

Maintenance And Welfare Of Parents And Senior Citizens Act 2007: A Critical Appraisal With Special Reference To The Bill Of 2019

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ARTICLE INFO ABSTRACT

Growing liberalism, capitalism, and the breakdown of families are contributing to an alarming rise in geriatric difficulties. India's population of people aged 60 and more has increased from 19.8 million in 1951 to 76 million in 2001, and it is expected to reach 100 million in 2013 and 198 million in 2030. Abuse and violence against the elderly are growing in prevalence alongside the elderly population. In an effort to curb young people's unfair treatment, the government of India has instituted a number of new policies. Unfortunately, the provisions enumerated in the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 look good only on paper and do nothing to stop the growing marginalisation and risks that the elderly confront. In any case, the Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill, 2019 has been tabled to do away with such problems.

This study examines the plight of the elderly in contemporary society and seeks to evaluate the efficacy of the Maintenance and Welfare of Parents and Older People Act, 2007 in light of the abuses experienced by this demographic. Furthermore, it will compare the Act of 2007 with the recently introduced Bill of 2019 to evaluate the likelihood of the Bill of 2019 being effective if implemented.

KEYWORDS: Elderly, Laws for elderly, Effectiveness, Comparison

Introduction:

Due to rising life expectancy and declining fertility rates, India's population of elderly persons (those 60 and above) is fast growing. From 8.6% (10.38 crores) in 2011 to 14.9% (23 crores) in 2036, it is anticipated to rise (Velayutham et al, 2016). In 2050, it's anticipated to be close to 19% (31.9 crores). As a result, the resources and support mechanisms that are currently accessible to elderly adults will be greatly impacted by this predicted rise in population. With the high prevalence of physical and mental health problems in this age range, it could overload the health and social care systems for older residents (Sathya, 2020). According to a 2016 Agewell Foundation study on the financial situation of older adults in India, four out of every five of them are depending on their family (children and other relatives) for their financial needs, even though two-thirds of them were experiencing a financial crisis (Agrawal S., 2012). However, during the past forty years, support systems for the elderly have been declining while their dependency ratio has increased (Soneja S. 2011).

More than 65% of Indian seniors rely on others for daily upkeep, according to the government of India's Situation study of the elderly in India report from 2016. Older ladies are more vulnerable to this condition than older guys. Delhi has a dependency ratio of 10.4%, and Kerala has a dependency ratio of 19.6% (Panruti et al., 2015). According to the first-wave report of the Longitudinal Ageing Study in India (LASI), the aged are more likely to experience frailty, sensory and cognitive impairment, mental health problems, and functional activity impairment. These problems could potentially raise a person's susceptibility to abuse (Issacc et. al., 2021). The maintenance requirements and welfare of the elderly become a crucial concern that must be addressed in this regard (LASI, 2020). The Maintenance and Welfare of Parents and Older People (MWP) Act of 2007 thus becomes a crucial tool to partially fill in these gaps. The provisions of this Act and the relevant legal and social issues will be covered in this article. The development of legal protections for senior citizens The Vienna International Plan of Action on Ageing, 1982; United Nations Principles for Older Persons, 1991; and The Madrid International Plan of Action on Ageing, 2002, are just a few examples of UN global initiatives on ageing that have pushed for the necessity of legislative and policy measures to safeguard senior citizens and advance

their well-being. Some international initiatives have India as a signatory. The responsibility to promote the welfare of older residents has been made possible by Article 41 of the Indian Constitution, which is a guiding principle of public policy (Khanna. 2019).

In order to ensure that older people live lives filled with meaning, dignity, and tranquilly, the Indian government established a national strategy on older people in 1999 (Ministry of Social Justice & Empowerment, 2018). Legal safeguards are necessary to ensure successful execution of the essential issues this programme addresses, including financial protection, housing, health care and nutrition, and welfare (Sathya & Prem, 2020).

• **The Maintenance and Welfare of Parents and Elderly Persons (MWP)**

The Indian Parliament passed the MWP Act, 2007, in December 2007. The Act is comprised of 32 sections with 7 chapters. Every Indian citizen who is 60 years of age or older is considered to be a senior citizen. The Act addresses concerns regarding the upkeep of parents and senior citizens, the development of old-age homes for elderly people in need of assistance, provisions for enhancing senior citizens' access to health care, and safeguards for their lives and property. Senior citizens' dignity and wellbeing depend on these concerns. The following section provides a summary of the key Act provisions and pertinent topics (Ministry of Social Justice & Empowerment, 2018).

• **Parental and senior citizen maintenance**

The traditional family structures in India uphold the value and significance of parents and senior persons while fostering social cohesiveness. When their parents are unable to sustain themselves, it is assumed that their children will do so. The Code of Criminal Proceedings, 1973, however, contains a provision in section 125 (clause IV) that allows parents to request maintenance from their children if necessary. Relief from omission is provided in this section. If a person with sufficient resources neglects or refuses to support his or her parent(s) who cannot support themselves, the magistrate may order that person to make a monthly maintenance payment. It is quite uncommon for parents and older persons to invoke this provision, and if they do, it will probably involve a protracted court process.

Families have been impacted negatively in numerous ways by social developments like urbanisation, industrialisation, and migration. The elderly may have been neglected as a result, prompting the creation of legislative mechanisms to help them obtain maintenance support from offspring. The provision to obtain maintenance assistance through the tribunal (notified as assistant commissioner/sub-divisional officer of the state) with the powers of a Civil Court under this Act has been made possible by the MWP Act, 2007. Because a barrister is no longer required to represent the case, the process of requesting maintenance has been made simpler by this Act. Another choice is for a legitimate representative or group to file the complaint. The complaint may also be admitted by the panel on its own motion. It requires the complaint to be resolved within a certain amount of time, with the potential of obtaining temporary relief and appealing to the appellate authority (district magistrate).

The Act made it possible to obtain maintenance from family members who are entitled to inherit the property even if they are childless (Ministry of Social Justice & Empowerment, 2018). Also, there is an option for using a conciliation officer's help to facilitate a mutually agreeable resolution (Sathya & Prem, 2020).

Problems and Difficulties in Obtaining Maintenance Assistance

• **Financial Support Allowed for Maintenance**

The limitation of Rs. 10,000 as the maximum amount of maintenance that may be claimed each month is an essential restriction of this clause. The imposition of a ceiling amount is arbitrary and makes it difficult for people with greater economic capacity to obtain an adequate maintenance amount. This will make people less likely to use this provision's relief provisions (Agewell, 2020).

• **Stigma and a lack of awareness**

Many elderly people are unaware of this clause and the MWP Act, 2007, in general. LASI reports that 12% of the elderly are aware of the Act even after a decade of its implementation (Khanna. 2019). The elderly are also likely to hesitate to seek relief even if they have awareness about the Act due to the perceived stigma in complaining formally about their children (Sathya & Prem, 2020). Senior citizens with physical or mental incapacity may not get adequate assistance to seek relief through this provision. There are also limitations in access to justice for those living in institutions such as senior citizens homes (Taylor, 2014).

• **Administration of Justice**

The senior administration officials, who have many other competing priorities and obligations, are responsible for giving maintenance relief under this rule. In contrast to the guidelines for Mental Health Review Boards under the Mental Health Care Act of 2017, there aren't any specific tribunals with the primary responsibility of putting this Act into practise. On the other hand, if sufficient budgetary resources are not allotted by the Government, permitting a trustworthy system for implementation of this Act will have major economic ramifications that could represent a barrier by itself for effective implementation (Ministry of Social Justice & Empowerment, 2018). Due to the difficulty of concluding the tribunal proceedings in these circumstances,

obtaining justice in instances governed by the MWP Act, 2007, involving children who reside abroad presents significant difficulties. There might be practical difficulties when talking to the kids. Additionally, the amendment bill from 2019 stipulates that maintenance should be determined by taking into account both the children's income and (a) the standard of living and wages of the parent or elderly adult. If the children are abroad, there will be practical problems with them providing correct salary information and challenges determining the standard of life of the elderly, which will frequently result in a mismatch. The system's capacity to guarantee prompt implementation of the tribunal's ruling and the availability of administrative support for older persons in the event of a default or unwillingness to abide by the maintenance order presents another significant obstacle.

• Delay in Supreme Court Appeals' Completion

The delay brought on by the pending appeals in the High Courts and Supreme Court of India may interfere with the prompt conclusion of trials in certain matters (Ministry of Social Justice & Empowerment, 2018). The need for necessary precautions for all parties involved in putting the MWP Act of 2007 into effect could be the cause of this delay (Sathya & Prem, 2020). Seniors with little financial resources will be at a disadvantage if the case goes to the High Court or Supreme Court on appeal. If older citizens are in need of legal aid, the Legal Services Authorities Act of 1987 offers free representation.

Construction of Old-Age Houses

The MWP Act, 2007, Chapter III, and Sections 19(1) and (2) address the issue of the necessity for old age facilities for elderly poor people and a plan for their management. Because "may" was used in place of "must" in the sections of the MWP Act, 2007, there is no provision holding the State executive responsible for carrying out these provisions (Ministry of Social Justice & Empowerment, 2018). It's possible that leniency resulted from inadequate acknowledgment of the need for residential care from a rights-based perspective and from worries about governments' financial ability to offer such care.

The "Right to Shelter" has been upheld by the Indian Supreme Court in a number of rulings as one of the essential rights guaranteed by Article 21 of the Indian Constitution. This point is emphasised in Article 25 of the Universal Declaration of Human Rights. This part needs to be strengthened more in future editions of the MWP Act, 2007.

The bulk of senior housing facilities are run by private businesses or nonprofit trusts. Certain individuals receive a grant-in-aid from the Indian government or the relevant state government. The state governments only directly oversee a very small number of old age institutions (LASI, 2020).

• Difficulties and Problems with Older Houses

According to the proceedings of the Public Interest Litigation (PIL) Dr. Ashwani Kumar versus Union of India and others (Writ petition (C) No. 193 of 2016), the MWP Act of 2007 requires the state governments to establish at least one old-age home in each District to house 150 senior citizens who are indigent. There is no efficient system to allow senior persons who need entrance to an old-age home quick access. There is no set procedure for guaranteeing the standard of care in nursing homes and defending the rights of senior persons. Even in environments with far better resources and monitoring procedures, there is a considerable risk of elder abuse in institutions lacking a sufficient structure for quality assurance and safety. The Royal Commission on Aged Care Quality and Safety in Australia's recent report made note of this (Sathya & Prem, 2020).

Supporting Elderly Persons' Medical Care

Due to the increased frequency of physical and mental health disorders, health care is one of the key concerns for senior adults. The MWP Act of 2007 addressed this in Chapter IV in recognition of the significance of this feature. This Act has made it necessary to provide a suitable number of beds, separate lines, facilities for managing chronic, terminal, and degenerative illnesses, and to promote research and improvement of institutions specifically designed to care for the elderly.

Age-Related Health Care National Program

In order to enhance the medical treatment of older citizens, the Government of India's Ministry of Health and Family Welfare launched the National Plan for the Health Care of Elderly (NPHCE) in 2010-2011. Two national centres for ageing and 20 regional geriatric centres have been approved through this scheme. This will encourage the growth of specialist medical professionals and senior-focused tertiary care facilities. Additionally, this programme encourages district- and community-level geriatric healthcare (Mehra. et.al., 2019).

LASI

The MWP Act, 2007, which placed a strong emphasis on encouraging geriatric health care research, helped to pave the way for the LASI, a sizable population-based longitudinal study with an ageing focus. To enable cross-national comparisons on social and health issues, this study was designed after the Health and Retirement studies that are now being conducted in numerous nations. Data from the representative population of 31,464 senior people aged 60 and over, including 6749 people aged 75 and over, from 35 states and union territories

across India are included in the report from the LASI 1st wave (2017–2018), which was recently issued in 2020. (except Sikkim). This study has provided data on demographics, chronic medical conditions, sensory impairment, mental health problems, functional impairment, and other significant socioeconomic issues at the national and state levels (LASI, 2020).

Facilities for Terminal, Degenerative, and Chronic Diseases

Chronic, fatal, and degenerative diseases like stroke, dementia, cancer, and renal failure are very common among elderly people. Patients need suitable treatment and care facilities, such as palliative care and long-term care facilities, which should be accessible, inexpensive, and equipped with the necessary infrastructure and qualified staff. Some industrialised nations offer access to these facilities as a universal benefit or through means-tested qualifying requirements under the health and social care services. The Ayushman Bharat Pradhan Mantri Jan Arogya Yojana has enhanced access to hospital-based healthcare for those in India with inadequate financial means (PMJAY). The creation of home-based care and support services is urgently needed to ensure the dignity, wellbeing, and high quality of life for the elderly (Agewell, 2020).

Protection of Property and Life

Elderly people who live alone or have physical or mental limitations are more likely to be physically and financially abused. The MWP Act of 2007's Chapter V addressed this problem. The MWP Act of 2007's Section 23 protects the interests of older citizens who sell their property by requiring the transferee to provide ongoing care and protection for them after the transfer. The senior person has the right to reclaim the property by asking the tribunal to declare this transfer null and unlawful if the transferee fails to offer the required support in accordance with this requirement.

Many cases have been filed under this clause as a result of the widespread attention this provision has received. According to a recent ruling by the High Court of Karnataka, this rule does not permit reclaiming property if the transfer occurred as part of a selling transaction (Khanna. 2019).

Police's Role

By outlining the responsibility of the police, Rule 20 under this chapter has given an action plan for the implementation of this provision. Each police station is required by this order to keep a list of all senior residents who reside there, with a focus on those who are living alone. In order to facilitate prompt aid when necessary, it has also mandated regular connection with senior persons through social workers or volunteers. The implementation of this rule has continued to be insufficient in light of the police department's resource constraints (Sathya & Prem, 2020).

Court Intervention for the MWP Act's Efficient Implementation

The MWP Act, 2007, must be implemented effectively in order to guarantee the fulfilment of the fundamental and statutory rights of senior citizens, such as the Right to Live with Dignity, the Right to Health, and the Right to Shelter, as stated in the PIL filed in the Supreme Court of India—Writ Petition No. 193/2016 (Dr Ashwani Kumar versus Union of India and Others). All of the state governments and union territories, as well as the Union of India, are respondents in this PIL. The Supreme Court stressed the necessity for ongoing and routine oversight in its decision from December 13 in order to ensure that the MWP Act, 2007, is implemented effectively and to make it easier to advance elderly citizens' well-being (Ministry of Social Justice & Empowerment, 2018).

Legal Services Authority's Function

Senior persons and other weaker members of society now have access to free legal representation thanks to the Legal Services Authorities Act of 1987. There is a well-established framework to offer free legal help and advice in boosting access to justice and the government's welfare policies through the District Legal Services Authority. The 2016 NALSA (Legal Services to Senior Citizens) Programme was created expressly to support senior persons' access to legal and welfare services. Under this programme, the legal services authorities at different levels have increased knowledge of the MWP Act, 2007, and other government welfare programmes for older residents. Panel Advocates have helped in the preparation of the draught complaint and representation notwithstanding the limitations on the appearance of a lawyer under this Act. Volunteer paralegals have helped with the tribunal representation (Agewell, 2020).

Elder Abuse: Legal And Social Aspects

Elder abuse is one of the main issues with public health and is regarded as a serious breach of human rights. Many subtypes of elder abuse exist, including psychological, physical, financial, sexual, and neglect. According to a recent meta-analysis by Cyrus et al. (2017), the global prevalence of elder abuse in population-based studies and third party- or caregiver-reported research, respectively, is estimated to be 10% and 34.3%, respectively. According to prevalence estimates, one in six senior persons will likely experience elder abuse. Studies conducted in India have also revealed a high prevalence of elder abuse. According to Mehra et al study's on prevalence, 12. 41.6% of older people report experiencing abuse. The prevalence of abuse is reported to be 25.6% in other recent research by Panruti et al. and Sathya et al., with psychological abuse being the most common

type. According to studies by LASI (Panruti et al., 2015), 5% of elder abuse cases occurred in the previous year. Abuse is probably more commonplace among people with disabilities or those who reside in institutions. Sons, daughters, and other family members are the principal elder abusers. The most prevalent types of abuse are psychological and financial. Both legal and societal issues must be addressed in this (Ministry of Social Justice & Empowerment, 2018).

One of the crucial legal steps to offer redress to senior citizens experiencing abuse is the MWP Act, which was passed in 2007. Seniors who are the victims of elder abuse will benefit greatly from the effective execution of this Act's provisions, including the modifications suggested in the amendment. But, in many other situations of elder abuse, this Act might not be able to offer redress.

The social safety net must be significantly strengthened in order to stop elder abuse and offer support and justice to those who have been harmed. In order to seek justice if they endure abuse, senior folks require understanding and guidance. To encourage intergenerational relationships, the promotion of awareness must concentrate on the younger generation. The number of cases brought under the MWP Act, 2007, across the nation, reveals a lack of knowledge, restrictions, and difficulties for elderly residents in accessing justice.

If there are misunderstandings between family-carers, provisions of the Act may potentially be abused. The ongoing COVID-19 pandemic presents a need for early implementation of the 2019 amendment to the MWP 2007 Act because it is likely to cause social isolation, difficulty accessing pensions, legal and welfare measures, and significant financial strain that will significantly increase the prevalence of elder abuse. To reduce elder abuse in the future, all parties involved must work together and consistently.

Global Comparisons of Older Persons' Social Protection Laws

Global population ageing is a reality. The development of laws, programs, and policies to protect the welfare of senior adults has benefited from the development of global ageing initiatives in many nations. A number of nations, including China, Bangladesh, and Singapore, have laws that are comparable to the MWP Act of 2007, which requires offspring to fulfill their filial obligation to assist and maintain senior citizens. The laws' purview, their methods of application, and the consequences if the kids don't fulfil their obligations vary. Numerous industrialised nations, like Australia, the United Kingdom, Sweden, and Norway, have well-established systems for the social care of older residents. These nations also have laws guaranteeing these citizens' rights to access publicly financed social services. The social care systems differ between nations (Khanna, 2019). These could be insurance-based, universal, or means-tested. Regulations, quality standards, and the extent to which care is provided at home as opposed to in a facility vary among nations (Ministry of Statistics and Programme, 2016).

Linkage with the 2017 Mental Health Care Act (MHCA)

The 2017 MHCA takes into account the function of Nominated Representatives (NRs), who are in charge of making choices on behalf of the patient. The patient has the authority to determine the NRs, which typically include the patient's spouse or children in the case of elderly patients (Ministry of Social Justice & Empowerment, 2018).

The MWP Act of 2007 is the sole law that recognises the caring function from the nearest of kith and kin, therefore there could be a problem if the elderly nominate a nonfamily member as NR.

This element must be considered, particularly when the NR is a friend or distant relative and the older person's children or grandchildren are unfriendly to or estranged from them despite the fact that they are legally responsible for their welfare under the MWP Act of 2007 (Ministry of Law and Justice, 2017).

Seniors living in residential care facilities may have a high percentage of mental health disorders like dementia. The requirements for mental health facilities may be difficult for senior citizen residential care facilities to meet. The MWP 2007 Act faces a number of practical obstacles, such as difficulty with calculating and providing monthly maintenance, issues with establishing up maintenance tribunals with regular sittings, and issues with elderly people's lack of knowledge. The successful implementation of the Act is frequently hampered by a number of cultural and psychosocial factors, such as stigma and inadequate KAP (Knowledge, Attitude, and Practice) on the side of the elderly and their family. Additional problems include the old person's death or separation from their spouse for social reasons, which would make it difficult to continue paying maintenance.

The following are some of the key responsibilities of a mental health professional (MHP):

1. Before invoking the MHCA 2017 Act, MHP should be well-aware of the MWP 2007 Act's implications for treatment.
2. After early detection of potential neglect of senior care, MHP can inform family members about the MWP 2007.
3. MHP should also advise the elderly on how to get legal aid and how to ask for assistance if they require it when appearing before the maintenance tribunal.
4. When an elderly person is identified as being vulnerable, MHP should collaborate actively with the executive and judicial branches and offer suggestions and workable solutions.
5. MHP should actively participate in MWP 2007 Act information dissemination in public forums, lectures, panel discussions, etc. to encourage his peers in other specialties to make use of this crucial provision.

In view of the above position, the parliament has come up with the Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill, 2019

• Features of the Bill

The Bill redefines children to include stepchildren, adopted children, children-in-law, and adults who are the legal guardians of young children.

According to the Act, Maintenance Tribunals may order kids to give their parents a maximum of Rs 10,000 per month in maintenance payments. This maintenance fee cap is eliminated by the Bill.

The Maintenance Tribunal's rulings may be appealed by older persons under the Act. The Bill empowers children and relatives alike to appeal decisions of the Tribunal.

The Bill states that the Tribunal may issue a warrant to levy the required amount if the children or relatives refuse to comply with maintenance orders. Failing to pay such a fine may result in up to one month in jail, or until the fine is paid.

The bill calls for the regulation of institutions that offer home care services as well as private facilities for senior adults.

• Critical Points and Analysis

Administrative officers will preside over Maintenance Tribunals in accordance with the Act. The amount of support that children and other relatives must pay to older residents will be decided by the Tribunals. According to the proposed legislation, the maintenance payment will be determined by (i) the standard of living and income of the parent or senior, and (ii) the income of the children. Administrative officers could lack the judicial knowledge necessary to calculate the maintenance payment due.

The necessary funding for putting the Law into effect must come from state governments. This covers the establishment of Maintenance Tribunals and the regulation of private care facilities. The Bill's implementation can be hampered if states lack the necessary funding.

The Act and Bill neither define home care services. It should be noted that home care services can include everything from cooking and cleaning to giving IV drips. Which services will be labelled and regulated as home care services is not yet known.

i. Highlights of the Bill

In India, those over 60 make up 8.6% of the population as per the 2011 Census, and by 2050, that percentage is expected to rise to 21%. Older citizens can now benefit from financial security, welfare, and protection according to the 2007 law known as the Maintenance and Welfare of Parents and Elderly Persons Act. The government must establish old age homes and guarantee older residents' access to healthcare, and children must maintain their parents. To assure upkeep, it establishes Administrative Tribunals and Appellate Tribunals.

There have been several cases involving the Act. Interestingly, the Punjab and Haryana High Court carefully reviewed the Act and asked the federal government to reconsider certain of its unclear clauses. The Court also overturned the prohibition on legal counsel by interpreting the Act to indicate that either party may appeal an administrative tribunal's ruling. This Bill changes the 2007 Act to include more definitions of children, relatives, and parents, abolish the cap on the amount of support that children and relatives can pay for a parent, and include care facilities and other senior welfare programmes (Trivedi, 2022).

• Key Features

Table 1 indicates the key changes proposed by the Bill.

Table 1: Differences between the Act and Bill Provision	Maintenance and Welfare of Parents and Senior Citizens Act, 2007	Amendments proposed by the Maintenance and Welfare of Parents and Senior Citizens(Amendment) Bill, 2019
Definitions		
Children	Children includes both children and grandkids, but does not include younger children.	Includes stepchildren, adopted children, children of the spouse, and children of the spouse's previous relationship, as well as the legal guardian of minor children.
Relatives	A senior citizen without minor children is said to have a relative if he or she has a legal heir who possesses or would inherit the senior citizen's property following the senior citizen's death.	Includes children and teenagers under the scope of the definition. Their legal guardians would act as their representatives in this matter.
Parents	Parents can come in a variety of forms, including biological, adoptive, and step.	Includes in-law parents as well as grandparents.

Maintenance	The supply of food, clothing, a place to live, as well as medical treatment and attendance are all components of maintenance.	The term is expanded to encompass the provision of healthcare, safety, and security so that parents and senior persons can live dignified lives.
Welfare	The provision of food, medical treatment, and any other essential facilities for senior folks is included in the provision of welfare.	This term is expanded to encompass the provision of housing, clothes, safety, and other amenities that are necessary for the physical and emotional well-being of an elderly person or a parent.
Maintenance Orders		
Maintenance amount	States have the authority to establish maintenance tribunals with the purpose of determining the amount of money that should be paid on a monthly basis to elderly people by their children and other relatives. This sum cannot be more than 10,000 Indian rupees every month. Children and other relatives have thirty days from the date the Tribunal issues its order to pay the support amount.	The maintenance fee cap is raised to its full potential under this bill. While determining the amount of maintenance to be paid, the Tribunals are required to take into account two sets of information: (i) the level of living and wages of the parent or senior person; and (ii) the earnings of the children. Brings the total number of days down to 15.
Maintenance officer	During hearings before the Tribunal, a parent or senior citizen may have a maintenance officer act as their representative.	The maintenance officer's responsibilities are to (i) guarantee that court orders regarding payments of maintenance are followed, and (ii) serve as a point of contact for parents or older residents.

ii. Key Issues and Analysis

• Lowering the maximum amount that must be paid each month for maintenance

The Act enables state governments to establish Maintenance Tribunals to determine the amount of monthly support that children must pay to older persons. Administrative officer shall preside over the Tribunal. The monthly maintenance payment cannot be more than Rs 10,000. The Bill eliminates this cap on the maintenance payment and gives tribunals the authority to determine the amount by taking into account (i) the senior citizen's level of living and income, and (ii) the children's income. It could be argued that the administrative officer presiding over the Tribunal lacks the judicial skills necessary to decide on a monthly maintenance amount with no upper limit. It should be noted that analogous proceedings to determine the amount of maintenance due to a spouse after divorce are overseen by a judicial officer.

Also, the Act specifies that children must support a senior citizen so that they may enjoy a 'normal life'. According to the bill's amendment, youngsters would be required to care for senior citizens so that they can live with dignity. The phrase "life of dignity" is not defined in the Bill. The Supreme Court has previously defined the term "right to live with human dignity" to mean having access to sufficient food, clothing, shelter, and facilities for reading, writing, and other forms of expression, as well as the freedom to move around and interact with other people (*Francis Coralie Mullin v. Administrator*, 1981). One could argue that defining what constitutes a "life of dignity" also calls for judicial expertise, which administrative officers might not possess.

The Appellate Tribunal, which is also chaired by an administrative officer, accepts all appeals from maintenance orders. As a result, the Act does not include an option for judicial appeal. That is to say, the sole recourse open to a person injured by an Appellate Tribunal order would be to file a writ with the High Courts in accordance with Article 226 of the Constitution.

• Lawyers are not permitted to represent parties in Tribunal Proceedings.

According to the Act, a party cannot be represented by a barrister in a hearing before a tribunal or appellate tribunal. The prohibition on legal representation may speed up the proceedings and save the parties money, but it is in violation of Section 30 of the Advocates Act of 1961, which states that all advocates have the right to practise in all courts, including the Supreme Court, before any tribunal or person legally authorised to take evidence, and before any other authority or person before whom such an advocate is entitled to do so (*Khan*, 2021).

That this Part of the Advocates Act of 1961 became effective following the passage of the 2007 Act by Parliament. There cannot be a complete ban on legal professionals providing aid in a Maintenance or Appellate Tribunal,

hence the provisions of the Advocate Act, 1961, would take precedence. *Union of India v. Paramjit Kumar Saroya* (AIR 2014 P&H 121). In its ruling in the case of, the Punjab and Haryana High Court noted.

- **The word "relative" has a vague definition**

According to the Bill, a "related" is any legal heir of a senior citizen without children. The senior, though, would occasionally revise his will. As a result, it is unclear who would be the older citizen's legal heir and who would be responsible for caring for them.

- **Undefined definition of homecare services**

The Bill establishes guidelines for organisations that provide senior persons with homecare services who struggle to complete everyday tasks because of physical or mental limitations. One of these needs is to employ attendants or carers who are trained and qualified, and another is to register with a registration body established by the state government. Unfortunately, the Bill does not specify what would be included in homecare services. For instance, it is not clear if homecare services would include personal care services like cooking and cleaning or medical services like physiotherapy and giving IV drips.

The Law also mandates that organisations offering home care services utilise qualified and trained attendants or carers. It does not, however, outline or assign to Rules the qualifications and instruction attendants and carers must complete in order to offer these services.

- **States' financial ramifications**

The bill mandates that a number of its provisions be carried out by state governments, necessitating the state governments' incurring the necessary costs. These provisions cover (i) the establishment of care homes, (ii) the development of senior-accessible public facilities, and (iii) the regulation of private care homes and homecare services. No additional funds will be granted from the Consolidated Fund of India for the implementation of these provisions, according to the Financial Memorandum of the Bill of 2019. It is a matter of awareness that if state legislatures fail to appropriate the necessary monies or do not have sufficient means to do so, the Bill's implementation may be hampered.

Summary and Verdict

The difficulties in providing senior adults with the best care and support have been exacerbated by the sociocultural shifts brought on by global economic and social development. Social norms regarding the care of elderly people are slowly changing from the old perspective of relegating it to only filial obligation to having legal procedures to secure its availability as state action. Indian policy and legislative framework in this area have benefited from global initiatives for ageing. The sustenance and welfare of parents and senior citizens are mandated by the MWP Act, 2007, which also demands the legislative obligations. The MWP Act of 2007 has strengths, limitations, and issues that have been highlighted by experiences from the last ten years of its implementation. Several of these difficulties and restrictions are addressed by the proposed change to this Act. There are numerous opportunities to encourage the successful implementation of this Act in the future, nevertheless. To manage the expected expansion in the senior population and the care requirements in the future, it is necessary to build appropriate social care systems for seniors.

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