

## LAWS PROTECTING RIGHTS AND INTERESTS OF SENIOR CITIZENS IN INDIA

According to the data from World Population Prospects, “by 2050, one in six people in the world will be over age 65 (16%), up from one in 11 in 2019 (9%). By 2050, one in four persons living in Europe and Northern America could be aged 65 or over. In 2018, for the first time in history, persons aged 65 or above outnumbered children under five years of age globally. The number of persons aged 80 years or over is projected to triple, from 143 million in 2019 to 426 million in 2050”<sup>1</sup>. In India, it is a common and a popular practice that the aged parents stay with their children. The responsibility of the welfare and comfort of the parents shifts on their kids. With age, the senior citizens are overwhelmed with a lot of problems ranging from their financial security to their mental and physical health. This makes the senior citizens a vulnerable group that needs protection. With changing times and modernization, the elderly are facing new challenges everyday.

### Protection under the Constitution:

The Constitution of India has prescribed a few duties of the state towards its citizens under Chapter IV of the Constitution, i.e. Directive Principles of State Policy (DPSP). The DPSP is not enforceable by any law. However, the DPSP is considered fundamental in governing the Country and it guides the State to make laws for the benefit of the weaker and marginalized sections of the society. The applicable articles under DPSP for senior citizens are:

1. **Article 41**<sup>2</sup>: Right to work, to education and to public assistance in certain cases- The State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.
2. **Article 46**<sup>3</sup>: Promotion of educational and economic interests of Scheduled Caste, Schedule Tribes and other weaker sections – The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in

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<sup>1</sup><https://www.un.org/en/sections/issues-depth/ageing/>.

<sup>2</sup><http://legislative.gov.in/sites/default/files/coi-4March2016.pdf>.

<sup>3</sup>*Ibid.*

particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

### **Personal Laws:**

#### **1. Hindu Adoption and Maintenance Act, 1956:**

Section 20<sup>4</sup> of the Hindu Adoption and Maintenance Act, 1956 is wide and inclusive. The parents can claim maintenance from natural or adopted children (includes both son and daughter).

#### **2. Muslim Law:**

Poor Muslim parents can claim maintenance from their children (includes both son and daughter) who are financial capable of doing so. As there is no mention of adoption in Muslim Law, there is no provision for adoptive parents to claim maintenance.

#### **3. Christian and Parsi Law:**

There is no provision in place in either Christian or Parsi law to claim for maintenance.

### **The Code of Criminal Procedure, 1973:**

This code is applicable to an Indian citizen following and practicing any religion. Section 125<sup>5</sup> states that parents can claim for maintenance from their children ( son and daughter) who have the financial means to do the same.

### **The Maintenance and Welfare of Parents and Senior Citizens Act, 2007:**

This Act was passed due to the worsening plight of the parents and senior citizens who were at the mercy of their children. This Act was specifically aimed to secure the economic means and dignity of the senior citizens' and parents. The procedure put in place is cost effective and the time frame for obtaining the relief is a short time. Under this Act, each district is mandated to set up an old age home<sup>6</sup>. Provisions have also been made to protect the life and property of the elderly. The term maintenance<sup>7</sup> has been defined in the Act, as inclusive of providing food, clothing, residence and medical attendance and treatment.

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<sup>4</sup><http://tcw.nic.in/Acts/Hindu%20adoption%20and%20Maintenance%20Act.pdf>.

<sup>5</sup>[https://indiacode.nic.in/handle/123456789/1611?sam\\_handle=123456789/1362](https://indiacode.nic.in/handle/123456789/1611?sam_handle=123456789/1362).

<sup>6</sup>Section 19, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

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

Maintenance can be claimed by<sup>8</sup>:

1. Parents – Parents include biological, adoptive and step parents. The age of parents is irrelevant to claim maintenance.
2. Grandparents – The term Grandparents include both maternal and paternal grandparents.
3. A childless senior citizen can claim maintenance from any relative who possess his/her property or who is going to inherit the same in the future. The term Senior Citizen<sup>9</sup> under this Act is any Indian citizen who is of 60 years of age or older.

The Act also permits a gift deed<sup>10</sup> to be executed with a condition that the transferee provide for the basic amenities and basic physical needs of the transferor. If the same is not fulfilled by the transferee, this transaction is deemed to be made through coercion or fraudulent means and thus making it void. This Act also gives an option to the Applicant to claim maintenance under the Criminal Procedure Code, 1973<sup>11</sup>. However, if relief is claimed under the Criminal Procedure Code, 1973 then the applicant is barred from claiming maintenance under the The Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The reason behind this is that, the same relief cannot be claimed simultaneously from two legislations. It is important to note that the relief clause (section 125) of the the Criminal Procedure Code, 1973 does not prescribe a cap on the maintenance that can be claimed, but under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007<sup>12</sup> the maximum limit at which maintenance can be awarded is Rs. 10,000/-.

### **Conclusion:**

The government has also implemented welfare schemes and programs to support and aid senior citizens. One such initiative was the The National Policy for Older Persons, 1999 (NPOP) in which the problems of the elderly were studied and suggestions were put forward to the State to take care of them. Subsequently, this policy was revised in 2011 to address the new problems cropping up. The government also gives a lot of benefits to senior citizens. Some of which include concession of air and railway fares, health care pension and policies, day care centers,

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<sup>8</sup>Section 4, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

<sup>9</sup>Section 2 (h), The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

<sup>10</sup>Section 23, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

<sup>11</sup>Section 12, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

<sup>12</sup>Section 9, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

help line numbers, old age homes, etc. Many of the wronged senior citizens are not aware about the relief available to them, nor are they educated about the rights that have been granted to them. It is then essential that this vital information is made available to them and the aims of these welfare legislations are achieved. Parents and senior citizens have every right to live the later years of their life with dignity and respect.

- Theekshna Amin