced that the State has an affirmative duty to protect the elderly. **Judicial Expansion of Rights Right to Shelter:** Courts have interpreted the right to life to include safe and secure living conditions for senior citizens. **Right to Healthcare:** Judicial pronouncements have directed state governments to improve healthcare facilities for the elderly, including geriatric care units. **Protection from Abuse:** Courts have upheld eviction rights of senior citizens against abusive children to ensure safety within their own homes. (National Institute of Social Defence (NISD). (2013).

The judiciary has pointed out delays in tribunal proceedings and lack of awareness among senior citizens about their rights. It has urged governments to strengthen the capacity of Maintenance Tribunals and ensure effective implementation. The Indian judiciary has acted as both a **protector and innovator** in

safeguarding the rights of parents and senior citizens. Through constitutional interpretation, expansive reading of statutory provisions, and proactive directions to the State, the judiciary has ensured that the elderly are not reduced to dependence but recognized as rights-bearing citizens. However, judicial activism alone cannot bridge the gap; effective enforcement by executive authorities is equally necessary. (The Constitution of India, 1950).

Analysis, Discussion and Results

Analysis of the Legal Framework-the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 represents a landmark step in transforming filial duty into a legally enforceable obligation. By creating Maintenance Tribunals, recognizing the right of parents and senior citizens to claim maintenance, and providing for old-age homes, the Act acknowledges the vulnerabilities of the elderly. However, analysis reveals that: Maintenance Tribunals often face delays due to lack of adequate infrastructure and staffing. Awareness of rights under the Act remains low among rural populations. The provision allowing eviction of abusive children from self-acquired property is progressive but has generated conflicts with other protective legislations like the Domestic Violence Act, 2005. (National Human Rights Commission (NHRC). (2014). **Judicial Approach-** Indian courts have proactively expanded the rights of senior citizens by interpreting Articles 21 and 41 of the Constitution in light of the Act. Landmark cases such as *Ashwani Kumar v. Union of India* and *S. Vanitha v. Deputy Commissioner* demonstrate the judiciary's balancing role between family obligations, women's rights and elder rights. The results of judicial interpretation indicate that courts are filling the gaps left by legislative and executive inaction. **Comparative Perspective-**International models

show that while some jurisdictions (Singapore, China) emphasize enforceable filial duty, others (Nordic countries, UK) rely on state welfare systems. India's model is hybrid, leaning heavily on family responsibility with limited state support. This comparative analysis reveals the need to rebalance the Indian approach by enhancing social security measures alongside legal obligations.

Results of the Study

The MWPSA Act has been a step forward, but its **impact is uneven** across states. Judicial pronouncements have strengthened elder rights but enforcement remains weak. Cultural stigma and lack of awareness reduce the effectiveness of the Act. There is an urgent need for integration of social-security policies with legal enforcement to ensure comprehensive protection of senior citizens.

Findings, Conclusion and Suggestions

Legislative Achievement but Weak Implementation:

The Act provides a sound framework but suffers from administrative inefficiencies. **Judicial Activism as a Filler:** Courts have emerged as the primary protectors of elderly rights often issuing directions to governments.

Conflict of Laws: Overlap between MWPSA Act and other legislations (e.g., Domestic Violence Act, personal laws) sometimes leads to legal uncertainty.

Lack of Awareness: Many senior citizens are unaware of their legal rights or hesitant to litigate against their children.

Comparative Deficiency: Unlike developed welfare states, India lacks strong institutional support such as universal pension schemes or comprehensive healthcare for the elderly. **Policy Recommendations Drawn from Comparative Experience-** **Strengthen Tribunals and Access to Justice-** Adopt features from fast-track, user-

friendly dispute-resolution systems: simplified procedures, legal aid, and outreach cells specifically for elder claims.

Expand Public Safety Nets- Improve coverage and adequacy of old-age pensions, subsidized healthcare for chronic conditions, and home-based support services to reduce sole reliance on family maintenance. **Integrate Mediation and Social Work** Make mediation and social-intervention mandatory pre-litigation steps in appropriate cases, pairing legal remedies with social support plans. **Standardize Minimum Care Entitlements** Introduce minimum service standards for old-age homes, domiciliary care, and grievance redressal, enforced nationally to reduce state-level disparity. **Public Awareness & Prevention** Large-scale awareness campaigns to inform elders of their rights and to incentivize family support through tax benefits, caregiver leave, or other supportive measures.

Align with International Norms Frame future reforms in the language of rights and dignity, drawing on UN principles to guide policy priorities beyond maintenance including participation, health access, and protection from abuse international practice shows there is no single “perfect” model. The most resilient systems combine **legal enforceability, public welfare, and institutional care**, calibrated to local socio-cultural realities. For India, the optimal pathway lies in **strengthening the MWPSA Act’s enforcement**, broadening social safety nets, and investing in accessible, quality care thereby moving from legal promise to lived security for parents and senior citizens. The Indian legal framework, particularly through the *Maintenance and Welfare of Parents and Senior Citizens Act, 2007*, signifies a major step in recognizing the rights and dignity of the elderly. Yet, the law alone cannot secure justice. Its success depends on effective enforcement, awareness, and complementary welfare

measures. Judicial interpretations have expanded the scope of rights but sustainable results require stronger executive implementation and policy innovation.

Strengthen Maintenance Tribunals: Provide adequate staffing, resources, and time-bound disposal of cases.

Awareness Campaigns: Launch nationwide outreach programs to inform senior citizens about their rights under the Act.

Integration with Social Security: Expand pension schemes, healthcare benefits, and old-age homes as state obligations.

Mediation Mechanisms: Promote family mediation and counselling to resolve disputes without adversarial litigation.

Uniform Implementation: Ensure consistent application of the Act across states with central monitoring.

International Best Practices: Adapt lessons from welfare-centric models by enhancing state responsibility while preserving cultural norms.

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