

Executive Summary

Study on Functioning & Effectiveness of Maintenance and Welfare of Parents & Senior Citizens (MWPSC) Act 2007



Submitted to
Department of Social Justice & Empowerment,
Ministry of Social Justice & Empowerment,
Govt. of India



National Productivity Council

National Productivity Council
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Old age in most of cases, leads to decline of mental faculty, decline in ability to work & earn, which further leads to financial dependency, and physical dependency upon others to do even daily routine jobs. The factors like generation gap, migration, economic independence and privacy have brought about radical changes in the Indian Society. The consequence of these changes has a brunt on the Indian family systems which used to be the core to support for Senior Citizens in the family. This has led to isolation, ill-treatment, harassment and even shifting of Senior Citizens to Old Age Homes. One of the landmark decisions in this regard was enactment of 'The Maintenance and Welfare of Parents and Senior Citizens Act, 2007' which gave a new outlook to the concept of protection of rights of parents and senior citizens. In this context, Department of Social Justice and Empowerment, Ministry of Social Justice & Empowerment has entrusted a study to the National Productivity Council on "*Functioning and Effectiveness of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007*" for finalizing the amendments in the Act.

1.1 Terms of Reference

- To examine effectiveness of disposal of applications for maintenance by the Tribunals i.e., time taken etc
- To examine the type of maintenance orders issued by the Tribunals constituted under the act
- To examine effective execution of order of maintenance & subsequent actions
- To assess the role of conciliation officer and maintenance officer
- To assess the running and management of the age homes in the state
- To examine the current status of the medial facilities made available for the senior citizens in the state
- To assess the effectiveness of the section 24 i.e., exposure and abandonment of senior citizens, of the Act and scope for improvement.
- To evaluate whether adequate measures have been taken by the State Government for publicity of the Act and to assess the scope of improvement.

- Opinions of State Social Justice or Empowerment Department/Social Welfare Department officers, Presiding officers of Maintenance Tribunals and Appellate Tribunals, Maintenance Officers, Conciliation officers, beneficiaries of order of maintenance; inmates of Old Age Homes, Senior Citizens Associations/Pensioners Associations, NGOs working in this field etc.
- Key findings based on the data collected from the field on the objectives of the study
- Eight case study (one from each state).

1.2 Methodology & Coverage

As per the Terms of Reference, the Study was conducted across eight States namely Andhra Pradesh, Assam, New Delhi, Odisha, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal. In order to take a comprehensive feedback on the provisions under the Act, all the key stakeholders were covered which included 14 Tribunals (Presiding Officers), 14 Conciliation Officers and Maintenance Officer, 16 Old Age Homes (Supported by Dept. of Social Justice & Empowerment), 8 State Nodal Officers from Social Welfare Department, 8 NGOs, 70 Petitioners and 8 Senior Citizen Associations were covered.

Under the Act, the State Governments are supposed to make rules for carrying out the purposes of the Act by notification in the Official Gazette. As on date, all the States and UTs have notified the Act and Date of Notification of Act, Appointed date of enforcement of Act in State/UT. Further, all the States have adopted the Central Rules though with minor changes.

1.3 Stakeholders Feedback

1.3.1 Beneficiary Profile

S. No.	Gender	Percentage
1.	Male	41%
2.	Female	59%
Educational Background		
1.	Literate	77.15%
2.	Illiterate	22.85%
1.	Average distance travelled by the petitioner	15.81 km
Ownership of Assets		
1.	No Assets	18.57%
2.	Had legal ownership of their Assets	75.44%
3.	Transferred to Heir	24.56%

Under the study, 78.6 % of the petitioners covered under sample belonged to urban areas and 59% of the petitioners are females while 41% of them are males. With regards to the educational background, 22.85% petitioners were illiterate while 77.15% petitioners were literate. The average distance travelled by petitioners was 15.81km for reaching Tribunal. Among the sample petitioners, 18.57% did not have any assets. Further, 75.44 % petitioners had legal ownership of their assets while 24.5% had transferred to their heir.

1.3.2 Reason for approaching tribunal & Type of Harassment

Among the petitioners, 58.57% were neglected by their children. The neglect was in terms of ignorance and emotional sufferings. With regards to type of harassment 60.60% petitioners indicated negligence by their dear ones.

Overall, 81.4% of the petitioners have filed the petition against their son and 54.28% filed petitions were for maintenance while 41.42 % were cases related to property.

1.3.3 Awareness about Act

With 37.14%, the 'Other Sources' like Lawyers, NGOs, and social activists had the largest share as source of information about the Act. The other major source of information was from friends (21.42%) and relatives (20%).

1.3.4 Status & Stage of Petitions Covered

Among the covered petitioners, 52.86% cases were ongoing while 44.28% were settled. Among ongoing cases, 97.29% were at tribunal level while 2.70% cases were still in process at conciliation officer level. Among the settled Cases covered, 87.09 % of the cases had judgment in favour the petitioners.

1.3.5 Application Process

Overall, 98.57% of applications were accepted in one go in all the states and only one case under the sample was rejected due to incomplete application or lack of required documents.

1.3.6 Duration of Tribunal Proceedings

S. No.	Tribunal Proceedings	No. of Days
1.	Review of Application	23
2.	Tribunal Proceedings	134.64
3.	Enforcement of Judgment	39.51
4.	Overall time taken	199.85(approx.6-7 Months)

On an average, the review of applications took 23 days time. The tribunal proceedings took on an average 134.64 days time while for the enforcement of the judgment, average time taken was 39.51 days. Overall time taken for disposal of cases was 199.85 days which is about 6-7 month. While during the process, average 6.90 number of visits were paid by the petitioner for hearing an average 2.77 visits were made by petitioner during the enforcement of the judgment. Overall 10.85 numbers of visits were made by the petitioner during the whole process from filing petition to the final judgment.

1.3.7 Payments made for filing Petition

About 10% of the petitioners had made payment to lawyers but the fee paid was not for tribunal but in lieu of services of lawyer for providing facilitation. Further one of the petitions from U.P. even indicated of making payment as a part of corrupt practices.

1.3.8 Perception about Tribunal process

Overall 69.69 % felt that the Tribunals were approachable and process was simple. 51.51 % had a considerate experience with tribunal office staff and 22.72 % petitioner considered the experience to be respectful.

1.3.9 Tribunal Decisions

Among the settled cases, in 35.48 % cases allowances were being received on time as per the order of tribunal. With regards to the judgment, 41.90 % petitioners strongly agreed, 38.70 % of agreed whereas 19.34% did not agreed for the judgment made by the tribunal among the states. On the scale of 1 to 10 ranking of satisfaction of the enforcement of the judgment, average score given was 4.39 petitioners satisfied with the enforcement of the judgment made by tribunal.

1.3.10 Role of Conciliation Officer

Among the sample States; only in Uttar Pradesh Conciliation Officers were involved. In other States, either there were no conciliation officer appointed or no case was referred to them. Overall only 1.43 % cases were referred to the conciliation officers.

1.3.11 Feedback on areas which require focus

S. No.	Areas to be strengthened	Percentage
1.	Awareness about the Act	53.96%
2.	Petition filing Procedures	11.11%
3.	Duration of the Process	47.61%
4.	Enforcement of the judgments	28.57%
5.	Senior Citizen Helpline	4.76%

53.96 % petitioners feel that the awareness regarding the act needs to be strengthened, 11.11 % felt that the petition filling procedures needs to be improved, whereas 6.34 % petitioner feel that the improvements needs to be in behaviour of the tribunal staff to facilitate the senior citizens. Among the sample petitioners, 47.61 % were of the view that the duration of the process needs to be strengthened by reducing the overall time period. While 28.57 % felt that the enforcement of judgments needs to be strengthened by making act more powerful with necessary amendments. Among the covered petitioners, 4.76 % were of the view that other areas like senior citizen helpline need to be strengthened.

1.4 Observations & Suggestions

On the basis of study conducted, the following observations based suggestions may be considered by the Department for improving the effectiveness and functioning of the Act.

1.4.1 Poor Awareness and Publicity about the Act

- Lack of awareness about the Act across the country and there is serious and urgent need to address this component.
- Key stakeholders were not trained on the Act and they need training by a third party.
- The details of the Act should be properly propagated and information should reach to each and every senior citizen in the States.
- As per the Act, the States have been given responsibility to give adequate publicity to the provisions of the Act. However, none of the States have dedicated funds under this head.
- The Act needs more publicity to achieve its real purpose.
- General public needs to be sensitized about problems being faced by old population.
- It is suggested that the Department may take active participation in creating awareness among the senior citizens relating to the rights mentioned in senior citizenship Act 2007.
- The use of mass media like- Radio, Television, News Paper etc and social networking site can be helpful.
- Regular seminars/conferences may be sponsored for creating awareness amongst the Senior Citizens.

- The Department may also sponsor Awareness campaigns for bringing in better information in local language and through local mediums about the provisions of the Act.
- “Annual conference on Maintenance and Welfare of Parents & Senior Citizen Act, 2007” may be organized by the Department wherein all the States may be required to discuss on the Status of implementation and Challenges faced. This will help in streamlining the implementation of the Act and also sensitize States in conducting effective execution. Documentaries may be sponsored by the Department to promote the Act.

1.4.2 Lack of Records /Data at various levels

It has been observed that the records are being maintained manually in tribunals and hence it becomes a cumbersome and time taking exercise for retrieving data.

- All tribunals may be fully computerized and cases pertaining to the Act may be entered through a common portal. This is not only important for accessing the data but putting it in accessible public domain would help in bringing uniformity in understanding among the various key stakeholders.
- Department may consider creating a common portal for filing of online cases which will ensure uniformity in the data and efficient monitoring of the cases.
- The system can be developed in with Computerization and Computer Networking of Consumer Forums in Country (CONFONET). This will ensure operational efficiency, co-ordination, accessibility along with speed in administration. There were also several complaints wherein the notices have been received after the dates of hearing.
- The online filing and tracking process would help in neutralizing these constraints.

1.4.3 Uniform Format for filing of petition

Under the Act, an Application for maintenance is presented in Form “A” which is mere an application format and hence doesn’t ensure inclusion of all information or evidence. During the study, it was indicated by the petitioners that there is no standard format for filing of petitions and many a times the petitioner’s applications need to be revised and complemented as basic information’s are missing. It is suggesting that here should be a standard format and checklist to file the petition so that there is uniformity and all the requisite relevant details are captured in one attempt. It will also be easy for the tribunal officers to process and proceed with the petitions.

1.4.4 Need to have time bound Judgments

Under the study, it was observed that cases under the tribunals are on an average taking time of 6 months to get disposed off. In some of the cases, they are still on going even after almost one-half years. This is cruel as one cannot expect Senior Citizens, who require immediate relief, to fight so long and withstand the physical and mental pain. Most of the times, the respondents want to delay/avoid the hearings thereby getting next dates of hearing. Although, the tribunals have been empowered to move ex-parte in case of no-show, however, rarely it has been seen that tribunals are using this provision. It is suggested that strict guidelines should be made especially for time bound disposing of the cases.

1.4.5 Conciliation and Maintenance Officer

As per the Act, the position of Conciliation and Maintenance officer hold an important place as it helps to resolve the dispute amicably with mutual agreement.

- As per the study only in two States namely Uttar Pradesh and Andhra Pradesh, there were cases referred to the Conciliation Officer.
- The performance of these cases was also disappointing and not as per expectation. This aspect of the Act seems to be weakest link which needs to be strengthened in the spirit of the Act. The appointment of genuine and suitable Conciliation officers can not only help clear the burden on the tribunals but also will have implementable decisions. In decision made through conciliation process, the chances of default will be less as it will be mutually agreed.
- The Conciliation Officer should be paid honorarium towards the services and uniform guidelines can be issued in this regard.

1.4.6 Reference to High court on Tribunal Judgments

There are instances wherein the judgment of Maintenance Tribunals has been challenged in the High Court. A number of cases where respondents are approaching high court and getting stay order in the cases. This may be minimized as it de-motivates the Senior Citizens from approaching Tribunals. The awareness need to spread across the board in order to avoid such situations.

1.4.7 Enforcement of Orders

- During the discussions with the petitioners, it was informed that many of the petitioners indicated that the orders passed by the tribunals have not been implemented in the spirit. Many a times, it has been found that even after getting orders from the tribunal, the petitioners are not able to get their benefits. Many a times, it was reported that either the maintenance was not paid at all or the amount was less than what was decided by the tribunal.
- The petitioners had to be depended upon local PS and the responses. Due to the poor response of the PS, many a times petitioners loose the strength to go an appeal as it again requires running from pillar to post. It is suggested that the orders issued by the tribunals must be ensured to be implemented by the tribunal itself and appeal against the non-implementation should be simple.
- Multiple state government departments involved in the process should have convergence mechanism. There should be designated officers in police and social welfare department to coordinate with the tribunal officers and facilitate the process.

1.4.8 Requirement of Tribunal with dedicated Manpower

- During discussion with the various Stakeholders, it was indicated that the Revenue Department is already overburdened with several administrative works which are on higher priority. The assigning job of adjudicating issues/cases of the senior citizens which also require to be decided on priority due to suffering which require immediate relief.
- Many a times due to other responsibilities, the tribunal works get second priority and hence sometimes cases also get delayed. In this circumstance, senior citizens suffer double injustice as jurisdiction of other courts is also barred by this legislation. If this happens, then the very object of enacting this special legislation would frustrate.
- Over the years the number of maintenance cases is expected to increase hence, provision of dedicated manpower may be made so as to ensure time bound judgments. The tribunals should be strengthened with adequate staff, training and infrastructure to handle the petitions.
- As the numbers of Sr. Citizens are gradually increasing, such tribunals are required at Tehsil/Block Level. It will help the senior citizens to save time and expenditure on travelling etc.

1.4.9 Interim Maintenance and Free/ concession travel for Petitioners

There is provision for interim maintenance to the petitioners under the Act. However, the study came across no such case and it seems this provision has been ignored. The aggrieved petitioners who have to arrange for visits on their own may be extended support compulsorily under the interim maintenance so that they do not suffer from economic strain. Further, Government may even allow concession/free travel for those petitioners whose cases have been accepted in the tribunals.

1.4.10 Need for revision of Maintenance Amount

The present slab of Rs. 10000/- under the Maintenance Act has been indicated to be less for many of the petitioners and may be considered for revision. Department may consider, the calculation to be done on a standard formula keeping in mind the paying capacity of the adult children. This formula may be uniformly applicable across the States.

1.4.11 Periodic review of the implementation of the Act.

During the study, it was felt that the Department of Social Welfare & Justice, GoI should conduct a periodic review of the execution of the States in order to identify the problems faced. Further, there is need to push the execution part which can only be done with interference of the Central Govt. The Ministry may keep some budget for monitoring and evaluation of the Act and periodic review at the highest level may be done so as to keep the system moving.

1.4.12 Long term strategy

The problem being faced by the Senior Citizens has been mainly due to the disassociation of families which is happening for various reasons.

- The traditional society promoted the joint family system and this itself inculcated the moral responsibility on the Children to take care of their parents. The Act may have legal provisions which may ensure economic welfare of the senior citizens but it has ramification on the social well being of the senior citizens. In Indian Society, the senior citizens however, the case may be rarely want to go against their children and would accept a more amicable solution rather than enforcing decision.
- There were many senior Citizens who were suffering but did not go against them as they said who will perform their final rites as per religion if they go against their

Children. Hence, it is required that inculcating the traditional societal value systems particularly among the young generation is need of the hour.

- Value education maybe included in the'school curriculum.
- Respect for Age should be inculcated.
- Media being powerful tools should be aggressively used continuously over years for inculcating such value systems.

1.4.13 Old Age Homes

There is a need to establish Old Age Homes at least in those districts where the need is on priority. The Act provides for the setting up of a number of Old Age Homes but they often considered to be culturally unacceptable. Further, there is a need for the Government to provide uniform guidelines regarding their structure, functioning, role & contribution in effectively supporting the material as well as emotional needs of the abused elderly. Under the Act, provision of 150 bed Old Age Homes are required. However, no such Old Age Homes were found with such capacity. Apart from Old Age Homes, Govt. may support provisions of short stay homes for petitioners for the duration of the case.

1.4.14 Other Strategies to help Senior Citizens

a) Sr. Citizen Distress facilitation

- Adequate manpower in the District Social Welfare offices so that the grievance of the Senior Citizens may be well attended by them in time.
- The district Social Welfare Office may have a panel of NGOs/individuals who will provide direct counselling and assistance.
- The State Governments may make provisions for setting up Helpline, Counselling Centers etc. to cater to the psychological and emotional needs of the senior citizens, particularly those above the age of 70 and widowed women.
- Dedicated help lines for senior citizens may be used for spreading information and ground level facilitation. The local police and a designated NGO may be involved in this process.
- Separate police cell may be established to handle the cases relating to senior citizens.

b) Benefit for employees support their parents

- Majority of times, due to migration, people are not able to take care of their parents hence, leave rules and transfer rules may be made liberal so that whenever parents need the care and protection of their children, they are available to them to serve.

- People in jobs may get adverse remarks if complaints are received regarding ill treatment of their parents.
 - Family with older persons may get allowance at par with children allowance for their upkeep.
 - The Children living with their grandparents may be given bonus marks at the time of nursery admissions. Grandparents' day may be celebrated in every school on a periodic basis.
 - The traditional Culture especially related to joint family should be promoted in the society through various media mediums.
- c) Offences against senior citizens may be treated as aggravated offences and may be sentenced with additional penalty.
- d) Senior Citizen Budgeting in line with Gender budgeting may be adopted as a policy in the Government so as to ensure welfare in every aspect.

1.5 Conclusion

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is very much pertinent, however, without effective execution, it defeats the very purpose of its existences. The implementing States need to be sensitized for implementation of the act in its true spirit and manner. Further, we need to review the provisions under the Act by having a categorization of Senior Citizen petitioners based on economic background of the family. The petitioners can be categorized into two categories viz., the first category belong to those families who are capable to support their parents and have enough means to take care of their parents but are avoiding their responsibility. The second category is of family who themselves are economically weak & are struggling for their own means and are not in position to support their parents. For the first category, this Act is significant, however for the second category it seems that the Social Security by Government can only bail them out from their sufferings. Lastly, although, the immediate relief is being provided through this Act, however in the long term, a strategy may be chalked out which would ensure that the financially capable children take care of their parents themselves rather than being forced upon by law. This can happen by inculcating the good family values especially among the children and younger generation. Hence, there is also an urgent need to build upon long term strategy to strengthen the traditional family system which itself would safeguard the welfare of Senior Citizens.

