



**FILIAL RESPONSIBILITY LAW IN  
INDIA: A CRITICAL ANALYSIS OF  
THE EXISTING LAW AND ITS  
PROPOSED AMENDMENT**

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principal Act as well as the proposed amendment to the said Act.

Keywords: Analysis; Act; Elderly Law; Maintenance; Legislative drawbacks; Parents; Senior Citizen; Welfare; Amendment; Filial responsibility.

**ABSTRACT**

Respecting elders and tendering to their needs are some of the core values knitted deep into the fabric of the Indian culture. The elder generation spent a lifetime nurturing and tendering to the needs of their children and it is therefore very important that the children reciprocate this love and affection by taking care of the elders in their hour of need. The significance of the need to protect and provide for the welfare of the senior citizens is also enshrined in the Constitution of India, under the Directive Principles of State Policy<sup>1</sup>. Towards this end, the Government of India has enacted the Maintenance and Welfare of Parents and Senior Citizens Act, 2007<sup>2</sup>. For more than a decade this Act has been serving the needs of parents and elderly citizens who were in distress. However, this piece of legislation has faced a fair bit of criticism. Towards making the existing legislation more effective, the Government has proposed an amendment to the existing Act. The Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill, 2019 was introduced in Lok Sabha on December 11, 2019. The objective of this paper is to critically analyze the provisions of the

**I. Introduction**

As per the population Census of India, carried out in the year 2011, there were nearly 104 million people who were sixty years old or above. According to a report of the United Nations, this number is expected to reach the 173 million mark by the year 2026<sup>3</sup>. This valuable section of our population has and at some levels continues to contribute their best to the society and nation. In their old age when they are vulnerable and even infirmed, it is our duty to ensure their protection, both financial and otherwise. Providing for the well-being of the elders has been an integral part of the moral code of conduct of all the civilizations that reached an advanced stage of social and cultural development. Caring for the elders is not only seen as a moral and ethical duty, but also a religious one. As is ordained in almost all the Holy Scriptures, a devoutly religious person must be benevolent and compassionate towards their elders and take care of their needs. Traditional Indian culture celebrated the ageing process and emphasized on the need to venerate the elders. Age did and culturally still does command respect in India. However, the growing consumer culture and the deteriorating joint family system has dented

<sup>1</sup> Article 41 of the Indian Constitution, 1949.

<sup>2</sup> Article 41 read with Entry 23 of the Concurrent List (Schedule VIII).

<sup>3</sup> Elderly in India, report published by the Ministry of Statistics and Programme Implementation,

Government of India, (Internet) available at [http://mospi.nic.in/sites/default/files/publication\\_reports/ElderlyinIndia\\_2016.pdf](http://mospi.nic.in/sites/default/files/publication_reports/ElderlyinIndia_2016.pdf)



and corroded that value-system. Growing old has a marked negative connotation in the modern popular culture. There is an ever growing market of products being peddled with the central idea of ageing almost as an ailment which these products can help alleviate. With the eroding of the old value system, the elderly are being increasingly isolated from the community and are often left to fend for themselves. There has been a staggering increase in the cases of elderly abuse in the recent past. A study conducted in this regard showed that a shocking 71 percent of the elderly population in our country faces harassment from their own family members<sup>4</sup>. Taking into account the increasing offenses against senior citizens, our Government has over the years made assiduous efforts to bring in legislations to provide for the welfare of these senior citizens. Bills such as the Destitute and Needy Senior Citizens (care, protection and welfare) Bill, 2005, Needy and Neglected Senior Citizens and Orphans and Runaway Children (care and rehabilitation and welfare) Bill, 2005 are all demonstrative of the Government's endeavors in this regard. However, due to manifold reasons, these bills did not materialize into an enacted legislation. The efforts of the Government came to fruition in the year 2007, when the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was successfully enacted as a law.

## II. Maintenance and Welfare of Parents and Senior Citizens Act, 2007 - An Analysis

<sup>4</sup> Over 71 pc senior citizens in India victims of abuse by family members: Survey, The Economic Times, 13<sup>th</sup> June, 2019 (Internet), available at [https://economictimes.indiatimes.com/news/politics-and-nation/over-71-pc-senior-citizens-in-india-](https://economictimes.indiatimes.com/news/politics-and-nation/over-71-pc-senior-citizens-in-india-victims-of-abuse-by-family-members-survey/articleshow/69777963.cms?from=mdr)

The Act consists of seven chapters and thirty two sections. The provisions contained under the Act may, for the purpose of anatomization, be divided into two parts. The first part of the Act deals with provisions for senior citizens to seek maintenance from children as well as matters connected therewith or incidental thereto. The second part of the Act deals with provisions aimed at achieving the welfare of parents and senior citizens.

- Provisions regarding Maintenance:

The Act contains provisions for a senior citizen, including a parent (biological, adoptive or step parent<sup>5</sup>), to make an application against his children (son, daughter, grandson and grand-daughter excluding a minor<sup>6</sup>), seeking maintenance, provided that the said senior citizen is unable to maintain himself from his own earnings or out of the property owned by him. A childless senior citizen may seek maintenance from a relative, who the Act defines as any legal heir of the said childless senior citizen, who is not a minor and is in possession of or would inherit the property of the said senior citizen after his death<sup>7</sup>. Large parts of the elderly population in India has worked in the unorganized sectors and as a result do not receive benefits like a pension. The provision of maintenance under the Act proffers the senior citizens a sense of financial security and ensures that they can live their life with dignity.

victims-of-abuse-by-family-members-survey/articleshow/69777963.cms?from=mdr

<sup>5</sup>Maintenance and Welfare of Parents and Senior Citizens Act, 2007, §2(d)

<sup>6</sup> Id; Section 2(a)

<sup>7</sup> Id; Section 2(g)



The Act provides for the constitution of Tribunals for dealing with matters pertaining to the Act. The Tribunal shall be presided over by an officer of the State, not below the rank of Sub-Divisional Officer<sup>8</sup>. For the purpose of disposing of an application under the Act, the tribunal may seek the guidance and assistance of one or more persons who possess expert knowledge in any area relevant to the matter at hand<sup>9</sup>. The Tribunals are to dispose each such application within a period of ninety days. The Tribunal may refer a matter to Conciliation, if it so deems fit, before arriving at a pronouncement<sup>10</sup>. The Act expressly bars the legal practitioners from making representations before the Tribunal<sup>11</sup>. The State Governments have been empowered to designate Maintenance Officers and such officers of the state shall have the power to represent the senior citizen if he so desires<sup>12</sup>. The Act contains provisions for interim maintenance and accordingly empowers the Tribunal to instruct the Children or Relative to pay interim maintenance during the pendency of the application<sup>13</sup>. The Tribunal may also proceed to issue a warrant against the Children or Relative to levy fines and may order for their imprisonment for a term not exceeding one month in the event that the said Children or Relative fail to comply with the orders of the Tribunal<sup>14</sup>. The Tribunal is empowered to issue summons for directing the appearance of Children or Relative and in the event that the Tribunal is satisfied that such a person against whom an application for maintenance

is filed, is willfully avoiding attending the Tribunal, the Tribunal may proceed to hear the application ex-parte<sup>15</sup>. The provisions of the Act mandate that the maximum maintenance allowance shall not exceed an amount of rupees ten thousand per month<sup>16</sup>. The Tribunal is also empowered to order an amount in addition to the maintenance by way of simple interest capped at a minimum of five percent and maximum of eighteen percent from a date which shall not precede the date of filing of application<sup>17</sup>. For the purpose of hearing any appeals from the order of the Tribunal, the Act provides for the setting up of an Appellate Tribunal by the States, which shall be presided over by an officer not less than the rank of a District Magistrate<sup>18</sup>. An Appeal against the order of the Tribunal shall be filed within a period of sixty days from the date of the order of the Tribunal<sup>19</sup>. There is an onus on the Appellate Tribunal to pronounce the orders in writing within one month of the receipt of the appeal<sup>20</sup>.

Provisions Regarding Welfare: Chapters Three to Five of the Act constitute provisions aimed at ensuring the welfare of Senior Citizens. The Act provides for establishment of old age homes throughout the country for housing indigent Senior Citizens and casts an obligation on state governments to establish and maintain such old age homes in their respective states. The Act requires that each district in a state shall have at least one such institution and each such institution shall

<sup>8</sup> Id; Section 7(1) and (2)

<sup>9</sup> Id; Section 8(3)

<sup>10</sup> Id; Section 6(6)

<sup>11</sup> Id; Section 17

<sup>12</sup> Id; Section 18(2)

<sup>13</sup> Id; Section 5(2)

<sup>14</sup> Id; Section 5(8)

<sup>15</sup> Id; Section 6 Proviso to (4)

<sup>16</sup> Id; Section 9(2)

<sup>17</sup> Id; Section 14

<sup>18</sup> Id; Section 15(1) and (2)

<sup>19</sup> Id; Section 16(1)

<sup>20</sup> Id; Section 16(5)(1)



have a minimum capacity to accommodate one hundred and fifty senior citizens<sup>21</sup>. The Act also contains provisions for the medical care of Senior Citizens and states that in hospitals which are fully or partly funded by Government, special provisions should be made for them. This includes reserving beds in such hospitals for senior citizens, separate queues for them, conducting research activities for chronic geriatric diseases etc.<sup>22</sup> In order to ensure that the provision of the Act are carried out smoothly the State Government may confer powers as well as impose certain duties on the District Magistrates<sup>23</sup>. Further, the Central Government is empowered under the Act to conduct a period review and monitor the progress of the implementation of the provisions of the Act by the concerned State Governments<sup>24</sup>.

The Act lays down that if after the commencement of this Act, any senior citizen by way of a gift or otherwise, transferred any of his property, subject to a rider that the person who has received the property shall provide the basic amenities and basic physical needs to the transferor, and if such a transferee refuses or fails to comply with the said condition, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal<sup>25</sup>. Far too often in the past, parents have been victims of cruelty by children who found it all too convenient to abandon the parents once they gifted their property to them. The Act

provided strong armour in safeguarding the interests of these senior citizens. From a reading of Section 23, it is clear that the provisions thereof are contingent on the existence of a specific recital in the transfer deed, to the effect that in lieu of such a transfer, the transferee shall be liable to provide the senior citizen with basic amenities and basic physical needs. Thus, the question that arose before courts later was whether the Tribunal under the Act has the power to render a transfer void in pursuance of the provision of Act, if there were no specific recitals as stated above?

Addressing the very same issue in one of the cases<sup>26</sup> before it, the Hon'ble High Court of Kerala opined that the condition referred in Section 23 has to be understood based on the conduct of the transferee and not with reference to the specific stipulation in the deed of transfer and accordingly it is not necessary that there should be a specific recital or stipulation as a condition in the transfer deed itself.

The Act also states that any person who commits the offence of abandonment against a Senior Citizen shall be punishable with imprisonment for a term which may extend to three months or fine which may extend to five thousand rupees or with both<sup>27</sup>. The Act expressly states that no Civil Court shall have jurisdiction to entertain any matter pertaining to the Act and further that no Civil Court shall grant any injunction in respect of anything relating to this Act<sup>28</sup>.

<sup>21</sup> Id; Section 19(1)

<sup>22</sup> Id; Section 20(1) to (5)

<sup>23</sup> Id; Section 22(1)

<sup>24</sup> Id; Section 31

<sup>25</sup> Id; Section 23(1)

<sup>26</sup>Radhamani and others v. State of Kerala (2016 (1) KHC 9)

<sup>27</sup> Section 24; The Maintenance and Welfare of Parents and Senior Citizens Act, 2007

<sup>28</sup> Id; Section 27



### III. Legislative Drawbacks

It is nearly impossible for law makers to foresee all impediments and pitfalls in the implementation of legislation. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is no exception to this. Some of the major drawbacks of this legislation are as follows:

1. The Directive Principles of State Policy<sup>29</sup> espouses the cause of all senior citizens irrespective of their financial standing. However, the Act in its present form is silent about those senior citizens who are childless and who also do not possess any property of their own.
2. A childless senior citizen may seek maintenance from a relative who stands to inherit the property of the said senior citizen. This provision is premised on the assumption that the after the life time of the senior citizen the property will be inherited by the relative. The inherent flaw in such an assumption is the fact that it does not consider a scenario where the senior citizen may sell or otherwise transfer the property to someone else. If that is indeed the case, it would be an unjust burden on the said relative as he/she may end up not inheriting the property despite having to provide maintenance to the senior citizen.
3. The definition of children under the act does not cover a son-in-law or a daughter-in-law. Considering how in most cases of abuse of the elderly a son-in-law or a daughter-in-law is involved, their exclusion from the provision of the Act is a major drawback.
4. The Tribunals constituted under the Act are expected to perform many functions which are judicial in nature such as issuing summons, recording evidence etc. The Act merely states that the person presiding over such a Tribunal shall be an officer of the state not below the rank of Divisional Officer<sup>30</sup>. More often than not these officers are not trained in legal matters. As such, it is highly likely that the procedures conducted by these Tribunals may have some irregularities, which in turn will result in increasing interference from High Courts on the grounds of such irregularities.
5. The total bar on legal professionals from representing parties before the Tribunal is also not reasonable. Without the help of legal professionals it may be difficult for these Senior Citizens to make representations on matters involving complex questions of law.
6. The Act has put a cap on the maximum maintenance that a tribunal can order. At present, the maximum amount that a tribunal can order as maintenance is rupees ten thousand per month. The Act does not take into account the socio-economic background of the family, the earning capacity of the children and other such factors. Further, with the increasing cost of living, the said amount of ten thousand per month may prove to be insufficient.
7. Currently, only parents who are aggrieved by the order of a tribunal may prefer for an appeal. Taking away the right of appeal from the other party viz., the children or relative, who may be genuinely aggrieved by an order of the Tribunal, is against the principle of natural justice.

#### Analytical Outline of the Proposed Amendment

Taking into account the drastic surge in the offences of exploitation and abandonment of parents and the increasing call for reforms to

<sup>29</sup> Article 41 of the Indian Constitution, 1949.

<sup>30</sup> Section 7(1) and Section (2); The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.



the existing enactment, the Government of India has proposed an amendment to the existing Act. The Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill, 2019 was introduced in Lok Sabha on December 11, 2019. Some of the key features of the proposed amendment Bill are as follows:

1. The bill seeks to modify the definition of the term 'Children' to make it more comprehensive by bringing into its ambit a son or a daughter be it biological, adoptive or a step child as well as a son-in-law, daughter-in-law, grandson, grand-daughter, even if minor, through a legal guardian. It proposes to modify the definition of the term 'Maintenance' to make it more inclusive by providing for provision for food, clothing, housing, safety and security, medical attendance, healthcare and treatment necessary to lead a life of dignity<sup>31</sup>. It proposes to amend the definition of the term 'Parent' to bring into its ambit a father-in-law, mother-in-law and grandparents<sup>32</sup>. The definition of the term 'Relative' is also sought to be modified so as to include a minor relative duly represented by a legal guardian<sup>33</sup>. It also proposes to modify the definition of the term 'Welfare' to expressly include needs in the nature of food, clothing, housing, safety and security, medical attendance, healthcare, treatment, recreation and other such facilities needed for the physical and mental well-being of the senior citizen<sup>34</sup>.
2. The Bill proffers to provide flexibility in filing methods by including filing of the

application online or by sending it through a registered post or by any such other means besides filing it in person.

3. While the obligation of the Tribunal to dispose the application with in a period of ninety days has been retained, the Bill seeks to add a provision whereby the Tribunal will be required to dispose the application with in a period of sixty days wherein the applicant is a senior citizen aged eighty years or above<sup>35</sup>.
4. The Act currently obligates a Conciliation officer, to whom the matter has been referred to by the Tribunal, to submit his findings within a period of thirty days. The Bill seeks to reduce the said time period of thirty days to fifteen days<sup>36</sup>.
5. The Bill proposes an amendment to the provisions of Section 9 (1) of the principal Act by empowering the Tribunals to not only order for a monthly allowance but also other resources and care, for the maintenance of the parent or senior citizen, which are necessary to lead a life of dignity<sup>37</sup>.
6. The Bill seeks to remove the upper cap of Ten Thousand rupees as the maximum monthly allowance which the Tribunal can order. Instead, it empowers the Tribunal to look into various factors such as the standard of living of the applicants, the earnings of the applicant and children/relative etc., and then determine a monthly amount of maintenance<sup>38</sup>.
7. The Bill seeks to amend Section 13 of the principal Act, by reducing the number of days given to the children/relative to deposit the amount ordered to be paid by the Tribunal from thirty days to fifteen days<sup>39</sup>.

<sup>31</sup>Clause 3 (i), The Maintenance And Welfare Of Parents And Senior Citizens (Amendment) Bill, 2019

<sup>32</sup>Id; Clause 3 (iv)

<sup>33</sup>Id; Clause 3 (v)

<sup>34</sup>Id; Clause 3 (vii)

<sup>35</sup>Id; Clause 5

<sup>36</sup>Id; Clause 6 (iv)

<sup>37</sup>Id; Clause 9

<sup>38</sup>Id; Clause 9

<sup>39</sup>Id; Clause 13



8. The Act in its present form only allows for senior citizens or parents to file an appeal, should they be aggrieved by the order of the Tribunal. The Bill seeks to extend to the children and relatives the right to appeal, if they are aggrieved by the order of the Tribunal<sup>40</sup>.
9. The proposed amendment to the Act seeks to bestow a duty upon the Maintenance Officers under the Act to ensure that the orders of the Tribunal are complied with and in the event of non-compliance and empowers such officers to take necessary steps to ensure compliance<sup>41</sup>.
10. The Bill seeks to completely overhaul the Welfare provisions under the Act. It proposes the setting up of Senior Citizens' Care Homes and Multi-Service Day Care Centre for Senior Citizens. Such institutions shall be required to be registered with a Registration Authority to be designated by State Governments. The minimum standards to be adhered to for setting up and maintenance of such institutions shall be prescribed by the Central Government. The State Government shall be empowered to withhold or cancel the licenses of these institutions if they fail to adhere to the said standards. Further, the State Government is required to designate an authority which shall be the Regulating Authority for such institutions. The Regulatory Authority will monitor the functioning of the institutions by conducting regular inspections or social audit<sup>42</sup>.
11. The Bill seeks to make additions in the principal Act whereby the State Government will be empowered to provide health care services to those senior citizens who are unable to perform day to day activities due to any physical or mental impairment. Such services shall be provided by trained and certified attendants or caregivers. Institutions which provide such training and certification for the above purposes will be required to be registered with the Registration Authority constituted under the Act<sup>43</sup>. There is also a provision in the Bill for accreditation of these institutions based on the quality of their service<sup>44</sup>.
12. The Bill requires that in each Police Station in the State, one officer possessing training and orientation and not below the rank of a Sub-Inspector be appointed as the Nodal Officer for the purpose of this Act. Further, it also obligates the State Government to form a Special Police Unit in every district. The primary purpose of forming such a unit will be to co-ordinate the functions of police in matters dealing with distressed parents and senior citizens. An officer not below the rank of Deputy Superintendent of Police shall head the unit and the unit shall also consist of Nodal Officers and two social workers having relevant experience. The Bill further mandates that one of the two social workers shall preferably be a woman<sup>45</sup>.
13. The Bill also provides for provisions for the general welfare and well-being of senior citizens including taking steps for age-friendly environment, transportation, and other public facilities. It also proposes to establish a state level helpline dedicated for the safety and security of the senior citizens<sup>46</sup>.
14. The Bill seeks to modify the penal provisions under the Act and enhance the punishment for offences such as intentional abuse (including physical abuse, verbal and

<sup>40</sup>Id; Clause 14

<sup>41</sup>Id; Clause 15 (iii)

<sup>42</sup>Id; Clause 17

<sup>43</sup>Id; Clause 19

<sup>44</sup>Id; Clause 27

<sup>45</sup>Id; Clause 23

<sup>46</sup>Id; Clause 25



emotional abuse, economic abuse, neglect and abandonment causing assault, injury, physical or mental suffering) or abandonment. The punishment proposed under the Bill is imprisonment for a term which shall not be less than three months, but which may extend to six months or with fine up to ten thousand rupees or both<sup>47</sup>.

15. The Bill further seeks to modify the provision of Section 29 of the principal Act with regard to the power of the Government to issue Orders in the official Gazette in order to provide for the resolution of any practical difficulties in the implementation of the Act. While the principal Act confers such a power on the State Government, the amendment seeks to transfer the power to the Central Government<sup>48</sup>.

16. While the principal Act conferred upon the State Government the power to make Rules for the purpose of carrying out the provisions of the Act, the Bill empowers the Central Government to frame model Rules with respect to which the State Government shall be required to make Rules. Where the Central Government has made any such model Rules regarding a specific matter, the said Rules shall apply to all states till the respective State Government frames its own Rules in conformity with such model Rules<sup>49</sup>.

#### V. Assessment of the Proposed Amendment

From all the new provisions and alterations being sought for in the proposed amendment Bill it can be surmised that the Government did pay heed to the calls for a review of the Act made from various factions including the High Courts of some states. The proposal to redefine and expand the key terms like 'Children', 'Parent', 'Relative',

'Maintenance' and 'Relative' removes ambiguities and will plug-in the loopholes in the existing Act.

Since the Act is essentially a welfare legislation for the elderly, procedural rigidity may defeat the very purpose of it. The Bill recognizes this by expanding the methods for filing an application. In addition to the existing procedure, where an application has to be filed in person, the amendment allows for a senior citizen or parent to make an application through other convenient methods including online applications and applications through registered post. This is a thoughtful and considerate allowance as the elderly who do need tackle these procedures may often not be in a state to make themselves present in the Tribunal.

The Bill also endeavors to reduce unnecessary delays in proceedings with an aim to help the senior citizens get the maintenance at the earliest. From directing the Tribunals to dispose applications of Senior Citizens of eighty years and above within sixty days to obligating the Conciliation officers to submit their findings within fifteen days, as well as reducing the number of days within which the children/relative has to deposit the amount ordered by the Tribunal, are all steps taken to achieve this objective. The proposed amendment also seeks to take a sterner view of violations of the provisions of the act by providing for enhanced punishments to the defaulters ensuring better execution of the provisions of the Act.

The proposal to remove the upper limit of maintenance is also a welcome change as it will make possible for the Tribunal to order

<sup>47</sup>Id; Clause 26

<sup>48</sup>Id; Clause 28

<sup>49</sup>Id; Clause 29





for an optimal maintenance amount after taking into account the socio-economic background of the concerned parties. Another pragmatic addition that the Bill aims to make is for the Tribunal to not just order for a pecuniary relief by way of maintenance but also allow for other forms of relief like shelter, clothing, medical care etc. With these changes the Tribunals will become better empowered to ensure a good quality of life of the elderly.

While the Bill is aimed to make the system more efficient and effective in providing relief to the distressed elderly, a just system has to ensure all concerned parties have equal opportunity to present and defend their perspective. Therefore, to seek for the Tribunal to permit the children and relatives to file for an appeal is a much needed change to the Act. It does away with the arbitrary and unjust presupposition that the children or relatives can never be the aggrieved party.

Under the Act in the present form, although the State Government is required to set up old age homes, yet there are neither provisions to regulate these institutions nor a prescribed minimum standard which these institutions are required to adhere to. The Bill seeks to bring radical changes in this regard by providing for the setting up of Senior Citizens' Care Homes and Multi-Service Day Care Centre for Senior Citizens thereby ensuring standard of care provided to the elderly.

Further, the proposal for setting up a dedicated helpline number, constitution of Special Police Units, and appointment of a Nodal Officer in each Police Station are all measures that ensures the reach of the system is extensive and the elderly have more access to avail themselves of this system, set up for

the dedicated purpose of helping them in their time of need.

VI.

### Filial Responsibility Laws in Different Countries

The importance of protecting the elderly citizens and parents are recognized by almost all the countries around the world. Accordingly, most of the countries have their own legislative provisions for this purpose. Summarized below are few of these legislations of different countries in the world.

- Singapore: In Singapore, the Maintenance of Parents Act was enacted in the 1995. It requires children to pay their parents of the age sixty and above a monthly amount or a lump sum amount as allowance.
- China: China enacted the Law for the Protection of the Rights and Interests of the Elderly in the year 2013. The law imposes an obligation on the family members to care for the needs of the elders and to ensure that they are not ignored or neglected. The law further requires that children staying away from their parents should frequently visit them or should send their greetings. When the rights of the parent is infringed; he or she can refer the matter to concerned department in this regard or bring a law suit in the jurisdictional people's court in accordance with the law prescribed in this regard.
- Bangladesh: The Parents Maintenance Act was enacted in the year 2013 in Bangladesh. As per the law an adult child is obligated to provide a logical amount as maintenance to his parents from his earnings in the event that the parents are not staying with the children. If they do not provide such maintenance, the parents may make a complaint. There are provisions under the Act to impose fines as well as imprisonment to violators of the Act.



- United States of America: The provisions of the USA filial support laws vary from state to state. However, these laws too are aimed at ensuring the elderly get needed support. These laws require adult children to support their indigent parents.
- Europe: The European Union (EU) recognizes the right of an elderly person to live a life of dignity and independence as well as their right to participate in social and cultural life. This is a fundamental right enshrined under Article 25 of the Charter of the Fundamental Rights. In Germany, an obligation is cast on relatives in a straight line of lineage to support each other<sup>50</sup>. In France, a responsibility is cast on close relatives to support each other in case of need<sup>51</sup>.

## VII. Conclusion

There is no doubt that the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been successful in ameliorating the situation of many distressed senior citizens. The proposed amendment, if enacted into law will help towards making the existing law even better equipped to provide for the welfare and well-being of our elder generation. Having said that, there are still a number of impediments which might continue attenuating the efficacy of the Act. One such obstacle is the lack of awareness about this law. A study conducted by Help Age India found that even in a highly literate state like Kerala, only thirty percent of the elderly population was aware of this law and even they were unaware about the procedure

<sup>50</sup> § 1601; German Civil Code (BGB); translated version available at [https://www.gesetze-im-internet.de/englisch\\_bgb/](https://www.gesetze-im-internet.de/englisch_bgb/)

<sup>51</sup> Article 203-2011; Loi Code Civil du.

<sup>52</sup>Preliminary Study on Effectiveness of the Maintenance and Welfare of Parents and Senior

to file an application with the Tribunal<sup>52</sup>.

The study also revealed that though the Act was formulated to provide swift reprieve and justice to the elderly, the ground reality is far from it. The sample case studies revealed that there is a considerable amount of pending petitions and that in some cases even after an order for maintenance was passed, the children had failed to make any payment. In this regard the respective petitioners of the case studies also revealed that despite filing complaint with the police authorities there were no positive action for ensuring the compliance of the order<sup>53</sup>. The proposed amendment seeks to address some of the aforesaid issues. It is also pertinent to note that this betterment of the legislation needs to be supported strongly by auxiliary measures like spreading awareness about the law, sensitizing the officials involved in the implementation of the Act to the needs of the Elderly, imparting good values to children at school levels by making them understand the importance of respecting and taking care of the elderly etc. Legislation alone cannot bring about that radical a change. As a society we are collectively responsible to ensure that our elders get to live with comfort, dignity and a sense of financial security.

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<sup>53</sup>Supra Note 47



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