



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL **TEAM**

Raju Narayana Swamy (IAS) Indian Administrative Service **officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru

and a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

A CRITICAL STUDY OF THE LEGAL FRAMEWORK FOR THE MAINTENANCE OF PARENTS AND SENIOR CITIZENS IN INDIA

AUTHORED BY - AKRATI AGNIHOTRI

Abstract

Old age is a fragile and challenging phase in human life, marked by declining physical health, social isolation, and economic dependency. In Indian society, elderly parents have traditionally been revered and respected, seen as the embodiment of divine figures. However, modern societal shifts—such as the rise of nuclear families, urban migration, and a growing emphasis on materialism—have eroded the traditional system of care for the elderly.

To address the increasing neglect and abuse of senior citizens, the Government of India enacted The Maintenance and Welfare of Parents and Senior Citizens Act, 2007. This paper explores the legal protections available under this Act, highlights its shortcomings, and examines its real-world application. It also reviews judicial interpretations and evaluates the need for legislative reforms to ensure that senior citizens in India can live a life of dignity and safety.

1. Introduction

Aging is a universal and inevitable process. As individuals age, they often face physical challenges, loss of income, and emotional distress. Traditionally in India, the care of elderly parents was considered a sacred responsibility, with children expected to provide for their parents out of love, respect, and gratitude. Religious scriptures across Hinduism, Islam, and other faiths emphasize this moral obligation. For example, Hindu texts view parents as divine and worthy of lifelong service.

However, the 21st century has brought dramatic social and cultural changes. Industrialization, urbanization, and globalization have weakened joint family systems. Modern lifestyles and growing individualism have led to increased neglect of elderly parents. Many elderly individuals now face abandonment, neglect, and abuse at the hands of their own children.

This disturbing trend has created an urgent need for legal protection and government intervention. While earlier laws offered some support, there was no specific legislation for senior citizens. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 filled this gap by offering legal tools for elderly individuals to seek financial and physical support from their children and relatives.

2. Objectives of the Research

- Examine the key features of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.
- Analyze its implementation and effectiveness in providing relief to the elderly.
- Identify gaps and shortcomings in the current legal framework.
- Study judicial responses to senior citizen welfare cases.
- Discuss the proposed amendments to the Act and suggest practical reforms.

3. Legal Evolution and the Need for the 2007 Act

Before the 2007 Act, elderly individuals could claim maintenance only through fragmented legal provisions under personal laws or general laws such as:

- Hindu Adoption and Maintenance Act, 1956 (Section 20)
- Criminal Procedure Code, 1973 (Section 125)
- Indian Constitution (Article 41)
- Protection of Women from Domestic Violence Act, 2005

These laws were insufficient because they did not address the specific needs of senior citizens or offer a fast and cost-effective way for them to seek help. The 2007 Act, introduced by the Ministry of Social Justice and Empowerment, aimed to simplify the legal process and ensure that elderly citizens are not left helpless.

4. Key Features of the 2007 Act

The Act provides a comprehensive framework for the welfare and maintenance of parents and senior citizens. Its major provisions include:

4.1 Definitions (Section 2)

- Children include sons, daughters, grandsons, and granddaughters (by blood), but exclude adopted children and in-laws.

- Maintenance is limited to basic needs like food, clothing, housing, and medical care but does not mention emotional or physical protection.
- A relative is defined as someone who possesses or will inherit the property of a childless senior citizen.

4.2 Maintenance Tribunals and Legal Process (Sections 7–9, 16–17)

- Special Maintenance Tribunals are set up in every sub-division to handle claims.
- Appeals can be filed with an Appellate Tribunal within a month.
- Maximum maintenance is capped at ₹10,000 per month.
- Parties are not allowed legal representation.

4.3 Property and Eviction Provisions (Sections 21–23)

- The state is responsible for creating awareness and ensuring safety of senior citizens.
- Property transfers can be revoked if children neglect their duty of care.

4.4 Penalties (Chapter VI)

- Failure to pay maintenance may result in jail up to one month.
- Abandonment is punishable with up to three months in jail and a fine.

5. Shortcomings and Limitations

While the Act is progressive, several issues remain:

- Excludes adopted children, minors under guardianship, and in-laws.
- The ₹10,000 maintenance cap is often insufficient.
- Emotional abuse and neglect are not addressed.
- Lack of legal representation hinders access to justice.
- No provisions for those without family or property.
- Uneven implementation across states.¹

6. Proposed Amendments (2018 Draft Bill)

To address these gaps, the Ministry of Social Justice and Empowerment proposed a draft amendment in 2018:

- Remove the ₹10,000 maintenance cap.
- Include adopted children, in-laws, and minor wards.
- Expand 'maintenance' to include safety and emotional well-being.

¹ THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007

- Increase punishment for abandonment to six months imprisonment.²

7. Judicial Interpretation and Landmark Cases

- In Darshna v. Govt. of NCT of Delhi, the court ruled that abusive daughters-in-law can be evicted.
- In Dr. Ashwani Kumar's case, the Supreme Court extended Article 21 to cover elderly healthcare and housing.
- The Punjab and Haryana High Court allowed an OCI cardholder to claim rights under the Act.

8. Conclusion and Recommendations

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is a pioneering law to protect elderly rights in India. However, it requires reforms for real impact.

Recommendations:

- Pass the 2018 amendment bill.
- Allow legal aid or representation.
- Appoint legal professionals to head tribunals.
- Standardize implementation across states.
- Conduct awareness campaigns.
- Provide for elderly without family or property.

Beyond legal reform, a cultural shift is essential. Society must revive its moral commitment to honoring and caring for the elderly, who once cared for us.

References:

THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007

THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS (AMENDMENT) DRAFT BILL, 2018

² THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS (AMENDMENT) DRAFT BILL, 2018