



Maintenance and welfare of parents and senior citizens: Need to social justice

Debaditya Das

M.Phil Scholar, Department of Law, Himalayan University, Naharlagun, Arunachal Pradesh, India

Abstract

Old age is a real truth of life which considered the second childhood of a person. This is the time when old persons want to receive something from them to whom they have devoted their whole life and at that time they need more love, respect and time from their children but children are busy to give a beautiful life to their own children. In this way old persons are being neglected by their children and society and forced to live a meaningless and painful life either in old age home or in their own home. In ancient time the position of parents was very good and they were treated as living God or Goddess for their children. Grand Parents plays a very important role to develop a child to be a well cultured person. But in present scenario due to the nuclear family system the feelings of the children towards their parents are changing day by day. Nowadays children are become so practical and they want to live their life without any interfere and parents are only a burden for them. So the responsibility to maintain the parents has been shifted from children to Government. No doubt different legislation and welfare schemes and policies for elderly have been implemented by the Government. Till 2007 there were no special or separate legislation exclusively for Senior Citizens. the Government of India, through its Ministry of Social Justice and Empowerment, through then Minister, Smt. Mira Kumar introduced the Bill on 9th March, 2007, titled as "The Maintenance and Welfare of Parents and Senior Citizens Bill 2007" in Lok Sabha. The statement of objects and reason stated makes it clear that, the Act provides for medical facilities to the senior citizens and provisions for protection of their life and property. The basic object of the Bill of 2007 was to provide effective remedies for the maintenance and welfare of Parents and Senior Citizens. The above referred bill is now became the Act, which received an ascent of the President of India on 31 December, 2007. As per UNESCO estimates, the number of aged (60+) is likely to 590, million in 2005. The figure will be double by 2025. In India, the population of elder persons has increased from nearly 2 crores in 1951 to 7.2 crores in 2001. In the other words about 8% of total population is above 60 years. The figure is to cross 18% by 2025.

In pursuance of the understanding at international level, Government of India initiated and declared national policy on older persons in 1999. This policy recognized certain rights of the aged people and further declared Government's responsibility towards providing economic and social security along with healthcare facilities and protection of life and property of the aged people. In spite of the fact that the said policy was declared in 1999, even after decade no steps were taken to implement said policy. There was strong and consistent pressure from different NGOs and demand by aged people, senior citizens organizations etc. on the government regarding implementation of the same by appropriate Legislation. Therefore, Ministry Of Law And Justice drafted a legislature titled 'The Maintenance and Welfare of Parents and Senior Citizens Act' (hereinafter referred to as the Act), and it was published on December 31, 2007, after receiving the assent of President on December 29, 2007. As mentioned in Section 1 of the Act, it shall come into force in a State on such date as the State Government may appoint. The Act mentions that the person would be considered as a 'senior citizen' if he is a citizen of India and has attained the age of 60 years or above.

The researcher would like to end this research on concluding note, that, it is not only the government's responsibility to protect the interests of the elderly people, but as a responsible citizen of the society everyone should make effort to secure the dignified status of the old age people in the family and in the society as well. In today's fast life, most people complain that they have no enough time or money at some particular time to provide proper care and health facilities to their parents and grand-parents. In that case, it might be quite possible to form a welfare society or cooperative society by some families with some joint fund which would provide proper care to old members of these families. NGO's and some other private institutions are also playing very important role in the society for elderly people. Government should support these NGO's to improve the condition of the older people in the society. But, without the awareness and support of the people in the society all these laws and provisions would be useless because it is not only a legal problem but a social problem as well. One should never forget that every child has to grow and has one day to fall in the category of old aged person/parents. What we give to our parents shall automatically come back up on us.

In our LL.B. Syllabus, many laws are studied. But how are many laws applicable in our society? We always support the latest various judgments of Supreme Court on oldage people, till now a large number of old person are suffered. Unfortunately, our West Bengal Bidhan Sabha has not passed "Maintenance and Welfare of Parents and Senior Citizens Rules, 2008" till today.

Keywords: matru devo bhav, pitru devo bhao, national policy on older persons, NGO, senior citizen, old age person, disability, west Bengal maintenance and welfare of parents and senior citizens rules 2008, maintenance and welfare of parents

1. Introduction

a) Meaning

The Sanskrit phrases like "Matru Devo Bhav" and "Pitru Devo Bhao", reflects the sentiments to one's parents. During

the ancient period parents were worshiped as living Gods and Goddesses and placed at a very high position. But presently due to different problems and nuclear family system, these aged parents are taken by their own son/s or daughter/s as burden. As a consequence of this there is shifting of responsibilities from family members to government or State. Indian society has a long cherished tradition to respect and protect the elders.

Old age is a real truth of life which considered the second childhood of a person. This is the time when old persons want to receive something from them to whom they have devoted their whole life and at that time they need more love, respect and time from their children but children are busy to give a beautiful life to their own children. In this way old persons are being neglected by their children and society and forced to live a meaningless and painful life either in old age home or in their own home. In ancient time the position of parents was very good and they were treated as living God or Goddess for their children. Grand Parents plays a very important role to develop a child to be a well cultured person. But in present scenario due to the nuclear family system the feelings of the children towards their parents are changing day by day. Nowadays children are become so practical and they want to live their life without any interfere and parents are only a burden for them. So the responsibility to maintain the parents has been shifted from children to Government. No doubt different legislation and welfare schemes and policies for elderly have been implemented by the Government. Till 2007 there were no special or separate legislation exclusively for Senior Citizens. However, there are efforts made by the Government to initiate a special law to govern and regulate important problems of Senior Citizens. In 2006, on 3rd March, Ms. Sushma Swaraj of BJP has tried to introduce the Bill titled as Senior Citizens (Maintenance, Protection and Welfare) 2006, but the Bill could not proceed further. Thereafter, the Government of India, through its Ministry of Social Justice and Empowerment, through then Minister, Smt. Mira Kumar introduced the Bill on 9th March, 2007, titled as "The Maintenance and Welfare of Parents and Senior Citizens Bill 2007" in Lok Sabha. The basic object of the Bill of 2007 was to provide effective remedies for the maintenance and welfare of Parents and Senior Citizens. The above referred bill is now became the Act, which received an ascent of the President of India on 31 December, 2007.

Taking note of the above hard realities, in order to make the procedure easier, less expensive and to be on fast track, the Government has brought into force a completely new legislation viz., "The Maintenance and Welfare of Parents and Senior Citizens Act, 2007".

As per UNESCO estimates, the number of aged (60+) is likely to 590, million in 2005. The figure will be double by 2025. In India, the population of elder persons has increased from nearly 2 crores in 1951 to 7.2 crores in 2001. In the other words about 8% of total population is above 60 years. The figure is to cross 18% by 2025.

b) Historical Development

In pursuance of the understanding at International level, Government of India initiated and declared National Policy on Older Persons in 1999. This NPOP recognized certain rights

of the aged people and further declared government's responsibility towards providing economic and social security along with healthcare facilities and protection of life and property of the aged people. In spite of the fact that the said policy was declared in 1999, even after decade no steps were taken to implement said policy. There was strong and consistent pressure from different NGOs and demand by aged people, senior citizens organizations etc. on the government regarding implementation of the same by appropriate legislation. This resulted in the passing of the said legislation in 2007.

c) Object

The statement of objects and reason stated makes it clear that, the Act provides for medical facilities to the senior citizens and provisions for protection of their life and property. In addition to this there some more objectives of the Act;

First, it is the object of this Act to provide appropriate mechanism to be set up to provide need-based maintenance to the parents and senior citizens.

Second, provides institutionalization of a suitable mechanism for protection of life and property of older persons.

Lastly, setting up of Old Age Homes in every district. From the aforesaid provisions it is clear that the Act contains and brings almost all aspects of the life of aged people in India in the ambit of this legislation with pious objective to provide them life with dignity.

d) Salient Features of the ACT

The name of the Act is descriptive and conveys that the parents and senior citizens are required to be maintained by their children. This Act is applicable to all citizens of India irrespective of their religion and citizens of India outside India who has attained 60+ years of age but at same time no age criterion has been mentioned about parents. This Act has only 32 sections. The following important features are given below:

- This legislation basically provides for the maintenance of parents and senior citizen. The definition of maintenance covers all basic necessities and requirements of life.
- This also includes childless senior citizen. He can claim maintenance from relative who is legal heir of that senior citizen and who is in possession of or would inherit his property after his death.
- The maximum maintenance allowance may be prescribed by the State Government and which shall not exceed the ten thousand rupees per month.
- The person against whom an order for maintenance is passed has to comply with the order within the period of one month otherwise the Tribunal can imprison him or her up to period of one month.
- The Tribunal has all the powers of the Civil Court and shall be deemed to be designated as Civil Court.
- A party cannot be represented by legal practitioner. This is an important provision as it is responsible to curtail the cost of the proceedings.
- This Act requires the State Government to establish and maintain old age homes at assessable places with at least one in each District, which shall have minimum of 150 senior citizens, who are indigent. Hence this will provide a support to senior citizen.

- This Act is having provision for medical care of senior citizen.
- A senior citizen who has transferred his property either to his son or daughter or near relative, by virtue of a will or gift, can cancel the same by applying to the Tribunal, if he or she is neglected or refused to provide the basic amenities and physical needs by the transferee.
- If parents or senior citizens are abandoned with an intention by a person who has to take care and protection then said person is punishable with imprisonment, which may extend to three month or fine, which may extend to Rs. 5,000/- or both. From above features it appears that senior citizen is now protected from all sides and every offence under this act is cognizable and bailable. But there appears to be different position during implementation of the Act.

e) Dynamics of Population Aging In the Modern World

Observed and Forecasted Percentages of the Elderly (65+ years) in Selected Areas, Regions, and Countries of the World: 1950, 2000 and 2050.

Table 1

Year	1950	2000	2050
World	5.2%	6.9%	19.3%
Africa	3.2%	3.3%	6.9%
China	4.5%	6.9%	22.7%
India	3.3%	5.0%	14.8%
Japan	4.9%	17.2%	36.4%
Europe	8.2%	14.7%	29.2%
Italy	8.3%	18.1%	35.9%
Germany	9.7%	16.4%	31.0%
Sweden	10.3%	17.4%	30.4%
U.S.A.	8.3	12.3%	21.1%
Latin America and the Caribbean	3.7%	5.4%	16.9%

f) Significance of the study

The present research will be instrumental in identifying various problems pertaining to Senior citizens rights and duties. The present research is very vital to bring to the notice of state government the importance introducing and implementing Senior citizens Act in Maharashtra.

g) Nature and Scope of the Study

The project involves Legislative investigations and the utilization of the prospective outcome to develop new laws and legislation that will help the senior citizens. Sociology and law are interconnected and interdependent on each other. This interdisciplinary study will help the lawmakers and law executors to make and implement law, so as to serve the people. The study aims to develop law to suit the conditions of senior citizens in Maharashtra. The main objective behind all this exercise would be to study the existing conditions and necessity of a State legislation relating to rights of Senior Citizens, make an analysis of the previous legislations and suggest ways for the future so that a comprehensive piece of legislation, at national level is the outcome.

h) Hypothesis

What Is Hypothesis?

A Hypothesis is specific, testable prediction. It describes in a concrete terms, what you expect will define or happen in a certain circumstance. A Hypothesis is a proposed explanation for a phenomena.

Purpose of Hypothesis

A Hypothesis is used to define the relationship between two variables. The purpose of Hypothesis is to find the answer to a question. The first variable is also called independent variable. The outcome is also called dependent variable.

A Hypothesis should always:

- Explain what you expect to happen,
- Be clear and understandable,
- Be testable,
- Be measurable,

Characteristics of Good Hypothesis

A Good Hypothesis should possess the following certain attributes -

- Power of prediction
- Simplicity
- Clarity
- Testability
- Relevant to the problem
- Specific
- Relevant to available techniques
- Consistency & Harmony
- Fruitful for new discoveries

Types of Hypothesis

Some of the important types of Hypothesis are as follows -

- Simple Hypothesis
- Complex Hypothesis
- Null Hypothesis
- Empirical Hypothesis
- Alternative Hypothesis
- Logical Hypothesis
- Statistical Hypothesis

Application of Hypothesis on Parents and Senior Citizens

For proper understanding and in depth study on the present subject certain propositions were formulated as hypothesis which is mentioned herein. Socio-economic condition of the aged people is not satisfactory, the aged people are facing number of socioeconomic and legal problems in their day to day life, the functioning of NGO's and other care organizations though it is important, are not satisfactory, and legal provisions and schemes are not adequate and sufficient to cope-up with the problems of aged people.

i) Research Questions

- How should Government take active participation in creating awareness among the senior citizens?
- How should change the present law for rendering justice?
- Why should Separate Police Cell be establish?
- What is the duty of the Government?

j) Research Methodology

Any legal research consist systematic investigation of concepts. The present research is concerned both doctrinal as

well as non-doctrinal method. The doctrinal part consists of analysis and explanation of different concepts involved in the protection and promotion of interest of aged people. There are various policies and schemes implemented by government for the protection of interest of aged people. Non-doctrinal part of the present work is restricted and concerned with the survey carried out in the world. For collection of data, interview and questionnaire method has been followed.

Table 2

Year	1950	2000	2050
World	5.2%	6.9%	19.3%
Africa	3.2%	3.3%	6.9%
China	4.5%	6.9%	22.7%
India	3.3%	5.0%	14.8%
Japan	4.9%	17.2%	36.4%
Europe	8.2%	14.7%	29.2%
Italy	8.3%	18.1%	35.9%
Germany	9.7%	16.4%	31.0%
Sweden	10.3%	17.4%	30.4%
U.S.A.	8.3	12.3%	21.1%
Latin America and the Caribbean	3.7%	5.4%	16.9%

Completely is liable to pay a fine of Rs 5,000 or be imprisoned for 3 months or both

Additionally, senior citizens can file an application before the Maintenance Tribunal to declare the transfer of property void. The following conditions apply:

- The transfer of property, irrespective of whether it is a gift or not, must be after the commencement of the Act.
- The property must be transferred by attaching some conditions that require the person to whom the property is transferred to provide basic amenities and physical needs to the senior citizen.
- The other person must have failed to or refused to provide the amenities and physical needs to the senior citizen.

If senior citizens have the right to receive maintenance from an estate and the estate is transferred, either partly or wholly, then the right to maintenance can be claimed from the person to whom the property has been transferred when:

1. The person to whom the property has been transferred for consideration has the notice of the right; or
2. The transfer is gratuitous.

Responsibility of the State Government

The State Government must ensure that all government hospitals and hospitals partly or fully funded by the government arrange separate queues for senior citizens and provide beds for all senior citizens. Additionally, every district hospital must have special facilities for senior citizens. Every district must have at least one old age home for senior citizens who are poor and needy. These old age homes must be able to accommodate at least 150 poor and needy senior citizens.

Old Age Homes by the State Governments

More than 58 crore rupees has been released by the Government of India supporting the Old Age homes in states since 2013-14. More than 21000 beneficiaries were covered

by about 900 old age homes in various states who received assistance.

Liability of Christian and Parsi to Maintain Their Aged Parents and Relatives

There are no personal laws for Christian and Parsis for providing maintenance to the parents. The parents who wish to claim maintenance from their children have to approach the Court of law under Section 125 of Code of Criminal Procedure, 1973.

Code of Criminal Procedure, 1973 (Cr. P.C. 1973)

Section 125. Order for maintenance of wives, children and parents.

1. If any person having sufficient means neglects or refuses to maintain-
 2. his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate not exceeding five hundred rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct.

2. Chapter I: West Bengal maintenance and welfare of parents and senior citizens rules, 2008

Preliminary

1. Short title and Commencement.

1. These rules may be called the West Bengal Maintenance and Welfare of Parents and Senior Citizens Rules, 2008.
2. They shall come into force on the date their publication in the Official Gazette.

2. Definitions

1. In these rules, unless the context otherwise requires—
 - a. "Act" means the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (56 of 2007);
 - b. "Application" means an application filed under section 5 of the Act;
 - c. "Applicant" means the parent or the senior citizen or any organization authorised by such parent or the senior citizen, as the case may be, who has filed the application;
 - d. "Conciliation Officer" means an officer appointed by the State Government, for the purpose of sub-section (6) of section 6 of the Act;
 - e. "Form" means a form appended to these rules;
 - f. "Maintenance Officer" means the District Social Welfare Officer or an officer not below the rank of District Social Welfare Officer as the State Government may designate;
 - g. "State Government" means the Government of West Bengal in the Department of Women and Child Development and Social Welfare.

2. Words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Chapter II: Maintenance Tribunal

3.1 Composition of Tribunal.

Tribunal shall be presided over by the Sub-Divisional Officer: Provided that in absence of the Sub-Divisional Officer, the Officer discharging the functions of the Sub-Divisional Officer shall preside over the Tribunal.

3.2 Application for maintenance.

The application for maintenance under section 5 of the Act shall be filed before the Tribunal in Form A.

(2) No Court fee or any other fee or charge shall be payable upon the application of maintenance filed by the parent, the senior citizen or their authorized representative.

3.3 Registration of the application.

Upon receiving the application, the Tribunal shall register the case in a register to be maintained for such purpose and assign a number to such application.

(2) The acknowledgement to be issued by the Tribunal shall specify the case number and the date of hearing in Form B.

3.4 Notice for hearing of application.

1. Upon receipt of an application for maintenance the Tribunal after registering the case and assigning a case number, shall issue as the process alongwith the notice under its seal and signature to the children or relative in Form C.
2. Such process shall be issued through registered post with acknowledgement due, and through a process server attached to the Office of the Tribunal.
3. Such process may be served upon the children or relative in persons or upon any person duly authorized to receive such process.
4. The provisions of Order V of the Code of Civil Procedure, 1908, shall apply mutatis mutandis for the purposes of service of process.

3.5 Powers and procedure of Tribunal

- 1) The Tribunal shall sit at least once in a month for adjudicating the application or providing the maintenance order or as per the requirement and urgency of the business of such Tribunal.
- 2) The Tribunal shall ordinarily hold its meeting at the respective headquarters of the Sub-Divisional Officer or at any other place as the Tribunal may decide.
- 3) (a) The Tribunal may, if it consider necessary, refer the matter to a Conciliation Officer for submitting his findings within one month from the date so referred.
(b) If an amicable settlement has been arrived at between the parties and the Conciliation Officer has reflected the same in his findings, the Tribunal shall consider such report of the Conciliation Officer and pass an order to that effect.
- 4) The Tribunal may, for determining the amount of maintenance, appoint an officer under his administrative control to be an Inquiry Officer for the purpose of holding

an inquiry with respect to the following:

- a) Whether the applicant possesses any property or means to maintain himself;
 - b) Whether the applicant possesses any assets, movable or immovable out of which he can derive the means of his own maintenance;
 - c) Whether the applicant has any sufficient income from any source like monthly interest, house rent, return or investment, dividend, etc.
 - d) Whether the applicant has divested any of his movable or immovable property and received a handsome consideration out of that divestment;
 - e) Whether the applicant has considered alternate forms of becoming self-sufficient by reverse mortgage;
 - f) Whether the applicant has created any family trust or like-wise, out of which he gets the means of his livelihood;
 - g) the standard of life that the applicant has been laid in recent past or present time relating to food, clothing, shelter and other basic amenities of life;
 - h) Whether the applicant is receiving any maintenance from any one of the respondents or from any other sources either under any agreement or under the order of any Court of Law.
- 5) The Inquiry Officer shall, after considering all the provisions as laid down in sub-rule (1), submit his report before the Tribunal within the specified time period as determined by the Tribunal.
 - 6) The Tribunal may, while passing the order of maintenance, also consider the following:
 - a) The report of the Inquiry Officer;
 - b) The number of children or relative against whom the application has been filed;
 - c) The income of the children or relative and number of their respective family members;
 - d) The financial status of the children or relative, the assets or properties they own or possess or have any interest therein;
 - e) Whether the applicant is presently residing in his own premises;
 - f) Current medical needs of the applicant;
 - g) Degree of care and caution to be taken to protect the property (movable or immovable) belongs to the Applicant;
 - h) Chance of inheritance to the property or assets of the applicant by the children or relative.
 - 7) (a) In case of exercising the powers as provided in the Act to this purpose, the Tribunal may ask the Police Officer of the respective Police Station within its jurisdiction, to ensure the protection of the person and property of the applicant.
(i) For securing the attendance of children or relatives, the Tribunal shall have the power of a Judicial Magistrate of First Class as provided under the Code of Criminal Procedure, 1973.
 - 8) The Tribunal, on such terms as it deems fit and proper at any stage of the proceeding, may adjourn the hearing of the application and the reason or the adjournment of hearing shall be recorded in writing by the Presiding Officer:

Provided that the adjournment during the course of hearing of the application for the maintenance shall be granted only in the circumstances that are beyond the control of the human being:

Provided further that no proceeding shall be adjourned more than twice in any circumstance.

- 9) During the hearing of maintenance application or at the time of disposal of the such thereof, if it appears before the Tribunal that the parent or the senior citizen has no place of residence or has been driven out from the house, it may arrange for the shelter of that parent or the senior citizen in the Old Age Home established under section 19 of the Act or in any Old Age Home runs by the Non-Governmental Volunteer Organization.
- 10) Except in case of ex parte hearing, before passing the final order of the maintenance, the Tribunal shall give adequate scope and opportunity of hearing to both the parties of the application for the end of justice.

3.6 Procedure for impleading children or relatives

1. An application by a children or relative, who is party in a maintenance proceeding, to implead any other children or relative of the applicant shall be filed on the first date of hearing of the proceeding as fixed by the Tribunal.
2. No such application for impleading shall thereafter be entertained unless sufficient and reasonable cause for filing such application at later stage of the proceeding is shown by the party.
3. Upon receipt of such an application for impleading other children or relative of the applicant, the Tribunal shall issue summons to them by fixing a date for appearing in the proceeding and filling any objections on their part.

4. Chapter III: Appellate Tribunal

4.1 Composition of Appellate Tribunal.

1. The Appellate Tribunal shall be presided over by the District Magistrate.
2. The Appellate Tribunal shall sit at least once in a month for adjudicating the appeal.

4.2 Appeals

1. An appeal under sub-section (1) of section 16 of the Act alongwith the impugned order of the Tribunal shall be filed before the Appellate Tribunal in Form C.
2. No Court fee or any other fee or charge shall be payable upon the appeal petition filed by the parent, the senior citizen or their authorized representative.

4.3 Registration of appeal.

1. Upon receipt of an appeal, the Appellate Tribunal shall register it in a register to be maintained for such purpose and assign a number to such appeal.
2. The acknowledgement to be issued by the Appellate Tribunal shall specify the appeal number and the date of hearing in the Form D.

4.4 Notice for hearing of appeal.

1. Upon receipt of an appeal, the Appellate Tribunal, after registering the case and assigning a case number, shall cause notice to be served upon the respondent under its

seal and signature in Form E.

2. Such notice shall be issued through registered post with acknowledgement due, and through a process server attached to the Office of the Appellate Tribunal.
3. Such notice may be served upon the children or relative in persons or upon any person duly authorized to receive such notice.
4. The provisions of Order V of the Civil Procedure Code shall apply *mutatis mutandis* for the purposes of service of notice.

4.5 Power and procedure of Appellate Tribunal.

The Appellate Tribunal shall dispose an appeal in accordance with the provisions of section 16 of the Act.

5. Chapter IV: Appointment of Conciliation Officer and rules for conciliation

5.1 Conciliation Officer

- 1) The State Government in consultation with the District Magistrate of the respective district shall nominate a Conciliation Officer for each Sub-Division of a district for the purposes of conciliation between the parent or the senior citizen and the children or the relative:

Provided that for Kolkata, the State Government in consultation with the Presiding Officer of the Appellate Tribunal shall nominate more than one Conciliation Officer for the purposes of conciliation.

- 2) The Conciliation Officer may be a representative of any Non-Governmental Volunteer Organization or an eminent Social Worker having special knowledge and experience particularly in this purpose and Social Work.

- 3) The State Government, in consultation with the District Magistrate of the concerned district, may prepare a list containing the names and addresses of the Conciliation Officers for the respective Sub-Division of a district:

Provided that for Kolkata district, the State Government, in consultation with the Presiding Officer of the Appellate Tribunal of the concerned district, may prepare a list containing the names and addresses of the Conciliation Officers.

5.2 Functions of Conciliation Officer.

1. The Conciliation Officer, after getting the order of the Tribunal under section 5 of the Act for submitting his report or for the purpose of doing conciliation between the parties, shall submit his findings before the Tribunal within one month from the date so referred.
2. During the time of conciliation, if amicable settlement between the parties, regarding providing maintenance and taking care and protection, has been arrived at, the Conciliation Officer shall report the same to the Tribunal.
3. The Conciliation Officer may go to the house of both the parties or may call the parties of the proceeding at the office of the Tribunal for conciliation.

6. Chapter V: Amount of Maintenance

6.1 Maximum maintenance allowance.

The maximum maintenance allowance, which may be ordered by the Tribunal under sub-section (2) of section 9, shall not exceed ten thousand rupees per month.

6.2 Deposit of maintenance amount.

1. The Tribunal may, while passing an order for maintenance payable to the applicant by the children or relative, direct as follows:
 - a. The amount of maintenance may be given to the applicant directly to the applicant by hand against a proper receipt given by the applicant; or
 - b. It may be deposited in any schedule bank or post office or in a designated bank account chosen by the applicant.
2. The amount of maintenance shall be given or deposited by the children or relative on or before a specified day or date of each month as directed by the Tribunal.
3. The order passed, or direction issued, by the Tribunal shall remain in force until it shall be varied, modified, altered or cancelled by the Tribunal or the Appellate Tribunal.

7. Chapter VI: Oldage homes and scheme for its management

7.1 Oldage Homes

1. The State Government may make every effort to establish and maintain oldage homes at accessible places, beginning with at least one in each district to accommodate in such homes a minimum of one hundred fifty indigent senior citizens.
2. The State Government may recommend to the Ministry of the Social Justice and Empowerment, Government of India, in favour of well-known voluntary organizations, for setting up oldage homes in each district of the State, under the existing schemes introduced by the Ministry of the Social Justice and Empowerment, Government of India, for the care and protection of the indigent senior citizens.
3. All these oldage homes, established under sub-rule (2) of this rule, shall be monitored and supervised by the Maintenance Officer of the concerned district.
4. The State Government may, from time to time, prescribe directions for management of the oldage homes, in the following manner:
 - a. Separate establishment for male and female indigent senior citizens;
 - b. Each oldage home shall be a comprehensive care and protection center of the indigent senior citizens.

7.2 Infrastructure of Oldage Home.

Each oldage home may have following facilities for the indigent senior citizens and destitute parents. Namely.

(a) Accommodation

The minimum standard of accommodation, as far as possible, shall be as follows

- (i) *Dormitory*—forty square feet for each senior citizen,
- (ii) *Prayer hall*—sufficient sitting space,
- (iii) *Recreation hall*—sufficient space for watching television, reading newspapers, books, etc.
- (iv) *Dining hall*—sufficient space for dining of at least 40 persons at a time:

Provided that the dormitories, prayer hall, recreation hall and dining room shall have sufficient cross ventilation and light alongwith all necessary electric connections and facilities.

(b) Medical Care

Each Oldage Home may provide the necessary medical facilities to ensure the followings.

1. Regular facilities are available for the medical treatment;
2. Necessary arrangements for oxygen cylinder and other medical kits;
3. A system is evolved for referral of serious cases to the nearest civil hospital or treatment centres;
4. A routine medical check-up at least once in a month;
5. A health record of each senior citizen in each oldage home shall be maintained on the basis of monthly medical check-up;
6. The sick senior citizen shall constantly be under medical supervision;
7. Each oldage home shall have networking with local doctors and hospitals for referral cases;
8. Arrangement for psychological counselling and mental health care.

(c) Recreation Facility

It must include facility for offering prayers to the respective religious deities, watching television, reading room with sufficient books, newspapers, etc.

(d) Sanitation and Hygiene

Each home shall have the following facilities, namely

1. Sufficient and treated drinking water;
2. Sufficient water for bathing and washing clothes;
3. Proper drainage system;
4. Arrangements for disposal of garbage;
5. Sufficient number of latrines and bathrooms;
6. Sunning of bedding and clothing;
7. Protection from mosquitoes, flies, insect, etc.

(e) Diet Scale

The State Government shall prepare diet scale, to be strictly adhered to by the homes, for the inhabitants of the home in consultation with nutrition experts so that the diet becomes balanced, nutritious and varied. Special diet may be provided on holidays, festivals and to sick inhabitants as required.

(f) Issue of clothing, bedding and other articles

Each senior citizen may be provided with clothing and bedding including bed sheets, blanket, pillow, chappal or shoes, utensils as required, tooth powder, soap, oil, comb as per the scale laid down by the State Government from time to time:

Provided that the inhabitants of the home shall, as far as possible, have the right to use clothing of their own choice.

7.3 Authorities who may be specified for implementing the provisions of the Act.

1. The State Government may, by order, confer such powers and impose such duties on a District Magistrate, as it may consider necessary and expedient, to ensure that the provisions of this Act are properly carried out.
2. The District Magistrate may specify the officer, subordinate to him, to exercise all or any of the powers and perform all or any of the duties, conferred or imposed

upon him and the local limits within such powers or duties shall be carried out by the officer.

3. The District Magistrate shall, from time to time, send all the reports as called for to the State Level Monitoring Committee and to the State Government.

8. Chapter VII: Comprehensive Action Plan for protection of life and property of senior citizen

8.1 State Level Monitoring Committee

1. The State Government may constitute a high level inter departmental State Level Monitoring Committee to be presided over by the Minister-in-charge of the Department of Women and Child Development and Social Welfare, which shall comprised of the members from the various departments of the Government of West Bengal, like Health and Family Welfare, Home, Law, Judicial, Women and Child Development and Social Welfare, Panchayats and Rural Development, Municipal Affairs, Finance and some members from the eminent Non-Governmental Organizations.
2. The State Level Committee constituted under sub-rule (1), shall meet periodically but not less than bi-annually to review the status of compliance of the Action Plan.
3. The State Level Committee may call for reports from the District Magistrate of the respective district regarding implementation of the various provisions of the Act, specially the reports on running of the oldage home, quarterly reports on the disposal of the maintenance claims; awareness campaign at Block, Sub-Division, and District Level.

8.2 Awareness Programme.

The State Government shall take all measures to ensure the publicity, awareness campaign, programme for periodic sensitization and awareness training among the State Government Officers, including the Police Officers and the members of the Judicial Service, on the issues relating to the Act.

(2) The State Government may take the help of various Non-Governmental Organizations, Local Bodies, Voluntary Organizations, Schools and Colleges for the purpose of awareness campaign.

(3) The State Government shall take all measures for ensuring the effective co-ordination between the services provided by the concerned Ministries or Departments dealing with Law, Home Affairs, Health and Family Welfare and Social Welfare.

8.3 Help from Non-Governmental Organizations

The State Government shall take all the measures and necessary steps for providing protection of life and property of senior citizens and for the purpose, it may take the help of the voluntary Non-Governmental Organizations on following matters:

- a. To cover the maximum number of indigent senior citizens and destitute old parents living on their own, within the social safety not available under pension scheme;
- b. To ensure the medical support for parents and senior citizens as provided under section 20 of the Act and to provide medical care to the older persons living in rural

and isolated and backward areas through Mobile Medicare Units;

- c. To give high priority to the complaints to the Police Station filed by the senior citizens regarding protection of life and property;
- d. To establish help-lines and Counseling Centers for senior citizens.

9. Chapter VIII: Miscellaneous

9.1 Interpretation

If any question arises on any matter relating to the interpretation of these rules, it shall be referred to the State Government and its decision thereon shall be final.

9.2 Relaxation

Nothing in these rules shall be construed to limit or abridge the power of the State Government to dispense with or relax with requirement of any provision of these rules to such extent and subject to such condition as may be considered necessary.

Muslim Law

Children have a responsibility to maintain their aged parents under the Muslim law. According to Mulla:

- (a) Children in easy circumstances are bound to maintain their poor parents, although the latter may be able to earn something for themselves.
- (b) A son though in strained circumstances is bound to maintain his mother, if the mother is poor though she may not be infirm.
- (c) A son, who though poor, is earning something, is bound to support his father who earns nothing.

International Perspective

The question of ageing was first debated at the United Nations in 1948 at the initiative of Argentina. The issue was again raised by Malta in 1969. In 1971 the General Assembly asked the Secretary-General to prepare a comprehensive report on the elderly and to suggest guideline for the national and international action. In 1978, Assembly decided to hold a World Conference on the Ageing. The International Plan of Action on Ageing was adopted by the General Assembly in 1982 and the Assembly in subsequent years called on governments to continue to implement its principles and recommendations.

1. In 1992, the U.N. General Assembly adopted the proclamation to observe the year 1999 as the International Year of the Older Persons.
2. The U.N. General Assembly has declared "First October" as the International Day for the Elderly later rechristened as the International Day of the Older Persons.
3. The U.N. General Assembly on December 16, 1991 adopted 18 principles.

Universal Declaration of Human Right

Article 25 (1), Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or

other lack of livelihood in circumstances beyond his control.

Convention Relating To the Status of Refugees (1951)

Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened (b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and ...

This convention establishes that states shall treat refugees lawfully abiding in their territory with the same respect for rights as other nationals including providing for a refugee's social security in the event of sickness, disability or old age.

European Social Charter (1961)

Article 11 – The right to protection of health With a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia:

1. To remove as far as possible the causes of ill-health;
2. To provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
3. To prevent as far as possible epidemic, endemic and other diseases.

Article 12

The right to social security With a view to ensuring the effective exercise of the right to social security, the Contracting Parties undertake:

1. To establish or maintain a system of social security;
2. To maintain the social security system at a satisfactory level at least equal to that required for ratification of International Labour Convention (No. 102) Concerning Minimum Standards of Social Security;
3. To endeavour to raise progressively the system of social security to a higher level;
4. To take steps, by the conclusion of appropriate bilateral and multilateral agreements, or by other means, and subject to the conditions laid down in such agreements, in order to ensure:
 - a. Equal treatment with their own nationals of the nationals of other Contracting Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Contracting Parties;
 - b. The granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Contracting Parties.

Article 13

The right to social and medical assistance With a view to ensuring the effective exercise of the right to social and medical assistance, the Contracting Parties undertake:

1. To ensure that any person who is without adequate resources and who is unable to secure such resources

either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;

2. To ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
3. To provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
4. To apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Contracting Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11th December 1953.

Article 14

The right to benefit from social welfare services With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Contracting Parties undertake:

1. To promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;
2. To encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

United Nations and the Rights of Disabled Persons

While Article XII ensures the disabled the right to preservation of health through sanitary and social measures; While Article XVI recognizes the right of every person to the state protection in specific situations arising out of unemployment, old age and disability. Because Article 18 of the Additional Protocol to the American Convention on Human Rights as adopted on 14th November 1988, provides for the rights of the disabled to the special protection.

International Covenant on Economic, Social and Cultural Rights (1966)

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes,

which are needed:

- a. To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
- b. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Declaration on the Rights of Disabled Persons (1975)

Declaration on the Rights of Disabled Persons and calls for national and international action to ensure that it will be used as a common basis and frame of reference for the protection of these rights:

1. The term "disabled person" means any person unable to ensure by himself or herself, wholly or partly, the necessities of a normal individual and/or social life, as a result of deficiency, either congenital or not, in his or her physical or mental capabilities.
2. Disabled persons shall enjoy all the rights set forth in this Declaration. These rights shall be granted to all disabled persons without any exception whatsoever and without distinction or discrimination on the basis of race, colour, sex, language, religion, political or other opinions, national or social origin, state of wealth, birth or any other situation applying either to the disabled person himself or herself or to his or her family.
3. Disabled persons have the inherent right to respect for their human dignity. Disabled persons, whatever the origin, nature and seriousness of their handicaps and disabilities, have the same fundamental rights as their fellow-citizens of the same age, which implies first and foremost the right to enjoy a decent life, as normal and full as possible.
4. Disabled persons have the same civil and political rights as other human beings; paragraph 7 of the Declaration on the Rights of Mentally Retarded Persons applies to any possible limitation or suppression of those rights for

mentally disabled persons.

5. Disabled persons are entitled to the measures designed to enable them to become as self-reliant as possible.
6. Disabled persons have the right to medical, psychological and functional treatment, including prosthetic and orthotic appliances, to medical and social rehabilitation, education, vocational training and rehabilitation, aid, counselling, placement services and other services which will enable them to develop their capabilities and skills to the maximum and will hasten the processes of their social integration or reintegration.
7. Disabled persons have the right to economic and social security and to a decent level of living. They have the right, according to their capabilities, to secure and retain employment or to engage in a useful, productive and remunerative occupation and to join trade unions.
8. Disabled persons are entitled to have their special needs taken into consideration at all stages of economic and social planning.
9. Disabled persons have the right to live with their families or with foster parents and to participate in all social, creative or recreational activities. No disabled person shall be subjected, as far as his or her residence is concerned, to differential treatment other than that required by his or her condition or by the improvement which he or she may derive therefrom. If the stay of a disabled person in a specialized establishment is indispensable, the environment and living conditions therein shall be as close as possible to those of the normal life of a person of his or her age.
10. Disabled persons shall be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature.
11. Disabled persons shall be able to avail themselves of qualified legal aid when such aid proves indispensable for the protection of their persons and property. If judicial proceedings are instituted against them, the legal procedure applied shall take their physical and mental condition fully into account.
12. Organizations of disabled persons may be usefully consulted in all matters regarding the rights of disabled persons.
13. Disabled persons, their families and communities shall be fully informed, by all appropriate means, of the rights contained in this Declaration.
14. This declaration defines the status of disabled persons. As some elderly persons often suffer from various types of disabilities, the rules established in this declaration are also applicable to them. Disabled people are entitled to all measures designed to assist them in becoming as self-reliant as possible. If a disabled person must stay in an institution for assistance, that individual is entitled to living conditions that come as close as possible to those of other people of the same age. Disabled persons are protected from exploitation and abuse.

Arab Charter on Human Rights (1994)

The Arab Charter on Human rights was adopted in Cairo on 15 September 1994, translated from Arabic.

Article 30

The State guarantees every citizen's right to work in order to secure for himself a standard of living that meets the basic requirements of life. The State also guarantees every citizen's right to comprehensive social security.

Article 31

Free choice of work is guaranteed and forced labour is prohibited. Compelling a person to perform work under the terms of a court judgement shall not be deemed to constitute forced labour.

Article 32

The State shall ensure that its citizens enjoy equality of opportunity in regard to work, as well as a fair wage and equal remuneration for work of equal value.

Article 38

(a) The family is the basic unit of society, whose protection it shall enjoy.

(b) The State undertakes to provide outstanding care and special protection for the family, mothers, children and the aged.

10. National Policy for Older Persons in India

The formulation of the National Policy for Older Persons (NPOP) in India in 1999 was in response to the increasing number and proportion of older persons and their disadvantaged status in terms of general social, economic and physical well-being. The demographic transition process has been accompanied by industrialisation, urbanisation, migration and modernisation, resulting in changing values and lifestyles, which contest the traditional values regarding accommodation of the elderly within households. The special features of the elderly population in India are: (a) a majority (80 per cent) of the elderly live in the rural areas, thereby making service delivery a challenge; (b) feminisation of the elderly population (51 per cent of the elderly population would be women by the year 2016); (c) increase in the number of the oldest-old (persons above 80 years) and (d) a large proportion (30 per cent) of the elderly live below the poverty line. A combination of these features makes the elderly very vulnerable. The Constitution of India mandates that the well-being of older persons should be ensured without any discrimination. Many suggestions have been made for designing policies and programmes to ensure equality among the elderly. The National Policy Statement includes the following:

1. Ensuring the well-being of the elderly so that they do not become marginalised, unprotected or ignored on any count
2. Protection on various fronts like financial security, health care, shelter and welfare, including protection against abuse and exploitation
3. Ensuring for the elderly, an equitable share in the benefits of development as well as addressing the neglect of elderly women on three counts viz. age, widowhood and gender
4. Promoting an age-integrated society by adopting mechanisms for improving inter-generational ties so as to make the elderly a part and parcel of families/households
5. Considering the elderly as a resource by advocating their

inclusion within the family, community and society and carving out specific productive roles and opportunities for them

6. Viewing the elderly as an agency which needs to be empowered, with regard to their voice and representation in the electoral sphere
7. In connection with the larger budgetary requirements, to ensure the welfare of the elderly thereby advocating the involvement of civil society, individuals and families in this endeavour
8. Recognising the need for expansion of social and community services with universal accessibility

The NPOP, announced in January 1999 had the primary objectives of encouraging individuals to make provision for their own as well as their spouse's old age; encouraging families to take care of their older family members; and creating in the elderly persons an awareness of the need to develop themselves into independent citizens. The Policy also aims at enabling and supporting non-governmental organisations to supplement the care provided by the family; providing care and protection to the vulnerable elderly; providing health care facilities to the elderly; promoting research and training facilities, training geriatric care givers and organisers of services for the elderly. The Ministry of Social Justice and Empowerment (MOSJE) coordinates the implementation of NPOP while many elements of the Policy are under the mandates of several other ministries. After about a decade of implementation of NPOP, the MOSJE set up a committee of experts to review implementation experience and suggest ways and means for improving the policy content and its implementation. The expert committee has now prepared a revised National Policy for Senior Citizens (NPSC) that recognizes that (a) elderly women need special attention, (b) rural poor need special attention and (c) factoring the advancements in medical technology and assistive into the revised policy. Specifically, broad categories of intervention include:

- Income security in old age
- Health care
- Safety and security
- Housing
- Productive ageing
- Welfare
- Multigenerational bonding
- Media and
- Protection during natural disasters and emergencies.

The draft Policy document lists 43 specific areas of intervention under the above 9 categories. This paper however focuses on critical issues of implementation of the 1999 NPOP as part of building a knowledge base useful for finalization and effective implementation of NPSC.

This information was given by the Minister of State for Social Justice and Empowerment, Shri Sudarshan Bhagat in a written reply to a question in Lok Sabha here today.

11. Role of Maintenance and Welfare of Parents and Senior Citizens ACT, 2007

In pursuance of the understanding at international level, Government of India initiated and declared national policy on older persons in 1999. This policy recognized certain rights of

the aged people and further declared Government's responsibility towards providing economic and social security along with healthcare facilities and protection of life and property of the aged people. In spite of the fact that the said policy was declared in 1999, even after decade no steps were taken to implement said policy. There was strong and consistent pressure from different NGOS and demand by aged people, senior citizens organizations etc. on the government regarding implementation of the same by appropriate Legislation. Therefore, Ministry Of Law And Justice drafted a legislature titled 'The Maintenance and Welfare of Parents and Senior Citizens Act' (hereinafter referred to as the Act), and it was published on December 31, 2007, after receiving the assent of President on December 29, 2007. As mentioned in Section 1 of the Act, it shall come into force in a State on such date as the State Government may appoint. The Act mentions that the person would be considered as a 'senior citizen' if he is a citizen of India and has attained the age of 60 years or above.

12. Comparison of section 125 of cr. P.C and section 9 of maintenance and welfare of parents and senior citizens act, 2007

Section 125 of Cr. P.C does not put any limit for the maintenance, whereas under the Act, 2007, the maximum limit of maintenance to be awarded is fixed as 10,000/-. Since there is specific bar in section 12, they cannot claim more than 10,000/- repress. If they want to get more amount of maintenance under the Code of Criminal Procedure, the more expeditious remedy available under the Act, 2007 will be precluded.

13. Conclusion

The below mentioned suggestions, if implemented will definitely help the senior citizens. The researcher would like to end this research on concluding note, that, it is not only the government's responsibility to protect the interests of the elderly people, but as a responsible citizen of the society everyone should make effort to secure the dignified status of the old age people in the family and in the society as well. In today's fast life, most people complain that they have no enough time or money at some particular time to provide proper care and health facilities to their parents and grand-parents. In that case, it might be quite possible to form a welfare society or cooperative society by some families with some joint fund which would provide proper care to old members of these families. NGO's and some other private institutions are also playing very important role in the society for elderly people. Government should support these NGO's to improve the condition of the older people in the society. But, without the awareness and support of the people in the society all these laws and provisions would be useless because it is not only a legal problem but a social problem as well. One should never forget that every child has to grow and has one day to fall in the category of old aged person/parents. What we give to our parents shall automatically come back up on us.

In our LL.B. Syllabus, many laws are studied. But how are many laws applicable in our society? We always support the latest various judgments of Supreme Court on oldage people,

till now a large number of old person are suffered. Unfortunately, our West Bengal Bidhan Sabha has not passed "Maintenance and Welfare of Parents and Senior Citizens Rules, 2008" till today.

14. Suggestions

- Government should take active participation in creating awareness among the senior citizens relating to the rights mentioned in senior citizenship Act 2007. They also should be made aware through mass media like- Radio, Television, News Paper etc. To create awareness, help should be taken from law institutions with contribution of students, teachers, advocates etc.
- Property laws i.e. Succession laws must be properly explained to senior citizens.
- There should be free legal- aid provisions for seniors.
- Regular seminars should be organized to create awareness amongst the Senior Citizens. Government should organize campaigns for the awareness of senior citizens.
- Present law is inadequate for rendering justice. There should be changes in law to suit the requirements of senior citizens. One of the important changes in law is- Lawyers should be allowed to plead their case on their behalf, so that the seniors are not physically and mentally taxed.
- There should be fast track courts for senior citizens. Justice should not be delayed. Their matter should be heard on day to day basis. The Judges are already overloaded with regular cases, so it takes a lot of time to hear the cases on senior citizens. Therefore, separate tribunal should be establish for senior citizens.
- Separate police cell should be established to handle the cases relating to senior citizens.
- Offences against senior citizens should be treated as aggravated offences and should be sentenced with additional penalty. The penal provisions are not adequate. There is no direct relief.
- Special cell should be open in every government and private offices to make the senior citizens aware of their rights after retirement. The aging process brings senior citizens both happiness and sadness. They must choose the path they want to follow as seniors it is up to us to make these years the best years. There are positive ways we can deal with the common problems of chronic illness, depression, pain and family strife. Such kinds of positive thinking should be developed by the office members at the time of retirement.
- The government has tried its best to provide for the upliftment and protection of older persons (that could make their everyday living better) by drafting various governmental concessions, schemes and policies specifically for them. However the implementation of these well-intended instruments is very poor. The enforcement agencies should be made more active.
- There should be compulsory detention of minimum self-acquired property with the person. The property should be transferred only after the person dies. Property should not be transferred to the heir without proper maintenance credited in the name of the parents.
- There should be complaint redressed cell established by Government at local level to help the senior citizens with

grievances. There should be appointment of investigation officers to check real conditions of the seniors.

- Proper provision should be made by government for protection of their health. Provisions of medicines, regular check-up by Doctors, etc.
- There should be effective cooperation and coordination between all the stake holders who are responsible for the effective implementation and execution of this social legislation.

15. Critical Analysis of the Act

This Act was passed by central government in 2007 but most of states passed the Act within last few years and show no interest in this Act due to no sound directions by the central government to the states. Act is not achieving its objectives. There are some of the lacunas in the Act:

- The definition of senior citizens differs from the National Policy on Older People. Citizen includes both Indian citizens aged above 60 years and all parents irrespective of age. It also includes all parents with children above age of 18 years.
- Act states that the presiding Officer of the Tribunal will be Sub Divisional Officer and also the appellate powers are vested in the District Magistrate that means the persons from Revenue Department who may not be having the knowledge of law and proper proceeding of court.
- Revenue Department is already overburdened and assigning job of adjudicating issues/cases of the senior citizens which require to be decided on priority would not be given that much attention. If this happens then very object of enacting this special legislation would frustrate. In this circumstance senior citizens will suffer double injustice. Since jurisdiction of other courts are also barred by this legislation.
- Act prohibits the entry of the advocates and complete exclusion of the lawyers from the purview of the Tribunal has no reasons or details and logic behind it.
- The provisions of the Act provide that the Maintenance Officer designated by State Government shall represent senior citizen if he so desire, but no such facility is available to other party and this will be a violation of natural justice.
- There is a strong chance to face the problems by the aged persons because the entire responsibility of establishing Tribunals, enacting rules is subsists with state and this is not a mandatory provision so State may or may not establish Tribunal to adjudicate the cases of senior citizens. The Presiding officer of the Tribunal has no power of discretion in awarding the maintenance amount and the power is vested with the State Government. This will again result in injustice with the aged people. There is every possibility that the amount fixed by the government may vary from State to State.
- To impose a liability on a person who happens to be a relative of the senior citizen on the ground that he will inherit the property of the senior citizen is illogical and unreasonable because there is no guarantee that the relative will definitely inherit the property of the senior citizen and the senior citizen may sell his property to any third party before his death and there may also be a chance that

relative is not interested to accept the aged persons property then can he be bound to give the maintenance?

- The exclusion of the jurisdiction of Civil Courts is not justified, because Tribunals are not manned by legally qualified or experienced persons. Further the protection given to Central and State Government and the authorities of the government that no proceedings can be initiated against them. This is a violation of principles of natural justice.
- The Act confer right to file appeal only to senior citizen and other party is not having said right. This is contradictory to the Constitutional principle of equality. There is no facility available to childless senior citizens.
- There is no provision in this Act about the management and administration of the old age home and In absence of clear cut provisions with regard to Old Age Home, the said provision may not work in reality and will frustrate the intent of legislature.
- The provision of the Act directing the government to provide medical support to the senior citizens, shall provide beds to senior citizens and such hospital shall be headed by a medical officer having experience in Geriatric care found to be ornamental only. Very few hospitals have Geriatric Care and medicine Experts in India.

16. References

1. Bakshi PM. The Constitution of India, Universal Law Publishing Co. Pvt. Ltd., Delhi, 3rd Edition, 1996,
2. Singh MP. The Constitution of India, Delhi Law House, Delhi, 4th Edition 2015,
3. Pandey Dr. JN. Constitutional Law of India, Central Law Publications, Allahabad, 49th. Edition, 2012,
4. Jain MP. Indian Constitutional Law, LexisNexis, Haryana, 5th. Edition, 2013,
5. Reddy, Gade Veera. The Constitutional Law of India, Sujatha Law Books Pvt. Ltd., ISBN-81-7972-032-2.
6. Gaur KD. Indian Penal Code, Universal Law Publishing Co. Pvt. Ltd., Delhi, India, 4th Edition, 2009.
7. https://www.google.co.in/search?q=famous+quotes+about+old+age&dcr=0&tbm=isch&tbu=u&source=univ&sa=X&ved=0ahUKEwj_1orI9JzZAhVCNI8KHefRDfQQsAQIOW&biw=1024&bih=662, 9:26 am, 11/02/2018
8. https://www.google.co.in/search?q=famous+quotes+about+old+age&dcr=0&tbm=isch&tbu=u&source=univ&sa=X&ved=0ahUKEwj_1orI9JzZAhVCNI8KHefRDfQQsAQIOW&biw=1024&bih=662, 9:33 am, 11/02/2018
9. [http://www.commonlii.org/in/other/INPRSLs/tmawopascb20071b665/, 10:26 am, 10/02/2018](http://www.commonlii.org/in/other/INPRSLs/tmawopascb20071b665/)
10. <http://socialjustice.nic.in/writereaddata/UploadFile/Annexure-X635996104030434742.pdf, 10 am, 07/02/2018>
11. <http://wbhrc.nic.in/Recommendation%2016-17/1137-16-17.pdf>
12. http://www.prsindia.org/uploads/media/1182337322/scr1193026940_Senior_Citizen.pdf
13. <https://timesofindia.indiatimes.com/city/kolkata/Old-parents-get-shelter-of-law/articleshow/3883503.cms>
14. <http://vikaspedia.in/social-welfare/senior-citizens-welfare/policies-and-acts-1/maintenance-and-welfare-of-parents-and-senior-citizens-act-2007>
15. https://en.wikipedia.org/wiki/Maintenance_and_Welfare_

- of_Parents_and_Senior_Citizens_Act,_2007
16. <https://factly.in/understanding-the-maintenance-and-welfare-of-parents-and-senior-citizens-act/>
 17. <https://www.lawctopus.com/academike/maintenance-welfare-parents-senior-citizens-act-2007/>
 18. <https://www.legalcrystal.com/cases/search/name:maintenance-and-welfare-of-parents-and-senior-citizens-act-2007-section-15-constitution-of-appellate-tribunal/court:karnataka>
 19. http://shodhganga.inflibnet.ac.in/bitstream/10603/32757/1/5/15_summary%20and%20conclusions.pdf
 20. <http://www.researchfront.in/13%20Special%20Issue%204/3.pdf>
 21. <http://www.researchfront.in/13%20Special%20Issue%204/10.pdf>
 22. <file:///C:/Users/A/Downloads/2-6-18-475.pdf>
 23. <http://ijsard.org/wp-content/uploads/2017/02/By-Ashwani-Kumar-Dwivedicompileation-volume-3.pdf>
 24. <http://www.legalserviceindia.com/article/1170-Rights-Of-Senior-Citizen.html>
 25. <http://bvpnlcpune.org/Results%20PDF/Vidya%20Dhere%20Minor%20Research%20Project.pdf>
 26. <http://164.100.47.4/billstexts/lsbilltexts/AsIntroduced/3047LS.pdf>
 27. http://shodhganga.inflibnet.ac.in/bitstream/10603/32472/7/07_chapter1.pdf
 28. <http://bvpnlcpune.org/Results%20PDF/Vidya%20Dhere%20Minor%20Research%20Project.pdf>, 3:12 p.m., 04/03/2018
 29. http://shodhganga.inflibnet.ac.in/bitstream/10603/149571/15/09_chapter%201.pdf, 3:25 p.m., 04/03/2018
 30. http://www.claiminghumanrights.org/udhr_article_25.html, 4:41 p.m., 06/03/2018
 31. <https://indiankanoon.org/doc/1056396/>, 4:41 p.m., 06/03/2018
 32. https://www.google.co.in/search?ei=4XeeWvThLsXSvATS34G4BQ&q=CONVENTION+RELATING+TO+THE+STATUS+OF+REFUGEEES+%281951%29+of+oldage+&oq=CONVENTION+RELATING+TO+THE+STATUS+OF+REFUGEEES+%281951%29+of+oldage+&gs_l=psy-ab.3...10081.31762.0.32412.17.16.1.0.0.0.702.4969.4-2j6j1.9.0....0...1c.1.64.psy-ab.8.6.2671...0i22i30k1j33i22i29i30k1j33i160k1.0.uXBJDTsZAYs, 5:02 p.m., 06/03/2018
 33. <https://www.mlsp.government.bg/ckfinder/userfiles/files/admob/European%20Social%20Charter.pdf>, 5:11 p.m., 06/03/2018
 34. [https://books.google.co.in/books?id=mXWTU-CTBCAC&pg=PA106&lpg=PA106&dq=EUROPEAN+SOCIAL+CHARTER+\(1961\)+on+old+age+person&source=bl&ots=u5nLNbf0GR&sig=xFRjRoxVsgYvkEr_cTt3gzCrwd8&hl=en&sa=X&ved=0ahUKEwjSqsrxztfZAhVjvI8KHSxUAZQQ6AEIYTAJ#v=onepage&q=EUROPEAN%20SOCIAL%20CHARTER%20\(1961\)%20on%20old%20age%20person&f=false](https://books.google.co.in/books?id=mXWTU-CTBCAC&pg=PA106&lpg=PA106&dq=EUROPEAN+SOCIAL+CHARTER+(1961)+on+old+age+person&source=bl&ots=u5nLNbf0GR&sig=xFRjRoxVsgYvkEr_cTt3gzCrwd8&hl=en&sa=X&ved=0ahUKEwjSqsrxztfZAhVjvI8KHSxUAZQQ6AEIYTAJ#v=onepage&q=EUROPEAN%20SOCIAL%20CHARTER%20(1961)%20on%20old%20age%20person&f=false), 5:25 p.m., 06/03/2018
 35. <http://www.humanrights.se/wp-content/uploads/2012/01/Arab-Charter-on-Human-Rights.pdf>, 7:14 a.m., 08/03/2018
 36. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightsOfDisabledPersons.aspx>, 7:20 a.m., 08/03/2018
 37. <http://www.isec.ac.in/BKPAI%20Working%20paper%205.pdf>, 7:33 a.m., 08/03/2018
 38. <http://pib.nic.in/newsite/PrintRelease.aspx?relid=107228>, 7:37 a.m., 08/03/2018
 39. <http://tcw.nic.in/Acts/Hindu%20adoption%20and%20Maintenance%20Act.pdf>, 5:58 p.m., 09/03/2018
 40. <https://factly.in/understanding-the-maintenance-and-welfare-of-parents-and-senior-citizens-act/>, 7:46 p.m., 09/03/2018.