
CRITICAL EVALUATION OF - MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007

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ABSTRACT

In India; with the rise in - life expectancy, senior citizens' population, cost of living, migration of young people, number of nuclear families, withering away of joint family system and covid pandemic effect - there would be certainly a rising issue of financial and social insecurity of elderly population in near future. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been enacted in India to protect the right to maintenance and welfare of parents and senior citizens. According to the researcher, the efficacy of any law needs to be evaluated and tested. So, the researcher has felt the necessity to study and critically evaluate the said Act through this research paper. The object is to initiate discussions and more research on the contemporary issue of maintenance and welfare of parents and senior citizens of India. The researcher here has studied and evaluated the said Act by reviewing both, its appreciable provisions and criticism.

Key words – maintenance, welfare, senior citizens, parents, said Act.

Introduction:

“Matru Devo Bhava; Pitru Devo Bhava”.

This Sanskrit quote reflects the Indian ideology of worshipping the parents as gods and goddesses and to pay respect to them. This is the underlying principle of Indian tradition and culture. All religions in India expect the adult children to take care of their parents and senior citizens in the family. But if the children fail in this ‘duty’ then it gives rise to a corresponding ‘right’ to the parents and senior citizens to demand assistance for their livelihood from their children. This is nothing but the ‘right to maintenance’ of parents.

There are no universal definitions of ‘maintenance,’ ‘welfare,’ ‘parent’ and ‘senior citizen’. So, the researcher has interpreted these words as defined by ‘The Maintenance and Welfare of Parents and Senior Citizens Act, 2007’ (herein after referred to as ‘the said Act’). Section 2(b) of the said Act defines the word ‘maintenance’ as; ‘*Maintenance includes provision for food, clothing, residence and medical attendance and treatment*’.¹ These are the basic necessities of livelihood. One can stay alive only if one has these bare essentials.

According to section 2(k) of the said Act ‘*Welfare means provision for food, health care, recreation centres and other amenities necessary for the senior citizens.*’² Besides the basic necessities of life, what one requires in old age are welfare facilities for their well-being.

According to section 2(d) of the said Act, a ‘*Parent means father or mother whether biological, adoptive or step father or step mother, as the case may be, whether or not the father or the mother is a senior citizen.*’³ This interpretation of the word ‘parent’ is the widest one than in the earlier maintenance laws in India, and it includes not only biological but even adoptive parents and step-parents whether they are senior citizens or not.

¹ Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 2(b), pg. 2

² Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 2(k), pg. 2

³ Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 2(d), pg. 2

According to section 2(h) of the said Act, a ‘senior citizen means any person being a citizen of India, who has attained the age of sixty years and above’.⁴ So the definition includes any citizen of India who is sixty years and above, staying in India or staying abroad as well.

Changing demography of Senior citizens in India:

The average life expectancy in India has more than doubled since independence till today.⁵ In 1947, the average life expectancy in India was 31 years.⁶ India’s life expectancy in 2021 is 69 years.⁷ Increase in life expectancy due to family planning, improved medical facilities, healthy food and health awareness etc. has increased the senior citizens population.⁸ Population ageing is the most noteworthy result of the process known as demographic transition. Population aging is a worldwide phenomenon, and India is no exception.⁹ As per 2011 Census in India, 8.56 % of the total population were aged 60 years and above.¹⁰ According to UN by 2050 the population of 60+ in India would likely to go up-to 20% of the total population.¹¹ Presently, 1/8th of the Worlds Elderly Population lives in India.¹² This rings an alarming bell for the increasing issue of maintenance and welfare of senior citizens of India in the coming years.

Research problem:

With the changing lifestyle in the Indian families, the joint family system is withering away into a nuclear family system leaving behind many elderly people to take care of themselves. If they are unable to maintain themselves or their children are unable to look after their parents or senior citizens at home, then ultimately ‘personal responsibility’ will become a ‘public responsibility’ shouldered upon society at large.

⁴ Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 2(h), pg. 2

⁵ Awate, Subhash. “Human Rights of Aging People.” *Human Rights of Vulnerable Group*. (Ed.) Vijay Chitnis. Pune: Digital Publications, 1999. Pg. 193.

⁶<https://timesofindia.indiatimes.com/sa-aiyar/swaminomics/our-greatest-achievement-longer-lives/articleshow/2291641.cms>

⁷ <https://www.drishitias.com/daily-updates/daily-news-analysis/india-s-life-expectancy-on-world-health-day-2021>

⁸ www.sjsa.maharashtra.gov.in/seniorcitizens

⁹ Agewell Foundation Research Report. *Human Rights of Older People in India A Reality Check*. New Delhi: Agewell Foundation, 2014. pg.5.

¹⁰ Ministry of Social Justice & Empowerment, *Annual Report, 2015-16*.

¹¹ Kataria, R.P. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Allahabad: Orient Publishing Company, 2012, First Edition. pg 3.

¹² *National Policy for Senior Citizens, 2011*. pg.2

The first question arises is whose responsibility is it to provide these basic provisions of livelihood to parents and senior citizens? The obvious answer is that one should be self-sufficient and one should save enough to take care of oneself. But the problem arises when parents and/or senior citizens are not self-sufficient or they do not have enough savings or resources to maintain themselves. So, the next question arises as to who should maintain such destitute and neglected parents and/or senior citizens who are unable to maintain themselves? The researcher tried to search for the answers to these questions in the various policies, schemes, laws relating to maintenance, welfare and social security in India.

Conceptually, all religions in India show unanimity in the area of maintenance of parents. All Family laws in India recognise the moral duty of children to maintain their parents especially in their old age. However, the scope and extent of such liability varies from community to community.¹³

Section 125(1)(d) of Criminal Procedure Code 1973, (hereinafter referred to as Cr. P.C.) is the first secular law in India for recognising the 'right to maintenance of parents' who are unable to maintain themselves. Section 125 Cr. P.C. provision is unique and un-parallel in Indian legislation. It shows a blending of the characteristics of criminal law, civil law and family law. Though it provided for 'right to maintenance of parents', but still it was silent about the 'right to maintenance of senior citizens' in general. So, the Maintenance and Welfare of Parents and Senior Citizens Act 2007 was enacted to provide 'maintenance to parents and senior citizens' as well. However, the efficacy of this law needs to be evaluated and tested. So, the researcher has felt the necessity to study and critically evaluate the said Act through this research paper.

Objectives:

The researcher's study is based on literature review and the interpretation of the said Act. The aim of this research paper is:

1. To study and evaluate 'The Maintenance and Welfare of Parents and Senior Citizens Act, 2007' by reviewing its appreciable provisions and criticism.
2. To initiate discussions and research on the contemporary issue of maintenance and welfare of parents and senior citizens of India.

¹³ www.dadadadi.org/advocacy

3. To draw conclusion as to whether the said Act is really a ray of hope for parents and senior citizens of India.

Purpose of the said Act:

The Preamble states that this Act has been passed ‘to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution and for matters connected therewith or incidental thereto.’¹⁴ The objectives of the Act are appreciable and are summarised by the researcher as follows:

- a) To provide for appropriate mechanism to be set-up to provide need-based maintenance to the parents and senior citizens from their children, grandchildren or relatives as the case may be,
- b) To provide for adequate medical facilities to senior citizens,
- c) To provide for a suitable mechanism for protection of life and property of senior citizens,
- d) To provide for penal provision for abandonment of senior citizens,
- e) To provide facilities for poor and destitute senior citizens,
- f) To provide for setting up of old age homes in every district.

Uniqueness of the said Act:

Till 2007, there was no special or separate legislation exclusively for maintenance of senior citizens of India. The Government of India, through its Ministry of Social Justice and Empowerment, introduced the Bill titled as “The Maintenance and Welfare of Parents and Senior Citizens Bill 2007” (L.No.40) in Lok Sabha which was passed in the Parliament with a swiping majority.¹⁵ This Act passed by the Central Government of India has to be implemented by individual State Governments and Union Territories in their own jurisdiction by due notification.¹⁶

Earlier laws of maintenance such as the Hindu Adoption and Maintenance Act 1956, other Family Laws governing Hindus, Muslims, Christians and Parsis, Section 125 of Cr.P.C.1973,

¹⁴ Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Preamble. Pg. 1.

¹⁵ Dr. Chavate, Prafull, *Law for Senior Citizens and Elder People in India*. Pune: Hind Law Publications, 2014. Pg. 137.

¹⁶ National Human Rights Commission, India. *Know Your Rights: Elderly People*. New Delhi: NHRC, 2011, pg.15.

the Himachal Pradesh Maintenance of Parents and Dependents Act 2001, provided for maintenance to PARENTS only. As a result, senior citizens who were not parents were not covered by the scope of earlier maintenance laws. But the said Act has overcome this problem; thereby recognising the right to maintenance of all SENIOR CITIZENS and PARENTS OF ALL AGES.

The Act has made several appreciable provisions like providing for separate Maintenance Tribunals, Maintenance Officers, Old Age Homes, medical care of senior citizens, protection of life and property of senior citizens, orientation of police and judiciary, penalty for abandonment of parents and senior citizens, penalty for any non-compliance of orders and many more which are discussed at length herein below.

Appreciable provisions of the said Act:

The Maintenance and Welfare of Parents and Senior Citizens Act 2007 is certainly a milestone in the history of laws of maintenance for parents and senior citizens. The researcher appreciates the good provisions of it which are summarised as follows –

1. *The Act applies to citizens of India staying abroad as well.*¹⁷ This is indeed a welcome provision for senior citizens of India who stay in India or abroad.
2. The Act lays down a right to maintenance of parents and/or senior citizens who are unable to maintain themselves. Parents here include biological, adoptive, step mothers and step fathers whether senior citizens or not.¹⁸ And senior citizens include irrespective of married or not; or having children or not.
3. *'Maintenance' includes provision for food, clothing, residence and medical attendance and treatment.*¹⁹ These are the bare essentials for livelihood. However, as per section 4(2) and (3) of the Act, maintenance also extends to the 'needs' of the parent / senior citizen so that he may 'lead a normal life'. The 'needs of a person' is a relative term and changes from person to person. This means the Act takes into account the 'standard of living' and the requirements of the claimant parent or senior citizen, which is indeed an appreciable

¹⁷ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 1(2). Pg.1.

¹⁸ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 2(d). pg. 2.

¹⁹ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 2(b). pg. 2.

provision. Thus, a wider interpretation is given to the word 'maintenance' beyond just bare essentials.

4. Parent of any age and/or senior citizen is entitled to claim maintenance from his children / relatives provided
 - he is unable to maintain himself from his own earnings or own property and
 - if his children / relatives have refused or neglected to maintain him.²⁰
5. Such a parent or senior citizen can be entitled to a monthly maintenance allowance up-to Rs. 10,000/- from his children or relatives, as the case may be after filing a claim against them with the Maintenance Tribunal.²¹
6. The Act allows not only parents but also grandparents to claim maintenance from their grandchildren, which is a first of its kind provision in maintenance laws of India.
7. Childless senior citizen or an unmarried senior citizen who do not have children can claim maintenance from his legal heirs to his property, who are defined as his 'relative' by the Act.²² Such a provision has been made for the first time in any Indian legislation.
8. Provision for interim maintenance has been made during the pendency of the proceedings.²³
9. The Rule of *locus standi* has been relaxed under this Act for the benefit of the needy parents and senior citizens. Section 5 of the Act allows the claim application for maintenance to be filed by either the parent or senior citizen himself or if they are incapable then any person or organisation authorised by them. The Maintenance Tribunal is also allowed to take the cognisance *suo motu*.
10. The Act directs the State Government to set up one or more Maintenance Tribunals in every sub-division and an Appellate Tribunal in every district, to hear applications of maintenance and appeals respectively, and gives details about their constitution, procedure, rights and duties.²⁴
11. The Maintenance Tribunals shall be presided over by an officer not below the rank of a Sub-Divisional Officer of a State and the Appellate Tribunal shall be presided over by an

²⁰ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 4(1). Pg. 2.

²¹ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 9. Pg. 5.

²² Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 4(1). Pg. 2.

²³ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 5(2). Pg. 3.

²⁴ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 7,15. Pg. 5, 7.

officer not below the rank of a District Magistrate.²⁵ This shows that the Revenue and Administrative Officers have been made the Competent Authority under this Act instead of any Officials from the Judiciary. According to the researcher, this has been purposely done with an intention to provide a quick and simple legal remedy.

12. Tribunals on receiving applications are supposed to hold an inquiry and after being satisfied that children or relatives have neglected or refused to take care of applicant parent /senior citizen, have to pass an order of maintenance.²⁶ According to the researcher this procedure is very much simplified and assures quick justice to the applicant.
13. The Tribunals enjoy dual powers. For the purpose of conducting the proceedings it shall be deemed to be a Civil Court and also enjoys powers of a Criminal Court.²⁷ For securing the attendance of children or relatives, the Tribunals therefore can issue a warrant against them if required.
14. Speedy remedy is the objective of this Act, which lays down a time limit of 90 days for disposal of applications before Maintenance Tribunal and 1 month before the Appellate Tribunal.²⁸
15. Since no stamp duty is required to be paid by the applicant, the objective of inexpensive remedy has been assured by this Act. Lawyers by default are not allowed to represent the parties in the Tribunals, which saves the expenses of the needy parents and senior citizens.
16. The State Government is under a duty to designate an Officer not below the rank of a District Social Welfare Officer to be appointed as a Maintenance Officer who shall represent a parent before the Tribunals under this Act.²⁹ Since the parents are not allowed to be represented by any lawyer before the Tribunals, the provision for appointment of Maintenance Officers is highly appreciated by the researcher.
17. Jurisdiction issue has been simplified by allowing parents or senior citizens to file applications in any district where they reside or where the children or relative resides or lastly resided.³⁰

²⁵ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 7,15. Pg. 5, 7

²⁶ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 9. Pg. 5

²⁷ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 8. Pg. 5

²⁸ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 5(4); 16(6). Pg. 3, 8

²⁹ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 18. Pg. 8

³⁰ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 6(1). Pg. 4

18. Conciliation proceedings are also suggested if required for an amicable settlement between the parties.³¹ The Maintenance Tribunal if required is empowered to recommend the matter to the Conciliation Officer.
19. This Act also lays down a duty on State Governments to establish Old Age Homes in every district for accommodating minimum 150 indigent senior citizens and to prescribe a scheme for the management of such homes.³² For the purpose of this section, “indigent” has been explained as – ‘*any senior citizen who is not having sufficient means, as determined by the State Government, from time to time, to maintain himself.*’ This type of a provision of establishing at least one old age home in each district, has been made for the first time through any Indian legislation.
20. This Act throws responsibility on State Government who is to ensure that Government hospitals and hospitals funded by the Government provide adequate beds for all senior citizens and such other provisions as required for ensuring medical care of senior citizens.³³ A gerontological perspective in taking medical care of senior citizens is thus tried to be achieved through this provision.
21. The State Governments are to be responsible for wide publicity of the provisions of this Act through public media like television, radio and print media at regular intervals.³⁴
22. The State Governments are to ensure that the Government Officers, including police officers, members of judicial service are given periodic sensitization and awareness training on issues relating to the Act.³⁵
23. The State Governments are to confer such powers and impose such duties on District Magistrate to ensure that the provisions of this Act are executed properly. The State Governments are also given a duty to prescribe a comprehensive action plan for providing ‘protection of life and property’ of senior citizens.³⁶
24. The provision for ‘protection of property’ of senior citizens is ensured by giving an authority to the Maintenance Tribunal to declare a transfer of property by way of gift or

³¹ Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 6(6). Pg. 4

³² Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 19. Pg. 8

³³ Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 20. Pg. 9.

³⁴ Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 21. Pg. 9.

³⁵ Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 21. Pg. 9.

³⁶ Professional’s Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 22. Pg. 9.

otherwise from a senior citizen to a transferee as void, if the transfer was made under the condition providing maintenance to the senior citizen and the transferee neglects to maintain such senior citizen.³⁷ According to the researcher, this provision is indeed a big leap taken by the legislature in protecting the transfer of property of a senior citizen made by way of coercion, undue influence, fraud or with any other malicious intention.

25. Any person who is having care or protection of any senior citizen intentionally abandons him, shall be liable for punishment of imprisonment up to 3 months and/or fine up to Rs. 5000.³⁸ Such provision gives a security for the 'protection of life' of senior citizens and has defined a new offence of '*abandoning a senior citizen intentionally*'.
26. Every offence under this Act is cognisable and bailable and shall be tried summarily by a Magistrate.³⁹ Punishment for non-compliance of orders includes both fines as well as imprisonment.
27. Every officer or staff appointed to exercise functions under this Act shall be deemed to be a *public servant* as per section 21 of the Indian Penal Code.⁴⁰
28. A total immunity from prosecution has been granted to the government and public servants who are associated with the provisions of this Act, provided their actions are done '*in good faith*'.⁴¹
29. Civil Court does not have any jurisdiction with respect to any provision of this Act and no injunction orders can be passed by any Civil Court in respect of anything done under this Act.⁴² This provision shows the extensive ambit of the Act, which keeps away judiciary from certain jurisdiction.
30. The Central Government is empowered to give directions to the State Governments and to make periodic review and monitor the progress of the implementation of this Act done by the State Governments.⁴³

³⁷ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 23. Pg. 10.

³⁸ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 24. Pg. 10.

³⁹ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 25. Pg. 10.

⁴⁰ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 26. Pg. 11.

⁴¹ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 28. Pg. 11.

⁴² Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 27. Pg. 11.

⁴³ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 30, 31. Pg. 11.

31. The State Governments are empowered to make rules for carrying out the purposes of this Act with respect to the procedures, management and execution of the various provisions of this Act.⁴⁴ Accordingly the State of Maharashtra has passed 'The Maharashtra Maintenance and Welfare of Parents and Senior Citizens Rules, 2010'. Accordingly, the said Act is to be read along with these Rules of 2010, for the purpose of State of Maharashtra.

Issues of concern about the said Act:

Howsoever good and appreciable the above said provisions are, they have some *grey areas*. This Act has been criticised by Experts with respect to various issues. The problem areas of this Act have been summarised below by the researcher:

1. There is no procedural uniformity amongst the States in implementation of the Act.
2. The procedural implementation of the Act is burdened on State Governments which causes a bureaucratic delay in implementation of such a good Act.
3. Since the presiding officers of Tribunals, Conciliation Officers and Maintenance Officers appointed under this Act are not from judiciary or any legal background, there is a possibility of miscarriage of justice happening, because of want of legal expertise.
4. The Act recognises the right of childless senior citizens to claim maintenance from their relatives who will inherit their property. This means, the relatives are obliged to provide maintenance to childless senior citizens. This looks like only a 'feel good factor' on paper but in reality, is difficult to be implemented.
5. But the Act is silent upon similar problems of the childless persons who are not yet senior citizens, because they are neither senior citizens nor parents.
6. The Act throws responsibility on State Governments to establish old age homes in every district. However, there are a number of provisions where the procedural implementation is required; such as prescribing a scheme for management of old age homes, laying down the standards and types of services to be provided by them etc. which are difficult to be followed up and will certainly cause a delay in implementation of such good provisions of the Act.
7. Further, the duty of giving publicity to this Act, sensitising and training the public servants, co-ordination between various Ministries and departments of Government etc. is burdened on the State Governments, which will ultimately cause bureaucratic delay.

⁴⁴ Professional's Bare Act. *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. Delhi: Professional Book Publishers, 2021. Section 32. Pg. 11.

8. Section 29 of the Maintenance Act provides that if any difficulty arises in giving effect to the provisions of the Act, then within two years from the commencement of this Act, the State Government may make such provisions as appear to it to be necessary or expedient for removing the difficulty. The issue of concern is that this provision restricts the State Governments to overcome the difficulty after expiry of 2 years from the commencement of the Act.

Major findings and observations:

1. Gerontology, a new branch of knowledge requiring investigation into the study of aged population, is gaining importance.
2. Withering away of joint family system in India and increased life expectancy has surfaced a new problem of maintenance, social security and sustainability of senior citizens in India. So, the legal provisions related to these issues are of utmost importance.
3. The 'Maintenance and Welfare of Parents and Senior Citizens Act, 2007' is the first secular law in India providing maintenance and welfare for 'senior citizens' including 'childless and unmarried senior citizens.' Earlier laws provided for maintenance to 'parents' only.
4. The earlier legal provisions related to maintenance of parents were time consuming and expensive. This Act provides for a simple, inexpensive and speedy provision to claim maintenance for parents and senior citizens of India.
5. Besides the legal framework provided by the Government, there is a need for sensitizing the society in general about the special needs of the elderly.
6. Besides the Government, there is a wide scope for involvement of the voluntary or private sector in addressing the needs of the elderly.
7. Policy makers should realise that caring for the aged will no more be a sympathetic consideration but a hard-nosed strategy for they already comprise a sizeable population with a voice and a vote.⁴⁵

⁴⁵ Agarwal, R. (2017, July-September Issue, p.6). Editorial – *Care for the Aged, so that we leave no one behind*. Local Government Quarterly. Mumbai: All India Institute of Local Self-Government. [Online]. Available: <http://www.aiilsg.org/wp-content/uploads/2018/01/03-LGQ-July-Sep-2017.pdf> (Retrieved Nov. 22, 2018)

8. The Act tries to minimise the pains and sufferings of destitute parents and senior citizens who are one of the vulnerable sections of the society. This Act is a progressive step towards ensuring better human rights status for parents and senior citizens.⁴⁶

Suggestions for improvisation of the said Act:

1. 'Unmarried senior citizens' have not been expressly mentioned in the legislation, though they are indirectly covered by the phrase "childless senior citizens". This is a legislative gap according to the researcher. As a result, the provision under section 4(1)(ii) of the said Act for 'maintenance of childless senior citizen' is assumed to apply even to 'unmarried senior citizens who do not have children'. This ambiguity should be overcome by an amendment to that effect.
2. As per section 16 of the Act, 'senior citizen or parent who are aggrieved by the order' of a Tribunal may appeal to the Appellate Tribunal. This means the 'children or relatives who may have been aggrieved by the order' of the Tribunal have not been permitted to appeal. Only aggrieved parents and senior citizens have been given the right to appeal. Children are not allowed to appeal even if aggrieved. This indeed is an issue of ambiguity and a Legislative gap in the enactment which should be done away with by the Legislature. According to the researcher any aggrieved party should be given a fair chance of filing an appeal.
3. The term 'relative' as defined by this Act is linked with the 'property' of a senior citizen. What happens if a senior citizen does not have any property to be inherited by anyone? Is he not covered by the Act? This indeed is one more ambiguity in the Act which needs to be rectified.
4. A childless senior citizen can make a 'will' of his property. So, it is unclear how one can determine who would inherit the property after death. This means, the definition of the term 'relative' is left open for interpretation and there is a legislative gap to be looked into.
5. Section 20 of the Act provides that the State Government shall ensure that the government funded hospitals should provide beds for all senior citizens as far as possible. This phrase "as far as possible" leaves a gap for interpretation. This lacuna should be removed by an amendment to the Act.

⁴⁶ National Human Rights Commission, India. *Know Your Rights: Elderly People*. New Delhi: NHRC, 2011, pg.15.

6. Section 29 of the Maintenance Act provides that if any difficulty arises in giving effect to the provisions of the Act, then within two years from the commencement of this Act, the State Government may make such provisions as appear to it to be necessary or expedient for removing the difficulty. According to the researcher, the issue of concern is that this provision restricts the State Government from making any provision after expiry of 2 years from the commencement of the Act. This legislative gap in the section limiting the period up-to 2 years only, should either be amended or removed from the Act.

Conclusion and Take-Home Message from the researcher:

The Union Ministry of Social Justice and Empowerment needs to be appreciated for passing of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 as a stand-alone statute to promote the protection, maintenance, welfare and care of parents and senior citizens, in the country. This Act emphasises on the 'duty of maintenance' of children and relatives, rather than the 'right of maintenance' of parents and senior citizens. The Act is therefore a welcome step and was a must because of multiple reasons of concern such as - rise in life expectancy, rise in senior citizens population, rise in cost of living, rise in social insecurity of elderly, rise in nuclear families due to withering away of joint family system - to name a few. However, the Act needs to be effectively implemented by the State Governments. In spite of some criticism, this Act is surely a step forward in safeguarding and upholding the human rights of parents and senior citizens to live with dignity.