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## **Rights of Parents and Senior Citizens under Law of Maintenance and Welfare in India**

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### **ABSTRACT**

Rising materialism in Indian society has rendered a significant portion of the elderly susceptible to neglect, abuse, and isolation. To counter this, the Government of India's Ageing Division introduced the National Policy on Older Persons in 1999. Subsequently, the 2007 Maintenance and Welfare of Parents and Senior Citizens Act (MWP Act) emerged as a pivotal initiative. This paper explores the MWP Act, underscoring its mandate for children to provide essential maintenance to their elderly parents. Beyond financial support, the Act ensures property protection, establishes old age homes for the indigent, and guarantees medical facilities. Provisions include penalties for neglect, property revocation, and the establishment of tribunals to address maintenance disputes. The Act offers legal avenues for senior citizens, empowering them to seek maintenance and penalizing abandonment. Conclusively, it highlights the Act's role in providing a legal framework for elderly welfare, offering a choice between the MWPC Act and the Criminal Procedure Code of 1973 for seeking maintenance.

Keywords: Elderly, Welfare, Maintenance, Senior Citizens, Old Age Homes.

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### **Prologue**

The society and its people have increasingly become materialistic. Most elderly suffer from abuse neglect and aloneness, and face it difficult to get resources for their basic needs as their children are either incapable or reluctant to maintain them. Widows and childless elderly are also not free from such problems even their problems are worse. In order to address these growing issues, the Ageing Division of Government of India develops and implements policies for the senior citizens in close association with State Governments, Non-Governmental Organisations and civil society. In pursuance of the understanding at international level, the National Policy on Older Persons was declared in January 1999 to reaffirm the commitment for the well-being of them. Till 2007 there were no special or separate legislation exclusively for Senior Citizens. The Government of India enacted the Maintenance and Welfare of Parents and Senior Citizens Act 2007 (MWP Act). The Orissa Maintenance of Parents and Senior Citizens Rules, 2009 provides the detailed procedural provisions for proper implementation of the Act provisions of the Act and Rules also.

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### **Rights of Elderly People**

The enactment of MWPC Act was a milestone initiative by the Government of India to re-affirm the commitment for the wellbeing of parents and senior citizens of India. The Act *inter alia* makes maintenance of parents and senior citizens by their children obligatory. The Act also provides for protection of life and property, the founding of old age homes for indigent senior citizens,adequate medical facilities, revocation of transferred property by senior citizens in case of their negligence by their children and relatives and penalty in case of abandonment of senior citizens.<sup>1</sup>

The Act states that a senior citizen or parent who is unable to maintain himself from his own earning and property, shall be entitled to make an application for maintenance: against one or more of his children not being a minor in case parent or grand-parent, or against his relative in case of a childless senior citizen. The obligation of the children or relative, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life. The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, so that such parent may lead a usual and meaningful life. Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen. However, where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his property.<sup>2</sup>

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<sup>1</sup>.Ministry of Statistics and Programme Implementation, Cetral Statistics Office (Central Statistics Division): Elderly India Profile and Programme 2016, page 8.

<sup>2</sup>. Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

The Act further provides that if children or relatives neglect or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time, direct. The maximum maintenance allowance which may be ordered by such Tribunal shall be such as may be prescribed by the State Government which shall not exceed ten thousand rupees per month.<sup>3</sup>

The Act under section 19 also provides the provisions for establishment of old age homes. This section states that the State Government may establish and maintain such number of old age homes at accessible places, as it may deem necessary, in a phased manner, beginning with at least one in each district to accommodate in such homes a minimum of one hundred fifty senior citizens who are indigent. The State Government may also prescribe a scheme for management of old age homes, including the standards and various types of services to be provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes.<sup>4</sup>

The Act also provides the provisions for medical support for senior citizens. The Act states that exposure and abandonment of senior citizen is an offence. The Act states that whoever, having the care or protection of senior citizen leaves, such senior citizen in any place with the intention of wholly abandoning such senior citizen, shall be punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to five thousand rupees or with both.

Elderly can choose to seek maintenance either under this Act (MWPSC) or under the provisions of the Criminal Procedure Code 1973 if applicable but not under both the provisions.

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## **Findings and Conclusion**

The Government of India has enacted the Act 2007 and made exposure and abandonment of senior citizen an offence and made punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to five thousand rupees or with both; and the Odisha State Government has launched many Schemes/Yojanas: to provide pension for elderly, to improve the living standard for senior citizens, to offer them with basic necessities, to provide pensions for elderly weavers, Children leaves such senior citizen in any place with the intention of wholly abandoning such senior citizen. But in many cases it is shown that old parents are being neglected by their children and forced them to live a painful life either in their home or in old age home. Further, more than a decade has passed since passing of the MWP Act, but serious efforts have neither been made by the Central Government nor the State Governments so as to ensure that medical facilities for the elderly are made available. Even elderly are not aware of their rights guaranteed under the provisions MWP Act or become silence not taking steps for their rights because though problems of parents and senior citizens are growing day by day, there are only a few reported cases of Supreme Court and High Courts. Further though the said Act 2007, Odisha Rules and Welfare Schemes and policies for elderly has given minute details and a good protection of the rights of parents and senior citizens so as to feel better and more secured, still society is witnessing a situation where in most of the parents are not being maintained by their children. Old parents are being forced to live a painful life either in their home or in old age home.

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<sup>3</sup>. Section 9 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

<sup>4</sup>. Section 19 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.