



## Maintenance and Welfare of Parents : An Overview

**Dr. Krishna Kant Dwivedi**

Assistant Professor-Law, Gautam Buddha University, Greater Noida

**Abstract** - The words "**Matru Devo Bhav**" and "**Pitru Devo Bhao**" in Sanskrit express gratitude to one's parents. In the days of old, parents had a very high position and were venerated as living Gods and Goddesses. But at the present time, due to many issues and the nuclear family structure, these elderly parents are taken on as a burden by their own sons or daughters. When there is any lacuna in such culture, the legislation always try to fill that. Senior people require the appropriate attention from their family members as well as financial support as they aged. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, was passed by legislation for the well-being of these parents and senior citizens, requiring that they be supported by their children and other family members so that they can live honorable lives and support themselves as they aged. To let the public know which safeguarding laws and penal provisions were created to provide social safety to elderly parents? And what amendments to the law would be necessary to strengthen Indian cultural roots? And how successful has the legal system been in upholding the right of this vulnerable population-elderly parents and senior citizens-to live in dignity?

**Keywords** - Senior Citizens, Parents, Maintenance, Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

---

**Introduction** - In addition to the fundamental essentials like food, clothes, and a place to live, maintenance also refers to the comfort and status requirements for the individual who is entitled to it. The entire concept of maintenance and welfare is formed because parents or elderly people who don't appear to be financially independent or incapable of caring for themselves require assistance. The other family members should assist them in order to make the other person's life possible and respectable.

"Old age is the period when the body has decayed but the mind has matured." Many senior people at this age choose to spend their time improving their life, spending time with family, reading books, newspapers, and engaging in extensive spiritual work. Some of them are connected to social work, old age associations, or clubs. But because so many elderly people have health issues, loneliness, and other issues, family support and care is always important. The time has changed gradually. The lives of the elderly have altered as a result of modernity and globalization. The nuclear family structure is now more often used. Families are dispersed

all over the world, and the nuclear family system is disintegrating. The major cause of older people's unhappiness and other illnesses is because their sons and daughter-in-law do not take good care of them. This is the main problem they are dealing with. India may be a developing nation. While numerous problems are being resolved day by day, just 12% of the population—elderly people—are receiving the supportive environment and quality of life they are entitled to. For this they need a positive perspective from all aspect.

For instance, the Indian Constitution states, "The State shall, within the limits of its economic ability and growth, make effective provision for securing the right to work, to education, and to public assistance in cases of unemployment, old age, illness, and disability, and other cases of undeserved want." According to the Hindu Adoption and Maintenance Act, "A person's duty to sustain his or her aged or infirm parent extends in so far as the parent is unable to maintain himself or herself out of his or her own earnings or other property." The Code of Criminal Procedure now includes a secular clause that holds persons of all faiths, including married daughters, accountable for their parents' maintenance.

**The International Initiative for Senior Citizens' Protection-** In 1948, Argentina invited the United Nations to hold its first discussion on aging. The issue was revisited in Malta in 1969. In 1971, the UN General Assembly directed the Secretary-General to develop guidelines for national and international collaboration and prepare a comprehensive report on aging. Subsequently, in 1978, the Assembly approved the promotion of a World Conference on Aging, leading to the World Assembly on Aging held in Vienna in July and August 1982. During this assembly, an International Plan of Action on Aging was adopted, aimed at strengthening nations' ability to address aging-related challenges while promoting social and economic stability.

The Assembly later encouraged the Secretary-General to continue efforts for the Plan's effective implementation. In 1992, the UN General Assembly designated the International Year of the Elderly. Additionally, October 1st was proclaimed the International Day for the Elderly. On December 16, 1991, the Assembly outlined 18 principles related to aging, organized into five key areas: independence, participation, care, self-fulfillment, and dignity.

**National Initiatives Available for the Welfare and Protection of Senior Citizens under Indian Laws-** The Indian government approved the National Policy for Older Persons on January 13, 1999, with the aim of advancing welfare programs and empowering seniors to enhance their well-being. The policy outlined the following key measures:

- The creation of a pension fund to offer security to individuals who have worked in the unorganized sector; the construction of old age homes and daycare facilities every three to four districts.
- For those over 60, resource centers and reemployment offices,

- Concessionary rail and air rates are available for travel inside and between cities, for example, a 30% train discount and a 50% Indian Airlines discount. passing legislation requiring geriatric care to be provided as a requirement in all public hospitals.
- The age-well Foundation, a National Council for Older People, has been established, according to a statement from the Ministry of Justice and Empowerment. It is going to seek seniors' suggestions on how to make their lives simpler.
- Instructs students on the importance of interacting with senior citizens. We are working to develop a 24-hour help line and stop older people from being excluded from society.
- To prevent financial difficulties for those who have reached retirement age, government policy encourages the prompt payment of pensions, provident funds (PF), gratuities, and other benefits. It also encourages the development of tax laws that are sensitive to the requirements of the elderly.
- The Income Tax Act's Sections 88-B, 88-D, and 88-DDB provide tax benefits to the aged.
- The LIC offers many programs for elderly persons, including the Medical Insurance Yojana, elderly Citizen Unit Yojana, and Jeevan Dhara Yojana.
- To assist the elderly, former Prime Minister A.B. Bajpai established the "Annapurana Yojana." As part of this Yojana, unattended elderly folks receive 10 kg of food each month.

**Constitutional Safeguards-** Article 37 of the Directive Principles place constructive responsibilities on the state apropos the following

- "Right to work, education, and public assistance under such circumstances: "Within the bounds of economic ability and growth, the State shall make adequate provisions for securing the right to work, education, and public assistance in cases of unemployment, old age, illness, and disability, as well as other cases of undeserved want.
- Promotion of the educational and economic interests of..... and other weaker sections: The State shall promote with particular attention the educational and economic interests of the weaker sections of the people.....and shall protect them from social inequality and other types of exploitation

### **Analysis of legislation governing the upkeep and wellbeing of elderly people and parents-**

In India, the laws governing maintenance are highly effective. Parental and geriatric laws and regulations are quite affluent. Laws that guarantee rights protect them. In addition to this, these rules give parents the right to get maintenance from their children even if they have been evicted from the home without following proper procedure. These laws are-

- Section 20 of Hindu Adoption and Maintenance Act, 1956
- Section 125 of Criminal Procedure Code, 1973

- The Domestic Violence Act, 2005
- Maintenance and Welfare of Parents and Senior Citizens Act, 2007

**Section 20 of Hindu Adoption and Maintenance Act, 1956-** Rules for child and parent support are outlined in Section 20 of the Hindu Adoption and support Act, 1956. According to Section 20 of the Hindu Adoption and Maintenance Act, "The obligation of a person to maintain his or her aged or infirm parent extends in so far as the parent is unable to maintain himself or herself out of his or her own earnings or other property."

The definition of Section 20 of the Act states that "the word 'parents' includes a natural father, mother, and childless step-mother." Grandfather or grandmother, however, are not considered parents. The adopted father and adoptive mother would both be considered parents in this sense. The Dayabhaga Law's Chapter-II, Section XXIII, which states that "The maintenance of the family is an indispensable obligation, as Manu positively declares," is where the duty of maintaining one's family is most clearly outlined. This case, *Khetramani Das v. Kashinath Das*, is the oldest case on the topic of maintenance.

According to the ruling in the case of *Jagjit Singh Bhatia v. Balbir Singh Bhatia*, a Hindu son is personally obligated to care for his elderly mother regardless of whether he inherits his father's assets.

**Section 125 of Criminal Procedure Code, 1973-** The purpose of Section 125 of the Criminal Procedure Code of 1973 is to give the neglected person- namely, the wife, children, and parents—a quick and affordable remedy so that they can seek relief from their husband, father, and children, respectively. "If any person having sufficient means neglects or refuses to maintain his father or mother, unable to maintain himself or herself, a magistrate of first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of...his father or mother, at such monthly rate as such magistrate thinks fit."

**The Domestic Violence Act, 2005-** Section 3 of The Domestic Violence Act 2005 states that "any act, omission, commission, or conduct by the respondent shall constitute domestic violence in case if it threatens or endangers the health, safety, life, limb, or wellbeing, whether physical or mental, of the aggrieved person or tends to do so and includes causing physical and mental harm to the aggrieved person."

Even though the maintenance of parents was covered by sections 125 of the Criminal Procedure Code of 1973 and 20 of the Hindu Adoption and Maintenance Act of 1956, these provisions have proven to be woefully inadequate for a number of reasons, including the drawn-out and time-consuming legal process, the high cost of seeking justice and execution. It's interesting that these statutes make no mention of elderly persons without children. Therefore, a simple, affordable, and quick process is required for elderly and dependent parents to request maintenance.

According to the National Policy on Older Persons, "Some areas of concern in the situations of older persons will also emerge, signs of which are already evident, resulting in pressures in living arrangements for older persons," and "To cast an obligation on the persons who inherit the property of their aged relatives to take care and maintain them and to form provisions for fixing up old age homes for providing maintenance to indigent older persons, Maintenance and Welfare of Parents and Senior Citizen's Act was introduced in the Parliament "

**Maintenance and Welfare of Parents and Senior Citizens Act, 2007-** The purpose of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is "to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution and for matter connected therewith or incidental thereto."

As implied by the name, this Act was created to safeguard the rights and interests of older persons without children as well as parents. The Act gives a senior (60 years of age or older) or parent who is unable to support themselves legally the right to maintenance. The Act's time-bound mechanism is another important component.

It is stated that the case for maintenance must be settled within ninety days (which may be extended for an additional thirty days in extraordinary situations). Additionally, this Act offers state governments guidelines for the care, welfare, and protection of this vulnerable category of individuals in addition to providing maintenance for the aged.

According to the Act, older persons' offspring and heirs are legally obligated to pay for their support. Additionally, it places obligations on the state government for the construction of nursing facilities. According to this Act, parents or older persons may submit a claim to the tribunal for a monthly stipend from their own children or other legal heirs.

According to Section 2(a) of the Act, "children" include sons, daughters, grandsons, and grand daughters. This implies that only biological children and grandkids are included. Many cases of parents or older adults being mistreated by son-in-laws, daughters-in-laws, or adopted children and being able to elude the law because of this gap have been brought up in court.

Section 2(b) defines "maintenance" as only including "basic necessities" such food, housing, clothes, and medical assistance. However, it does not address the issue of the parents' or older citizens' safety and security.

According to Section 2(g), a "relative" is someone who is in possession of the property or will inherit it when the childless elderly citizen passes away. Given that wills are subject to alter, how would one decide who would inherit the elderly citizen's possessions in such a situation?

Section 7 of the Act deals with the formation of Maintenance Tribunals at each sub-division, where the Tribunals would have all the authority of a civil court. Before considering an application, the disagreement may be sent to a conciliating officer in hopes of an amicable resolution within a month. A maximum of 90 days should be allowed to resolve the application before the tribunal. According to section 16, an appeal can be brought before the state-established appellate tribunal and must be resolved within a month.

Section 17 of the Act lays forth a crucial provision relating to legal representation. It specifies that parties shouldn't hire a lawyer to represent them. This provision is intended to shield the parties from high litigation costs. Practically speaking, however, it will not be possible for the elderly persons to go before the tribunal on their own given their age and state of health. Who is authorized to speak on behalf of older persons might be disputed by the text of the clause.

Section 21 imposes an obligation on the state government to take specific actions for promoting the contents of the act in order to make senior people aware in order to give protection to the life and property of the elderly. According to Section 23, if a senior citizen's children or heirs fail to provide them with the essential amenities and care, the tribunal has the authority to declare the transfer of their property to be null and unlawful.

The Act's Chapter VI covers the offenses and punishments. If a person doesn't pay the monthly allowance charge, he will be put in jail for one month or until the maintenance fee is paid, whichever comes first. A five thousand rupee fine, up to three months in jail, or both may be imposed on the offender for abandoning parents or older folks.

**Conclusion and Suggestions-** Elders in India, particularly in rural traditional Indian households, once had unwavering respect, influence, and authority, but this has been slowly eroding in recent years. It is attributed to poverty and so-called modernisation. The natural progression of life is aging, and death is its ultimate end. As a man ages, his physical, social, and psychological traits gradually peak and eventually come to an abrupt or gradual conclusion. In terms of their emotional values, property concerns, social structures, and health difficulties, the aging population requires some form of security. For them, it is crucial that they have some sort of legal protection so that no one may undermine their dignity. Another important issue is the awareness regarding these laws and formulation.

Both the national and state governments have created a number of laws and norms to ensure the safety, well-being, and protection of the elderly. Since the issue of elderly is largely related to the family, the governments alone cannot tackle the problems. It is family only which have to come forward and extend a warm hand to the elderly.

## References:

1. Abrams, D. et. al. (2009): "Attitudes to Age in Britain, 2004- 2008", Department for Work and Pensions, Research Report, No. 599, Norwich, United Kingdom. <http://research.dwp.gov.uk/asd/asd5/reports2009-2010/rrep599.pdf>
2. Agewell Research & Advocacy Centre (2009): "Study of Role of Older Persons in Democratic Process", Agewell Foundation, New Delhi.
3. Agewell Research & Advocacy Centre (2009): "Status of Older Persons in Nuclear Families in India", Agewell Foundation, New Delhi.
4. Liebig, P.S., Rajan, S.I. (2003): "An Ageing India: Perspective, Prospects and Policies", Journal of Aging and Social Policy, pp. 229-230.
5. Krishnaswamy, B. & Venkataraman, K. (2008): "Ageing in India", Journal of Springer Science, Vol. 32, pp. 258-268.

6. Rajan, I. (2001): "Social Assistance for Poor Elderly: How Effective", *Economic and Political Weekly*, Vol. 36, No. 8, pp. 613-617.
7. WP. (MD)No.13733 of 2012 available at: <https://indiankanoon.org/doc/91169080/>.
8. According to the explanation, in this section parent includes a childless stepmother.
9. Section 21: For the purposes of this Chapter dependents mean the following relatives of the deceased- (i) his or her father; (ii) his or her mother; for details see section 21 of the Hindu Adoption and Maintenance Act, 1956.
10. See: Section 24 of the Hindu Adoption and Maintenance Act, 1956.
11. See also: Section 3(b) (i) of the Hindu Adoption and Maintenance Act, 1956.
12. Section 2(d) of the Act, 2007.
13. Section 2(h) *ibid*.
14. Section 5 of the Act, 2007.
15. WP. (MD) No. 13733 of 2012 available at: <https://indiankanoon.org/doc/91169080/>.
16. Section 4(4) of the Act, 2007.
17. Section 5(6) of the Act, 2007.
18. Section 5(8) of the Act, 2007.
19. Proviso to section 5 (8) of the Act, 2007.
20. Rule 6 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009.
21. The Gazette of India, Extraordinary, Part –II, Section 3 – sub section ii, New Delhi, June 22, 2011.
22. Section 9(2) of the Act, 2007.
23. Section 16(1) of the Act, 2007.
24. Proviso to Section 16.
25. Section 15(2) of the Act.
26. WP (MD) No. 13733 of 2012 available at: <https://indiankanoon.org/doc/91169080/>.
27. Banjare, P. & Pradhan, J. (2011): "Self rated Poor Health and Socio-economic Inequalities among Indian Elderly".
28. [http://www.skoch.in/images/stories/knowledge\\_repository/governance/self\\_rated\\_poor\\_health\\_socio\\_economic%20pallavi\\_banjare.pdf](http://www.skoch.in/images/stories/knowledge_repository/governance/self_rated_poor_health_socio_economic%20pallavi_banjare.pdf).
29. Bansod, D.W. & Paswan, B. (2011): "Health Status of Elderly in Rural Maharashtra: Do Socio-Economic Differentials Matter?" in S. C. Gulati (Eds.) *Population, Health and Human Resources in India's Development*, Academic Foundation, New Delhi.
30. Census of India (2011): [www.censusindia.gov.in](http://www.censusindia.gov.in).
31. Chattopadhyay, A. (2004): "Population Policy for the Aged in India", *Economic and Political Weekly*, Vol. 39, No. 43, pp. 94-96.
32. Gokhale, S.D. (2003): "Towards a Policy for Ageing in India", *Journal of Aging and Social Policy*, Vol. 15, No.2/3, pp. 213-214.